

# Islamic Scholars View on Bai Al-nah and Al-tawarruq

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*This paper presents the most important views of Muslim scholars on one of the most important transactions in Islamic economics. Bai Al-inah and Al-tawarruq. Focusing on summarizing these important Islamic financial transactions. Also, the paper summarizes the linguistic definition and meaning of both concepts in the Arabic language. It explains the two approaches uncomplicatedly and how to address them. And highlights some opinions of religious scholars in both transactions. How some see these transactions as permissible in Islam and while others see the opposite. It simplifies some differences in both transactions.*

*Keywords: Bai Al-inah, Al-tawarruq, Eayan, Waraq, rajul wrraq, almustawriq*

## INTRODUCTION

Islam revealed to mankind by Almighty Allah, to direct us to the right path of this life. And this religion has covered all the aspects of life, either directly or by providing us a general concept to be analogous to our brand-new of possessing in daily-life. The origin of Islam in all transactions is permissible, except for what it has forbidden in the Qur'an and Sunnah. But some may baffle situations in some transactions whether or not the transaction they will do is permissible. One of these transactions is Al-inah or so-called Al-tawarruq. This financial process happens in case a person needs cash and does not find a person or bank to give him a loan, so he buys a commodity for a specified amount of money on installment, then sells the item again at a lower price than the purchase price. The procedure here happened because of the need to have liquidity.

### Bai Al-inah

Bai al-inah, the rooted word of al-inah in the Arabic language is (eayan) which means (Eye). And not only means eye but also means a particular thing in this context. So, lending someone money and take it back (the particular thing). The particular thing in this paper is the money, that been given to someone as a loan and paid back. A person buys a commodity from another person for the amount of money on an installment, and then the buyer sells the commodity that bought to the seller again with a less value on cash. Here, there are only two parties involved in the transaction. This process happens when an individual needs money but no one would or could offer him/her a loan. And Imam Abu Hanifa, Malik, and Ahmed have disagreed upon this transaction. These Imams disagreed according to the Hadith of the Messenger of Allah, The Prophet Muhammad (peace be upon him). (1) "Narrated Abdullah ibn Umar: I heard the Messenger of Allah, (Peace be upon him) say: When you enter into the inah transaction, hold the tails of oxen, are pleased with agriculture and give up conducting jihad (struggle in the way of Allah). Allah will make disgrace prevail over you, and will not withdraw it until you return to your original religion" (Dawud, 1984). These

scholars inferred by the previous Hadith. Which they see bai al-inah is one reason that lead to humiliation. It is the responsibility of those who depart from the religion of Allah. Thus, the Shariah warned against it. "Narrated Abu-Hurayrah: The Prophet said: If anyone makes two transactions combined in one bargain, he should have the lesser of the two or it will involve usury" (Dawud, 1984). The point of this Hadith, the sale of the bai al-inah is identical to the sale of two deals in one deal, as it combines the cash and credit deals in one deal and one sale, and the intention is to sell an urgent dirham (money) with more deferred money than it is, and it is only worth his capital and he/she lost the two deals, and the second deal is an increase on the first, and then he's/she's involved in Riba. Aisha (Mother of believers) said, where I was told that Zaid ibn Arqam bought a slave from a woman for 1,000 dirhams on credit, and then bought the slave again from him for 500 immediately (on cash): misery what you sold and misery what you bought, tell Zaida that he had annulled his jihad with the Messenger of Allah only to repent. (إبراهيم محمد بورجان, 2017). No one denied Aisha, and even though the companions were many at that time. And this severe judgment does not come from her Ijtihad, but rather by an order issued by the Prophet, and therefore she said "Tell him", as she says. "Misery what you sold and misery what you bought" is proof that the two contracts are invalid together. However, Imam Al-Shafei, Daoud al-Dhaheri, and Ibn Hazm had another opinion on this: it is permissible to practice bai Al-inah. Imam Al-Shafei has a different point of view upon this, bai al-inah is permissible in Islam. Because that Hadith (No:1) did not only mention bai al-inah but also talked about different things such as agriculture. Thus, the transaction of bai al-inah and agriculture in the Hadith was equalized. Agriculture is not prohibited in Islam, so there is a different point of view of Imam Al-Shafei. Which is the intention, according to the prophet Hadith. Narrated 'Umar bin Al-Khattab: I heard Allah's Apostle saying, "The reward of deeds depends upon the intentions and every person will get the reward according to what he has intended. So, whoever emigrated for worldly benefits or for a woman to marry, his emigration was for what he emigrated for." (Al-Bukhari, 1978). Not only that but also Imam Al-Shafei considered the verse (275) in Surat Al-baqarah; {But Allah has permitted trade} (Ali, 1975). It seems from al-inah that it is a sale that is held among the seller and buyer so that it does not come out of the whole verse, and it is impossible to amend this ruling except that there is a presumption that is forbidden and unable to do so and that it is impossible to say what is to come. Moreover, the Grand Mufti of the kingdom of Saudi Arabia (Abd al-Aziz ibn Baz) has a similar opinion on this issue as Imam Abu Hanifa, Malik, and Ahmed. The grand mufti was asked, the question was what is bai Al-inah and whether it's permissible in Islam or not. The Grand Mufti stated that "bai Al-inah is Riba, to sell a commodity to a human being at a deferred price, and then buy it from him by cash this is bai Al-inah. For example, you sell a car with 60,000 SAR on installments, then you buy it on cash by 40,000 SAR. The meaning here is you sold a car by 60,000 SAR and then you bought it again from him by 40,000 SAR. So, the car here used as a trick on Riba" (Abd Al-Aziz Ibn Baz). So, from his point of view, bai Al-inah is a different form of Riba. Grand Mufti's view could be considered as true for a certain time, because of what is happening in some conventional banks claim that they do provide Sharia-compliant, Islamic banking, and financing. But in some cases, they don't.

### **Al-tawarruq**

Al-tawarruq, in language came from the Arabic word (Waraq), which means (paper). In classical Arabic (rajul wrraq), it means a rich man. And (almustawriq), the man who asked for paper "money". Paper refers to money in the Arabic language in certain situations. There are two types of Al-tawarruq. The first is individual Al-tawarruq. When a person buys a commodity and then sells it to a third party to obtain cash. This action does not contradict with Islam. Second is regulated Tawarruq, is that the person buys a commodity from the bank, and assigns the bank to sell the commodity. The buyer has no right to control the commodity. Here there is a disagreement on this, whether permissible or not in Islam. Here in the second type, there is a big disagreement that it is a sale on paper only and there is no commodity, and this is an obvious trick on Riba. The banks do not name the type of Al-tawarruq, normal (individual) or regulated. Banks are only named just tawarruq. A huge number of Islamic banks do not disclose what kind of tawarruq that deals with it. This is where the customer has a responsibility to know the nature of the bank's tawarruq. If the customer buys a commodity from the bank and can dispose of it as he pleases, then there is no doubt

about it. For example, shares trading the shareholders may buy more or sell whenever there is a desire to take such an action. Besides, the shareholders have the right to entrusting the bank to take this kind of transaction instead of shareholders. In this situation, if they entrust the bank to practice such a sale, so the sale is permissible and correct. Since the customer took the item and has the full freedom to control it. This falls under the rule of the normal tawarruq (Individual tawarruq). Religious scholars are issuing fatwa this kind of tawarruq is permissible according to the hadith of the prophet Mohammad peace be upon him, Narrated Abu Sa' id Al-Khudri and Abu Huraira: Allah's Apostle appointed somebody as a governor of Khaibar. That governor brought to him an excellent kind of dates (from Khaibar). The Prophet asked, "Are all the dates of Khaibar like this?" He replied, "By Allah, no, O Allah's Apostle! But we barter one Sa of this (type of dates) for two Sas of dates of ours and two Sas of it for three of ours." Allah's Apostle said, "Do not do so (as that is a kind of usury) but sell the mixed dates (of inferior quality) for money, and then buy good dates with that money" ((Al-Bukhari, 1978). This is one exit that the Prophet (PBUH), addressed to him, eventually leading to the purchase of good dates after he sold bad dates by cash, but this is a way out, no tricks, so this is the tawarruq that is permissible. And one other way that muftis do is they inference all this with mental evidence, which is that if it does not appear in Al-tawarruq any form or purpose of Riba.

## CONCLUSION

The question is being asked for a long time ago whether this transaction is allowed to participate or prohibited in Islamic teaching. The answer to this question is difficult and ambiguous to be in hand. Because of the Islamic teaching didn't determine that directly to us to avoid practicing such an action. Perhaps this problem was for the author of this paper, in other words, the issue of not having a definitive religious text on this matter. For example, doing Shirk, so that clear as the sun in the daytime. But this is not a problem that affects the faith itself. The more precise sense that does not deviate from the oneness of the Creator and how to impose religion itself. Rather, it is in the legislation itself. The answer may differ because of time and place, or maybe there is something else about that matter and Allah knows best Even though some may mislead the transaction and monopolize the public ignorance to turn into personal gain. And that is not the only problem we have to defame Islam, but also in positive law, we do have this kind of manipulation. If I did well, it is from Allah, and if I did wrong, it is from myself.

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