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Abstract

This study deals in a comprehensive manner with the sale known as *Tawarruq* by examining its kinds, forms and its current practice by Islamic and commercial banks and financial institutions. This sale has become one of the important transactions used by certain banks to enable their customers to get cash liquidity. The study looks into the relationship of *Tawarruq* sale with usury (*riba*), *Ánah* sale and other prohibited sales. It also discusses the question of legal stratagems (*hiyal*) and examines its relationship with *Tawarruq*. In addition, the study analyzes the contemporary applications of *Tawarruq* as practiced by some Islamic banks at present. The study has followed a descriptive and analytical approach to explain the meaning and essence of *Tawarruq* sale. It has also applied a critical and comparative method to compare the views of modern and classical jurists on *Tawarruq*. It has also discussed the rulings of earlier jurists on this sale by contrasting them with modern realities. The study has concluded that *Tawarruq* is not a new topic in Islamic jurisprudence and that it consists of two main categories: private *Tawarruq* and banking *Tawarruq*. Each of these categories is governed by specific rules. The first category of *Tawarruq* is allowed according to the majority of the jurists because it is a valid sale that fulfils the conditions and components of sale contract. The second category, i.e. the banking *Tawarruq*, is a matter of disagreement among the contemporary scholars. Some have legalized it, while others have prohibited it. The researcher leans towards the second view on the ground that in this transaction there is circumstantial evidence that a person resorts to it get cash liquidity and make deferred payment with additional amount.

APPROVAL PAGE

I certify that I have supervised and read this study and that in my opinion, it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a thesis for the degree of Master of Comparative Laws.

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I certify that I have read this study and that in my opinion, it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a thesis for the degree of Master of Comparative Laws.

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This thesis was submitted to the Department of Islamic Law and is accepted as partial fulfillment of the requirement for the degree of Master of Comparative Laws.

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DECLARATION

I hereby declare that this thesis is the result of my own investigations, except where otherwise stated. Other sources are acknowledged by footnotes giving explicit references and a bibliography is appended.

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Signature: _____

Date: _____

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