

# The Development of Rahn's Thinking From Nash To Qanun

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**Abstract.** The purpose of this article is to provide an explanation of the social history of how pawn law and Sharia pawning came to be in Indonesia. Pawn is a type of business that has been around for a long time. Portrays the social history of the advancement of pawn regulation and Sharia pawning in Indonesia. Pawn is a type of business that has been around for a long time. Three sorts of regulation manage the act of pawning, in particular: customary law, positive law, and Islamic law. According to Islamic law, Rahn is categorized as an act of Jaiz or permissible according to the provisions of the Qur'an, such as-Sunnah, and Ijma'. In classical fiqh, Rahn is understood as a personal contract, in the sense that an aqad takes place between a person who is in trouble but has goods, and a person who has the required cash assets. The Rahn contract is classified as a tabarru contract because the object handed over by the rahin to the murtahin is without compensation or compensation. Nowadays, with developments and economic progress, Rahn does not only apply between individuals, but also between individuals and financial institutions, such as banks.

**Keywords:** Rahn's thinking; nash; qanun, sharia

## 1. Introduction

Islam is a religion that, according to syamyl mutakamil (complete and perfect), has established guidelines for all aspects of human life, including matters of worship and mu'amalah. [1] (relationships between creatures). Everyone must need to interact with others to cover each other's needs and help each other between them.

That's why we ought to know Islamic rules in all aspects of our daily life, including those that are social interactions with fellow human beings, especially concerning the transfer of wealth from one hand to another.

The issue of mu'amalah is an issue that is always actual in the midst of society because it develops by the development of human civilization itself. Here, it seems, is the secret why Islamic law only stipulates mu'amalah teachings in the form of general principles and basic rules, by putting forward various principles and norms that can guarantee the principle of justice in mu'amalah among human beings. [1]

This mu'amalah character is made possible because Islam recognizes what is termed tsawabit (fixed) wal mutaghayyirat (changeable). In the economic sector, for example, the principle is the prohibition of usury. While examples of variables are instruments to implement these principles. One aspect of mu'amalah is Rahn (pawn), which is a means of mutual assistance between people.

Despite the widespread mistrust that exists among people today, al-qardh (debit and credit) is sometimes necessary. so that when lending their assets, individuals are compelled to request

collateral in the form of valuables or objects. As a result, Allah orders Rahn (mortgage) for the benefit of Murtahin, the mortgagee, and the community.

The people who contract (Rahin) can get benefits that can cover their requirements. He may be able to trade with that capital and become the reason he becomes rich, and this, of course, can save him from a crisis and relieve his anxiety. In the meantime, Murtahin, the creditor, will be calm, confident in his rights, receive syar'i benefits, and, if he has good intentions, Allah will reward him. The benefit that comes back to society is the expansion of trade interactions and the giving of love and affection to one another among humans, which includes helping one another in a kind and pious manner. Being a crisis solution, reducing hostilities, and expanding power all have advantages.[2]

The Rahn contract is included as a tabarru' (social and benevolent) contract because the object handed over by the rahin to the murtahin is without compensation or compensation.[3] Nowadays, with developments and economic progress, Rahn does not only apply to individuals, but also between individuals and financial institutions, such as banks, which have the noble aim of preventing society from the clutches of moneylenders. It is undeniable that the reality is that the flourishing of pawnshop businesses, whether managed by the government or the private sector, is evidence of the occurrence of pawnshops. Ironically, many Muslims are not familiar with the beautiful and fair rules of Islam regarding this matter. Even though this case is not new in their lives, they have known this type of transaction for a long time. As a result, tyranny occurs, and eats each other's wealth with vanity. A Muslim must develop techniques for applying the principles of Rahn (pawn) in variables that are appropriate to the circumstances and conditions of each period. Departing from the assumptions above, this paper will examine how Rahn's thought developed from texts to qonun.

### 1.1 Rahn Definition

In the Rahn language, it means ats-tsubut / fixed and ad-dawam / continuous. In Arabic it is stated: al-maua al-raahin ( الماء الرَّاهِنُ ) if it doesn't flow then the word ni'matun raahinatun (نِعْمَةٌ رَاهِنَةٌ) means unbroken favors. Some say Rahn means al-habs/suspended based on the verses of the Koran:

كُلُّ نَفْسٍ بِمَا كَسَبَتْ رَهِينَةٌ

Each self is responsible (suspended) for what he has done, (QS. 74:38), the word رَهِينَةٌ means being restrained. This second meaning is almost the same as the first because what is stuck remains in place.

In the book Mu'jam Maqayis Al-Lughoh Ibn Faaris says: The letters Ra, Ha', and Nun are the origins of words that indicate whether something is taken with the right or not. From this word is the word Al Rahn, which is something pawned. [5] [6] [7] [8]

Meanwhile, according to Shari'a Rahn:

المال الذي يُجْعَلُ وَثِيقَةً بِالذَّيْنِ لِيُسْتَوْفَى مِنْ تَمَنِهِ إِنْ تَعَدَّرَ اسْتِيفَاؤُهُ مَمَّنْ هُوَ عَلَيْهِ

Assets are used as collateral for a debt so that the value is used to pay off the debt if the creditor is unable to pay it. [9] [10] [11] [12] [13]

According to Sayyid Sabiq Rahn are:

جعل عين لها قيمة مالية في نظر الشرع وثيقة بدين، بحيث يمكن أخذ ذلك الدين، أو أخذ بعضه من تلك العين

Assurance of a thing that has monetary worth in the perspective on the Shari'ah as security for obligations, where the obligation or a piece of it very well may be paid with it. [7]

### 1.2 Rahn's legal basis for shari'a.

Rahn or pawn is allowed based on Al-Qur'an, Hadith, and Ijma'. In the Al-Quran, Allah SWT says:

وَإِنْ كُنْتُمْ عَلَى سَفَرٍ وَلَمْ تَجِدُوا كَاتِبًا فَرِهَانَ مِقْبُوضَةً فَإِنْ أَمِنَ بَعْضُكُمْ بَعْضًا فَلْيُؤَدِّ الَّذِي أُؤْتِيَ أَمَانَتَهُ وَلْيَتَّقِ اللَّهَ رَبَّهُ وَلَا تَكْتُمُوا الشَّهَادَةَ وَمَنْ يَكْتُمْهَا فَإِنَّهُ آتَمٌ قَلْبُهُ وَاللَّهُ بِمَا تَعْمَلُونَ عَلِيمٌ

"If you are on a journey (and be mu'amalah not in cash) and you do not have a writer, then there should be a dependent item held (by the debtor). However, if some of you trust others, then let the trusted one fulfill his mandate (debt) and let him fear God his Lord; and don't you (the witnesses) hide your testimony. And whoever hides it, then indeed he is a sinful person; and Allah Knows what you do." (QS. Al-Baqarah 2:283).

In a hadith, it is confirmed by the practice of the Messenger of God, may God bless him and grant him peace, who did Rahn's activities as narrated by Umm al-mu'minin A'ishyah in her statement:

أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ اشْتَرَى طَعَامًا مِنْ يَهُودِيٍّ إِلَى أَجَلٍ وَرَهْنَهُ دِرْعًا مِنْ حَدِيدٍ

"Indeed, the Prophet, peace and blessings be upon him, bought food from a Jew by way of debt and pawned his armor". (HR Al-Bukhari and Muslim).

According to the agreement of jurisprudence experts, the events of the Messenger of Allah, peace be upon him, pawning his armor was the first Rahn case in Islam and was done by the Prophet himself. [14] The same story was also narrated by Ahmad Ibnu Hanbal, al-Nasa'i, and Ibnu Majah from Anas Ibnu Malik, with different redactions. The above hadith explains that Muslims can negotiate with other people (non-Muslims) in debt-receivable transactions. The foundation of this hadith is strengthened by the rules of fiqh:

الأصلُ في المُعَامَلَاتِ الإِبَاحَةُ إِلَّا أَنْ يَدُلَّ دَلِيلٌ عَلَى تَحْرِيمِهَا

"All forms of mu'amalah are permissible unless there is an argument that forbids them." [15]

The Jumhur Ulama agreed on the permissibility of the legal status of pawning. [16] [9] [7] [11] [17] The story of the Prophet Muhammad, who pawned his armor in order to get food from a Jew, served as the story's concluding argument for this permissibility. The scholars also looked to the Prophet Muhammad SAW's transformation from those who typically dealt with wealthy friends to Jews to suggest that this was more of an attitude of the Prophet, who did not want to burden friends who typically refused to accept payment or compensation. given to them by the Prophet Muhammad SAW. [18]

### 1.3 Pawn pillar

Ar-rahin, al-murtahin, al-marhun, al-marhun bihi, and al-aqd are the elements that must be fulfilled in order to put pawning into action [11].

The pillars of Rahn are viewed differently by the scholars of fiqh. The majority of academics believe that mortgage can be broken down into four categories: shigat (pronunciation of consent and qabul), contracting parties (arrahin and al-murtahin), pawned goods (al-marhun), and debts (al-marhun bih). [19] Hanafiyah scholars believe that pillars of pawning are only ijab (a statement of surrendering goods as collateral by the owner of the goods) and qabul (a statement of willingness to give debt and accept the collateral). In addition, according to them, to complete and bind this pawn contract, it is necessary to have al-qabdh (control of goods) by the creditor. As for the two people who made the contract, the goods used as collateral, and the debt, according to the hanafiyah scholars, are included in the terms of pawning, not the pillars of it. [20] [21]

### 1.4 Rahn in the Time of the Prophet

Pawnshop during the time of the Prophet and during the time of the Companions and its development has been widely practiced by Muslims, this is based on the that pawning is a Shari'a because in the Qur'an the argument is stated. Although in the Qur'an it is stated under certain

conditions, that does not limit people from pawning. As has been exemplified by the Prophet Muhammad, he did not practice pawning in a state of travel, as the conditions mentioned in the Qur'an. Why is that? In this verse, even though it is mentioned "traveling", it still shows its generality, whether traveling or living, because the word 'safar' in the verse only indicates conditions that normally require this system.

If we examine the many hadiths that indicate that there was a lot of pawn practice during the time of Rasulullah SAW, so Rasulullah SAW showed the procedure for taking the benefits of pawned goods through his hadith.[22] One source even stated that during the time of ignorance, if Rahin could not pay debt or loan at a predetermined time, the collateral items immediately become the property of al murtahin. Then this practice of ignorance was annulled by Islam. The Messenger of Allah said: "The collateral (pledge) cannot be prevented from the owner who has pawned it, he is entitled to the excess (benefit) and is obliged to bear the loss (depreciation) (HR. Al-Baihaqi, Ibn Hibban, and Ad-Daruqutni).

## 2. Discussion

### 2.1 Riba and pawning or the law of using Rahn[7]

The pawn agreement is a debt agreement, only that in the pawn there is a guarantee, usury will occur in the pawn if, in the pawn contract, it is determined that the rahin must provide additions to murtahin when paying the debt or when the terms of the pawn contract are determined, then these conditions are carried out. [23]

If rahin is unable to pay his debts until the specified time, then murtahin sells Marhun without giving the excess price of Marhun to rahin, then usury also applies here.[22]

During the time of the Prophet, the practice of pawning was never done. There used to be a person pawning his goat. The Apostle was asked whether the goat could be milked. The Prophet allowed it, simply to cover maintenance costs. That is, the Prophet allowed us to take advantage of pawned items to cover maintenance costs. So, it is this maintenance cost that is then used as a lading for ijtiha by Islamic financial reviewers, so that pawning or rahn becomes a quite promising Islamic financial product.[12]

Jumhur fuqaha consider that murtahin may not take any advantage of the pawned goods, even if rahin allows it, because it is included in debt that can draw benefits, so when used it is considered usury. [11]

كُلُّ قَرْضٍ جَرَّ مَنَفَعَةً فَهُوَ رِبَاٌ

*"Every debt that attracts benefits includes usury." (HR Al-Baihaqi)*

Pledged goods in the form of vehicles that can be used or livestock that can be milked, then the pawnee can benefit from both pawned items adjusted to the cost of maintenance issued as long as the vehicle or livestock is with him. [23] Rasulullah saw said:

الظَّهُرُ يُرَكَّبُ بِتَفَقُّهِ إِذَا كَانَ مَرْهُونًا، وَلَبَنُ الدَّرِّ يُشْرَبُ بِتَفَقُّهِ إِذَا كَانَ مَرْهُونًا، وَعَلَى الَّذِي يُرَكَّبُ وَيَشْرَبُ النَّفَقَةُ

*"Riding animals may be ridden because if the financing is mortgaged, the animals may be taken for their milk to drink. Because the financing is pawned, the person holding and drinking it is obliged to pay a fee." (Reported by Al-Bukhori).*

### 2.2 Ba'i al-Wafa'

In classical fiqh, Rahn is understood as a personal contract, in the sense that an aqad takes place between a person who is in trouble but has goods, and a person who has the required cash assets. Then Rahn's essence and substance changed greatly, no longer valid between individuals, but between individuals and institutions established by the state (Banks) with the noble aim of

preventing society from the clutches of moneylenders. Collateral or al-marhun in bank terms is called Collateral. The difference lies only in the payment, that is, the repayment by the debtor to the bank (the creditor) is always greater than the money received by the al-raahin (owner), so the law is to return to bank interest.

Entering the modern economic era when the transaction needs of society are growing rapidly and assets that have economic potential are fixed (immovable) objects. So the community feels the need for new transactions that can be developed from rahn transactions by changing patterns by parallelizing other contracts. In the treasures of classical fiqh, for example, one can find that since the fifth century Hijriyah, the Hanafiyah Madzhab have begun to develop new transactions that are identical and based on the Rahn pattern on immovable objects; For example on land, houses, and so on. This transaction is known as buying and selling wafa' or Bay'al-wafa'. [24]

A prominent contemporary Egyptian scholar, Abu Zakroh said, Bay' al-wafa' as a muamalat practice emerged in Central Asia (Bukhara and Balkhan) in the middle of the fifth century Hijriyah and then spread to the Middle East. According to Mustafa Ahmad Zarqa, bay' al-wafa' [25] is needed by the community, because with this sale and purchase, the needs of people who need money are met, and at the same time they are protected from usury. Bay' al-wafa' only received justification from Hanafi scholars after bay' al-wafa' became 'urf in Bukhara and Balkhan society, so the process of accepting it in Sharia law took quite a long time. [26]

### 2.3 The law of bay' al-wafa'

Hanafiyah scholars allow wafa' based on the argument of istihsan 'urfi [21], namely istihsan because the practice has become 'urf in society, and buying and selling is needed by the community (hajiyat). Because bay' al-wafa' had become 'urf and was well received in society, the Ottoman government through the Ahkam al-Adliyah Majallah, in 1876 AD, included bay' al-wafa' in the Codification of the Turkish Law. [27] Then several Islamic countries recognized its halalness and included it in civil legislation such as Lebanon, Morocco, and Syria.

Whereas the Syafi'iyah, Malikiyah, and Hanabilah scholars forbid bay' wafa'. [11] The arguments used are:

#### 2.3.1 Fiqh rules:

والعبرة في التصرفات للمقاصد والمعاني، لا للألفاظ والمباني

*"What is used as 'ibrah (attention) in mu'amalah al-tasharrufat are the objectives and meanings of the content, not the pronunciation and construction"*

#### 2.3.2 The proposition of Sadd al-Zari'ah, namely to prevent usury.

Bay' al-Wafa' in the Islamic State Act

Bay' al-wafa' had become 'urf and was well received in society, so the Ottoman government through Majallah Ahkam al-Adliyah (Ottoman Turkish Codification of Civil Law) which was compiled since 1287 H or 1876 AD, included bay' al-wafa' in the Codification of the Turkish Law, which includes 9 Articles, namely Articles 118-119 [27], and Articles 396-403 [27].

Furthermore, Lebanon in the Lebanese Qonun Milkiyah Law legalizes the concept of bay' al-wafa' to provide opportunities for money borrowers (sellers) to take advantage in the right way and provide opportunities for those who lend money (as buyers) to be able to take advantage of the goods they buy and to fulfill the buyer's desire to own the asset again after a period of the lease. [28] The concept of bay' al-wafa' subsequently penetrated Egypt. In 1948 Egypt drew up a Civil Code and this law legally recognized bay' al-wafa', which was stated in article 430 of the law. Even though in 1970, after the revision of the law was carried out, the article discussing bai' al-wafa' was no longer included. Likewise, in the Syrian Civil Code

(Qanun Madany al-Sury), bay' al-wafa' is included in article 433.[29] However, because Egypt has abolished it, Syria has also abolished it.[30]

But Majma' Fiqh Islam ami Rabithah Alam Islami in its seventh meeting in Jeddah Saudi Arabia 12-17 Dzulqo'dah 1412 H coincides with 9-14 May 1992 forbidding this ba'I wafa because this transaction is hilah against usury.[11]

#### 2.3.3 Bai' al-Wafa' in Compilation of Sharia Economic Law (KHES) and MUI fatwas

In the Compilation of Sharia Economic Law (KHES), bai' al-wafa' is legally recognized and included in articles 20 and articles 112 to 115. KHES gives the meaning of bai' al-wafa' as referred to in Article 20 paragraph (42) as follows: Bai' al-Wafa' / sale and purchase with the right to repurchase is a sale and purchase that takes place on the condition that the goods being sold can be repurchased by the seller when the agreed deadline has arrived.

Article 112 paragraph (1) In a sale and purchase that depends on the right of redemption, the seller can return the money for the goods sold and demand that the goods be returned. Paragraph (2) The buyer as referred to in paragraph (1) is obliged to return the goods and demand his money back for the price of the goods. Article 113, Goods in sale and purchase that depend on the right of redemption, may not be sold to other parties, either by the seller or the buyer, unless there is an agreement between the parties Article 114, paragraph (1) Damage to goods in sale and purchase with the right of redemption is the responsibility of those who control it. (2) The seller in buying and selling with redemption rights has the right to repurchase or not the damaged goods. Article 115, The right to repurchase in bai' al-wafa' can be inherited.[31]

2.4 Bai' al-wafa' is also recognized as a valid contract as stipulated in the DSN Fatwa No: 94/DSN-MUI/IV/2014 concerning Repo Sharia Securities (SBS) Based on Sharia Principles. In this fatwa what is meant by: 1) SBS Repo Transactions are transactions in the sale of Islamic securities by an Islamic financial institution to other Islamic financial institutions or conventional institutions and vice versa with a promise to repurchase by the seller in the future. 2) Sharia Securities (SBS) are securities issued based on Sharia principles, both by the government and cooperatives, as proof of participation in the ownership (حصة) of Islamic securities assets, both in rupiah and foreign currency.[32]

The bai' al-wafa' contract is used in the Syariah Securities Repo (SBS) and is called bai' ma'a al-wa'd bi al-syira' in the SBS Repo. This means that the seller of the SBS promises to buy back the SBS in the future and the buyer also promises to resell the SBS in the future (mutual promise/muwa'adah). Thus, KHES and Fatwa DSN-MUI are in line and under the opinion of Hanafiyah scholars who state that bai' al-wafa' is allowed and can be applied in Indonesia, and this is different from the opinion of Syafi'iyah scholars who say that bai' al-wafa' remains invalid.

## 2.4 Rules Concerning Rahn according to AAOIFI

Regulations regarding Rahn internationally for Islamic Financial Institutions have been issued by AAOIFI (Accounting and Auditing Organization for Islamic Financial Institutions) (2015) through Shari'ah Standards No 39 concerning Mortgage and Its Contemporary Applications or Pawn and Contemporary Applications.

- a) It is permissible to hold documents representing ownership of goods as marhuns, because ownership of documents is considered ownership of the goods themselves. The document owner will be authorized to execute the item just like the owner.
- b) It is permissible to pawn shares because shares represent part of the assets permitted by Sharia (cash, tangible assets, usufructuary rights, rights, and

debts), some Fiqh scholars point out that binding joint ownership rights is permissible.

- c) It is permissible to mortgage Sukuk (Sharia Bonds).
- d) Allowed to freeze bank account balances and the like as pawned goods because it is similar to pledging assets previously owned by a pawnshop guarantee (assets in the hands of a pawnshop).
- e) It is permissible for an institution to keep investment account accounts as a pawn as this is considered a permissible general mortgage.

## 2.5 Rahn In Law

This pawn is directed in Book II Title 20 Article 1150 to Article 1161 of the Common Code. The meaning of pawning as written in Article 1150 of the Common Code is a right that is gotten by an individual who has receivables for a versatile item, which is given over to him by a debt holder or by someone else for his sake, and which gives position to the debt holder to take installment of the thing in need over different leasers, with the exception of the expenses for unloading the thing and the expenses caused to save it after the thing is sold, which costs should come first".[33]

The legal basis for Rahn or pawning in Indonesia is:

1. Law Number 9 of 1969 article 6 explains that the nature of a pawnshop business is to provide services for public benefit and at the same time accumulate profits based on the principles of company management.
2. Law Number 9 of 1969 article 7 elaborated:
  - a. Participate in improving the welfare of the community, especially the lower middle class through the provision of funds based on pawn law and other financial services based on applicable laws and regulations.
  - b. Avoiding the public from illegal mortgages, usury practices, and unnatural loans.[34]
3. Bank Indonesia Circular Letter Number 14/7/DPbS 29 February 2012.[35]

The issuance of this Circular Letter is intended to provide a reference for Sharia banking in running Qardh products backed by gold, which is an implementation of Bank Indonesia Regulation No.10/17/PBI/2008 concerning Products for Sharia Banks and Sharia Business Units.

Gold Backed Qardh products have the following characteristics (features):

- a. For the Micro and Small Enterprises (UMK) customer group, the use is intended to finance short-term funding requirements or additional short-term working capital.
- b. The contracts that are utilized are ijarah contracts, qardh contracts, and Rahn contracts, which are used to bind the utilization of gold storage and maintenance services as collateral for loan funds. ijarah contracts are used to bind the loan funds provided by Islamic Banks or UUS to customers.
- c. Fees that can be charged by Islamic Banks or UUS to clients incorporate organization expenses, protection charges, and capacity and upkeep charges.
- d. Funds can come from a share of the capital, profits set aside, or funds from third parties.
- e. The customer's use of the funds must be clearly stated on the product application form.
- f. At the time the financing application is submitted, the customer must already own the gold that will serve as collateral for Qardh Backed by Gold.

4. Pawn Business in Financial Services Authority Regulation (2016, No. 31/POJK.05/2016).

In Indonesia, Rahn or Sharia Pawn businesses have not yet been regulated as laws but still, refer to the Financial Services Authority Regulation (2016) Number 31/POJK.05/2016 concerning Pawn Businesses, it is stated that Pawn Businesses are all businesses related to lending with collateral moving, deposit services, appraisal services, and/or other services, including those organized based on sharia principles. By and by, Rahn's sharia items are controlled through a fatwa gave by the Public Sharia Board of the Indonesian Ulema Committee. The following is a fatwa related to Rahn.

## 2.6 MUI and KHES National Sharia Council Fatwa Regarding Rahn

The pawn mechanism is like debts, the difference is that in the pawn there are goods that are used as collateral and are brought during the transaction. It is just that the pawning contract contained 3 (three) parallel contracts at once, namely qorh, Rahn, and ijarah. Arrangements regarding rahn in the compilation of Syari'ah economic law are regulated in Chapter XIV (Articles 373-408). The discussion of the Rahn contract in Chapter XIV covers the pillars and terms of Rahn. The pillars of the rahn contract consist of murtahin, râhin, marhun bih/debt, and contract. In the pawning agreement, there are 3 (three) parallel contracts, namely Qardl, Rahn, and ijarah. The contract must be stated by the parties in an oral, written, or gesture manner. The parties to the rahn contract must have legal skills. The Rahn contract is perfect when the marhun has been accepted by the murtahin. Meanwhile, the marhun must be of value, can be handed over, and exist when the contract is carried out Articles 373-376.

The fatwa of the National Sharia Council confirmed the legal status of Sharia pawning with several fatwas, including:[36]

a. Fatwa DSN-MUI/III/2002 No. 25 about :[37]

The background to the issuance of the fatwa was the opinion of participants in the Plenary Meeting of the National Syari'ah Council on Thursday, 14 Muharram 1423 H./28 March 2002 and Wednesday, 15 Rabi'ul Akhir 1423 H./26 June 2002.

Sharia financial institutions (LKS) must provide a variety of products to meet the needs of the community, as a loan using goods as collateral is one type of financial service that a community requires. The National Sharia Council believes that a fatwa regarding Rahn, namely the use of goods as collateral for debts, is required for this method to adhere to Sharia principles.

Rahn must fulfill the following general conditions:

- a. The recipient of goods, Murtahin, has the right to keep marhun (goods) until all of Rahn's debts are paid in full.
- b. Marhun and its advantages stay the property of Rahn. In theory, the murtahin can only use the marhun with the Rahn's permission. This won't affect the marhun's value, and the only use of the marhun is to cover the cost of maintenance.
- c. The Rahn is responsible for the marhun's upkeep and storage; murtahin can also take care of this, but the Rahn is still responsible for the cost and upkeep of the storage.
- d. It's possible that the loan amount won't be used to figure out how much it will cost to keep and store marhuns.
- e. Deals of marhun, a) When due, murtahin should caution Rahn to promptly take care of his obligation. b) Sharia sells or executes the marhun by auction



if the rahn is still unable to pay its debts. c) The returns from the offer of marhun are utilized to take care of obligations, neglected support and capacity expenses, and selling costs. d) Rahn owns the sale's surplus, and Rahn is responsible for the deficit.

DSN-MUI Fatwa No. 26/DSN-MUI/III/2002 Rahn Emas :[ 38]

The foundation to this fatwa is a letter from Bank Syariah Mandiri No. concerning the Application for a Fatwa on Gold Pawn Products, 3/305/DPM, dated October 23, 2001. Then the consequences of the Whole Gathering of the Public Sharia Chamber on Thursday, 14 Muharram 1423 H/28 Walk 2002 M.

Rahn, which is the holding of goods as debt collateral, is one community-based service; Then, sharia banks need to offer a variety of products that meet the needs of the community; furthermore, it is standard for individuals, as a general rule, to make gold something important to keep and make it a rahn object as guarantee for obligations to get a credit; thus that this technique is completed following sharia standards, the Public Sharia Board considers it significant to give a fatwa on this make a difference to act as a rule.

Rahn Emas must meet the following general conditions:

- a. Rahn gold is permissible based on the principle of Rahn. (see DSN fatwa number: 25/DSN-MUI/III/2002 regarding Rahn)
- b. Fees and costs for storing goods (marhun) are borne by the pawnbroker (rahin).
- c. The amount of the fee referred to in paragraph 2 is based on expenses that are needed.
- d. The cost of storing goods (marhun) is carried out based on an Ijarah contract. (see fatwa of the national shari'ah council no: 09/dsn-mui/iv/2000 regarding ijarah financing[39])
- b. DSN MUI Fatwa No: 68/DSN-MUI/III2008 concerning Rahn Tajsily [40] is collateral in kind for a debt, with an agreement that what is submitted to the recipient of the guarantee (murtahin) is only valid proof of ownership, while the physical collateral (marhun) remain in the control and utilization of the guarantor (rahin).

The background to this fatwa is a Letter from Perum Pegadaian No. 186/US.1.00/2007. As well as the opinion of participants in the DSN-MUI Plenary Meeting on Thursday, 28 Shafar 1429 H./06 March 2008.

Loans by pawning goods as collateral for debt in the form of Rahn Tasjily are permitted under the following conditions:

- a. Rahin provides murtahin with proof of ownership of the goods;
- b. The murtahin does not acquire ownership of the goods if collateral in the form of a certificate or legal proof of ownership is kept. Furthermore, in accordance with Sharia law, Marhun may be forcibly sold or executed directly in the event of default or inability to repay the debt;
- c. Rahin approves murtahin to execute expressed thing in case of default or inability to take care of the obligation;
- d. The utilization of marhun products by rahin should be inside sensible limits as per the arrangement;
- e. Murtahin can charge the rahin for the upkeep and storage of marhun's possessions (with legal proof of ownership or certificates);
- f. How much upkeep and capacity costs for marhun products can't be connected with how much the credit given;
- g. The fees are calculated using actual costs and ijarah contracts for other costs.

h. Rahn is responsible for paying for insurance financing for Rahn Tasjily..

The general provisions of fatwa No.25/DSN-MUI/III/2002 concerning Rahn related to the implementation of the Rahn Tasjily contract also apply to this fatwa.

c. DSN-MUI Fatwa No: Concerning Rahn's accompanying funding, see 92/DSN-MUI/III/2014 (At-Tamwil Al-Mautsuq bi Al-Rahn).[41]

The background to this fatwa is a letter from Pegadaian Syariah Number: 240/S-00120212013 concerning Rahn's Fatwa for Product Development: Pegadaian Syariah dated 10 October 2013. Then the results of the Focus Group Discussion (FGD) between the Pegadaian Syariah Team and the National Sharia Council - Council of Ulama Indonesia (DSN-MUI) at the Acacia Hotel Jakarta on 07-08 February 2014. As well as the Opinions of Participants in the Plenary Meeting of the National Sharia Council – Indonesian Ulema Council on Wednesday, 02 April 2014.

Regarding Rahn, the DSN-MUI fatwa (DSN-MUI Fatwa Number: 25/DSN-MUI/III/2002 concerning Ralf, DSN-MUI Fatwa Number: DSN-MUI Fatwa MUI No. 68/DSN-MUI/III/2008 concerning Rahn Tasjily Fatwa Number: 26/DSN-MUI/III/2002 Rahn Emas, DSN-MUI Islamic financial institutions require a fatwa related to Rahn-based business development because Rule 43/DSN-MUI/VIII/2004 regarding Compensation (Ta'widh) is deemed to not accommodate Rahn-based business development. The DSN-MUI believes that a fatwa on financing accompanied by Rahn (at-tamwil al-mautsuq bi al-rahn) is required as a guideline because of the aforementioned considerations.

What exactly does it mean to:

- a) The DSN-MUI fatwa states that Rahn has signed the following contract: regarding Rahn, 25/DSN-MUI/III/2002; DSN-MUI fatwa Number: 26/DSN-MUI/2002 concerning Rahn Emas; and the Fatwa Number for DSN-MUI: regarding Rahn Tasjily in 68/DSN-MUI/III/2008;
- b) The trading contract (al-bai') is as expressed in the DSN-MUI fatwa Number: 04/DSN-MUI/IV 12000 concerning Murabaha; Number of DSN-MUI fatwa: 05/DSN-MUI/VI2000 regarding the Purchase and Sale of Greeting Cards; and the Fatwa Number for DSN-MUI: concerning the Sale and Purchase of Istishna, No. 06/DSN-MUI/IV/2000;
- c) The Qardh contract is as expressed in the DSN-MUI fatwa Number: Concerning al-Qardh, see DSN-MUI/IV/2001
- d) The DSN-MUI fatwa states that the Ijarah contract is as follows: 09/DSN-MUI/IV/2000 concerning Ijarah Funding;
- e) The Musyarakah contract is as expressed in the DSN-MUI fatwa Number: 08/DSN-MUI/IV/2000 concerning Musyarakah Funding;
- f) The following is the DSN-MUI fatwa's description of the Mudharabah contract: regarding Mudharabah Financing (Qiradh) 07/DSN-MUI/IV/2000;
- g) According to the DSN-MUI fatwa, ta'widh is number: 43/DSN-MUI/VIII/2004 concerning Remuneration (Ta'widh);
- h) Legal administrator contracts will be gets that don't bring about the commitment to: be answerable for another party's resources when the resources are harmed, lost, or diminished (quality and amount).

## **2.7 Golden Rahn according to Erwandi Tarmidzi**

Erwandi Tarmidzi's opinion regarding the law of Rahn Emas with multiple contracts cannot be carried out because it is not following the hadith of the Prophet Muhammad, nor is it by the

consensus of the scholars and the International Islamic Financial Institution (AAOIFI). This contract is also prohibited to close the usury loophole (sadd al-dzari'ah), except for the need which is a real cost required in a gold pawning contract, in this case, the fee is the cost of storing gold that is pawned without taking any profit from the fee. this.[42]

### 3. Closing

Rahn is a contract that has existed and been known since the beginning of Islam, even getting practical examples in the Al-Qur'an and As-Sunnah. The objects that are pawned (marhun) in the syar'i example are movable (manqul) because pawning is originally a transaction that is required when someone is on a journey (traveling), therefore in the classical fiqh treasures the fuqoha' understand it that the pawned object (Rahn) is only limited to movable objects, not fixed objects. So the validity of the pawn contract (Rahn) in classical fiqh is only limited to objects that can be handed over directly at the time of the contract.

Rahn according to Islamic law is categorized as an act of Jaiz or permissible according to the provisions of the Qur'an, such as-Sunnah, and Ijma'. In classical fiqh, Rahn is understood as a personal contract, in the sense that an aqad takes place between a person who is in trouble but has goods, and a person who has the required cash assets. The Rahn contract is classified as a tabarru contract because the object handed over by the rahin to the murtahin is without compensation or compensation. Nowadays, with developments and economic progress, Rahn does not only apply to individuals but also between individuals and financial institutions, such as banks. Pawning activities at present are far different from the time of the Prophet Muhammad because pawning currently is not only social (tabarru') but also a business lading for entrepreneurs or financial institutions, both private and government. when someone mortgaged his goat, at that time the apostle was asked if his goat was milked. The Prophet allowed it just to cover maintenance costs. Entering the modern economic era when the transaction needs of society are growing rapidly and assets that have economic potential are fixed (immovable) objects. So, the community feels the need for new transactions that can be developed from rahn transactions by changing patterns by parallelizing other contracts. So here there is a difference of opinion among contemporary scholars about the law. Among them are bay' al-wafa' and gold Rahn, because they combine a rahn contract that is tabarru with an ijarah or bay' contract that is muawadhot (profit-seeking) in nature.

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