



Gold Debt-Receiveable System with Paddy Rewards Before Debt Repayment: An Islamic Law Perspective

Sulkiah¹; Zakaria Syafe'i²; Jamaluddin*³

¹Department of Sharia Economic Law, Faculty of Sharia, UIN Sultan Maulana Hasanuddin Banten, 42118, Indonesia

²Department of Sharia Economic Law, Faculty of Sharia, UIN Sultan Maulana Hasanuddin Banten, 42118, Indonesia

³Department of Sharia Economic Law, Faculty of Sharia, UIN Sultan Maulana Hasanuddin Banten, 42118, Indonesia

*Corresponding author, email: jamaluddin@uinbanten.ac.id

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ABSTRACT

In fulfilling the needs of life, humans will always need other people around them, like the debt and credit tradition that occurred in Teras Bendung Village, Lebak Wangi Sub-District, a tradition that has long developed and has become the culture of the Teras Bendung village community. Lending gold with guaranteed rice per each harvest, either from rice fields or land products, before the debtor is able to repay the debt, the creditor will withdraw the harvest without reducing the debt burden. The type of research used was field research, where researchers researched directly in the field to obtain reliable data. The data collection techniques were observation, interviews and documentation. The data processing technique was qualitative data analysis, starting with analyzing all the data obtained, after reviewing the next steps are data reduction, data presentation, and drawing conclusions. The results of this research concluded that: the gold debt-receiveable system with the provision of rice in return before paying off the debt from the perspective of Islamic law in Teras Bendung Village, Lebak Wangi Sub-District is forbidden. The transfer of responsibility when the debtor dies before paying off the debt will be transferred to the heirs. The consequences for debtors who cannot pay off their debts will get social sanctions, and their assets will be taken over by creditors. Repayment of debt using the exchange rate of goods is usually done by parties who owe, provided that the money is equal to the current price of gold.

INTRODUCTION

In social life, the community shows a partnership in the process of social linkage in the community. This process can be seen from the activity of buying and selling

transactions, leasing, to debts.¹ Debts are a social transaction that can help a person get out of the economic problems he is currently experiencing, and become a solution when someone is experiencing difficulties in daily needs or something urgent. If sharia law is applied properly and correctly, there is goodness in the implementation of the debt. When reviewing the legal basis of sharia debts, one form of taqarrub to Allah SWT is to give debts to people who are in trouble. The law of giving debt to creditors is sunnah, if there are parties who provide debt (creditors), and there are parties who receive the debt (debtors).²

Debts as a tabarru contract (kindness or help). Therefore, in Islamic law debt-receivable contracts are not allowed to take advantage of the debtor.³ When the goods are returned as agreed at the beginning of the contract, if the debtor gives an excess in returning the debt or goods at his own will and not on the contract, then the excess is permissible (halal). However, if the addition is required by the creditor and becomes an agreement (contract) then it is not allowed (not halal). Riba can cause a break in good deeds towards fellow human beings by way of debts or eliminate the benefits of debts, so usury tends to extort the poor rather than help the poor.⁴ Helping is an obligation for fellow living beings and does not expect anything in return except for His pleasure, so as not to make it difficult and increase the burden on those in need. However, it is different with the case that the researcher found in Teras Bendung Village, Lebak Wangi Sub-District in the debt-receivable tradition.

The phenomenon of gold debts that occurred in Teras Bendung Village is a tradition that has developed for a long time, and has become the culture of the Teras Bendung village community, borrowing gold with guaranteed rice per each harvest. The debtor, before being able to repay the debt, the creditor will withdraw the harvest weighing 1 quintal per 5 grams of gold, if 10 grams are owed, the creditor will withdraw the harvest weighing 2 quintals and so on, this does not reduce the debtor's debt burden. The creditor does not give the debtor a time limit to pay off the debt.⁵

The debt repayment time is unlimited, making debtors delay paying debts, so that the debt is multiplied, because the price of gold each year has a significant price increase. Until the debtor dies, the debt has not been repaid, then the debt becomes the responsibility of the debtor's heirs. Debtors who are unable to provide rice in return for each harvest, then the rice reward can be replaced with money that is proportional to the price of 1 quintal of rice, the creditor will ask for the gold back when the debtor is unable to provide rice in return. If the debtor has not been able to return the gold, the creditor will forcibly withdraw the debtor's property, such as rice fields, and other valuables.⁶ The gold debt payment system in Teras Bendung Village will be returned using gold again, regardless of whether the gold price goes up or down. 5 grams of gold that is owed, the creditor will receive when repaying the debt is 5 grams of gold even

¹ M. Ali Hasan, "Berbagai Macam Transaksi Dalam Islam (Fiqh Muamalat)" (PT. Raja Grafindo Persada, 2004).

² Agus Rijal, *Utang Halal, Utang Haram : Panduan Berutang Dan Sekelumit Permasalahan Dalam Syariat Islam* (Jakarta: PT Gramedia Pustaka Utama, 2013).

³ Drs Harun, *Fiqh Muamalah* (Surakarta: Muhammadiyah University Press, 2017).

⁴ Hendi Suhendi, "Fiqh Muamalah" (Jakarta: Rajawali Pers, 2014).

⁵ Ahmad Bustomi, "Wawancara dengan Masyarakat Desa Teras Bendung Kecamatan Kragilan," April 22, 2021.

⁶ Sahadam, "Interview" June 15, 2021.

though the price of gold has gone up. If the debtor will repay the debt using money, the money must be worth the current gold price.

LITERATURE REVIEW

In Islamic law debts are called al-qardh. Etymologically, debts (qardh) come from the word "قرض - يقرض - قرضاً" which means "قطع" "cut". *Qardh* is a form of mashdar from "قرض يقرض - قرضاً" which means: "cut. It is said qaradhul ash-syai 'a bil-miqradh I cut something with scissors.⁷ Wahbah al-Zuhaili defines qardh as a piece. It means assets that are lent to others in need. The property is a deduction or part of the property of the person providing the loan.⁸ The word qardh was later adopted into *credo* (Roman), *credit* (English), and *kredit* (Indonesia). The object of a qardh loan is usually money or other means of exchange which is a pure interest-free loan transaction when the borrower gets cash from the owner of the funds (in the case of this is a bank) and is only required to repay the principal at a certain time in the future. The borrower on his own initiative can return a larger amount as an acknowledgement.⁹

In Islamic terminology, al-qardh (loan) is giving money (treasure) to someone who needs it, and the recipient of the debt (debtor) must return the property to its owner.¹⁰ The definition of qardh in terms of terminology put forward by the scholars of fiqh. According to Malikiyah, "a person submits to another party something that has economic value from the aspect that there are no provisions on loan eligibility and it is not permissible for the lender to demand compensation from the borrower associated with the debt submitted".¹¹

Certain Islamic scholars allow lenders to charge the cost of providing loan services. This service fee is not a profit, but is an actual cost incurred by the lender, such as the cost of renting a building, employee salaries and office equipment. Islamic law allows the lender to require the borrower to pay operating costs beyond the principal loan so that these costs do not become vested in commission interest or these fees should not be made proportional to the borrower's amount.¹²

1. Legal Basis of Qardh Debts

Debts (al-Qard) in muamalah, some of the legal basis underlying the legal provisions of debts (Qardh). Both in the Qur'an, As-Sunnah, and Ijma.

a. Al-Quran

The legal basis for debts (Qardh) contained in the Qur'an, including:

1. Al-Baqarah Ayat 245

⁷ Akhmad Farroh Hasan, *Fiqh Muamalah dari klasik hingga kontemporer teori dan praktik*, Cet.1 (Malang: UIN Maliki Press, 2018), 59

⁸ Imam Mustofa, *Fiqh Mu'amalah Kontemporer*, Cet.1 (Jakarta: PT RajaGrafindo Persada, 2016), 168

⁹ Wasilatur Rohmaniyah, *Fiqh Muammalah Kontemporer*, Cet. 1 (Lekoh Barat: Duta Media Publishing, 2019), 102

¹⁰ Adil bin Muhammad Al' Abdul ALi Yahya Tengku, *Agar Tidak Terjerat Hutang*, cet. 2 (Jakarta: Darus Sunnah Press, 2007), 22

¹¹ Panji Adam, *Fikih Mu'amalah Mâliyah: Konsep, Regulasi, Dan Implementasi*, Cetakan kesatu (Bandung: Refika Aditama, 2017), 234

¹² Ascarya, *Akad & Produk Bank Syariah....* 46

مَنْ ذَا الَّذِي يُقْرِضُ اللَّهَ قَرْضًا حَسَنًا فَيُضْعِفَهُ لَهُ أَضْعَافًا كَثِيرَةً وَاللَّهُ يَقْبِضُ وَيَبْصُطُ وَإِلَيْهِ

تُرْجَعُونَ ﴿٢٤٥﴾

“Who will lend to Allah a generous loan so that He may multiply it to him many times over. And Allah straitens and enlarges (the man's sustenance according to the Divine Law) and to Him you shall be returned.” (QS. Al-Baqarah [2]: 245)¹³

In this verse, Allah SWT explains a parable of those who do righteous deeds and spend in His way with those who lend (debt) to Allah SWT with wealth. Meanwhile, the reward for good deeds is likened to a reward which Allah (SWT) has multiplied with many times. In other words, good deeds and Qardh have in common, namely both in terms of goodness.¹⁴

b. Hadits (*as-Sunnah*)

Advocacy in the implementation of debts (qardh) is also found in the hadiths of the Prophet. At that time the Prophet once said to his companions, among them are:

عَنْ ابْنِ مَسْعُودٍ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ . قَالَ { مَا مِنْ مُسْلِمٍ يُقْرِضُ مُسْلِمًا قَرْضًا مَرَّتَيْنِ إِلَّا كَأَن كَصَدَّقْتَهَا مَرَّةً }

“From Ibn Mas’ud, indeed the Prophet Muhammad SAW said: it is not a Muslim to give a loan to another Muslim twice, but the loan is like a charity once.”¹⁵

It is explained that giving a debt or loan twice the value is the same as giving alms once. Giving debt is a very commendable act because it can lighten the burden of others.¹⁶

c. Ijma

As for based on ijma' (consensus), the Muslims have also agreed that qardh is prescribed in muamalah. This is because the qardh contract contains elements to lighten the burden of others without expecting anything in return and based on the principle of mutual assistance.¹⁷ In human life always has a very fast and rapid development, so that many muamalah transactions are sometimes not in accordance with the order of religious norms. Muamalah is basically permissible, if there is no evidence that forbids it. Based on the debts contained in the Qur'an, Hadith and ijma' above, it can be explained that these debts are permissible and recommended. Allah SWT will surely give a double reward for someone who is willing to give a debt to a brother in need, and Allah will help someone who intends to pay the debt until the debt is paid off.

METHOD

¹³ Departemen Agama RI, *Al-Qur'an Dan Terjemahnya*, 538

¹⁴ M Pudjihardjo and Nur Faizin Muhith, *Fikih Muamalah ekonomi syariah*, (Malang, UB Press 2019), 76

¹⁵ Abu 'Abdullah bin Yazid al-Quzwaini Ibnu Majah, Sunan Ibnu Majah (Digital Library, al-Maktabah al-Syamilah al-Isdar al-Isani, 2005), VII/378, Hadits Nomor 2524

¹⁶ Mustofa, *Fiqih Mu'amalah Kontemporer...*, 170

¹⁷ Adam, *Fikih Mu'amalah...*, 239

In this research, the author used qualitative research. Qualitative research method is research that uses a natural setting with the intention of interpreting the phenomena that occur and is carried out by involving various existing methods.¹⁸ This type of research the author used field research. Field research is a type of qualitative research in which researchers observe and participate directly in the location where the data are located. For some researchers field research is more interesting to do, because researchers are directly involved in community association.¹⁹ The object of qualitative research is all aspects of human life, namely humans and everything that is influenced by humans. The object is expressed as it is, or in a natural setting, which is related to the research location, the angle of life called cultural economics, law, administration, religion, and so on.²⁰ In analyzing the results of this research, the authors used qualitative data analysis. The qualitative data analysis technique begins with analyzing the overall data that is available from various sources, namely interviews, observations that have been written down in field notes, personal documents, official documents, and so on. After reviewing, the next step is data reduction, unit arrangement, categorization, and finally abstraction is made.²¹

RESULTS AND DISCUSSION

The gold debts made by some of the people of Teras Bendung Village are debts that have occurred for a long time, these debts are carried out by two parties, the creditor (the person who gives the debt) and the debtor (the person who receives the debt). So that in practice debtors who are experiencing difficulties will come to creditors with the aim of taking debt, because the majority of the people of Teras Bendung Village invest their money in gold, so creditors provide gold debt instead of money debt.

This gold debt tradition has rules that have existed for a long time, for debtors who borrow gold are required to give 1 quintal of rice in return per 5 grams of gold per each harvest. This has become a habit, and has become an understanding for those who do it. The purpose of the rice reward is as a sign of gratitude to the creditor for giving the debtor enough time to repay his debt.

Debts not only have a positive impact, but can also have a negative impact that can harm others. These debts aim to help people who are in trouble but in practice this is very detrimental and causes harm to those who owe, in addition to having to pay for gold which was initially borrowed, the debtor also has to give rice in return to the creditor who gave the debt.

If he finds a failure in the harvest, the debtor must still give the reward in

¹⁸ Johan Setiawan Albi Anggito, *Metodologi Penelitian Kualitatif*, Cet. 1 (Sukabumi: CV Jejak, 2018), 7

¹⁹ Egi Fajar Andalus, Sugiarti dkk, *Desain Penelitian Kualitatif Sastra*, Cet.1 (Malang: Universitas Muhammadiyah Malang, 2020), 39

²⁰ Heri Herdiawanto Jumanta Hamdayama, *Dasar-Dasar Penelitian Sosial*, cet. 1 (Jakarta: Kencana, 2021), 26

²¹ "Menurut Lexy J Moleong Proses Analisis Data Kualitatif Dimulai Dengan Menelaah | Course Hero," accessed September 28, 2021, <https://www.coursehero.com/file/p2bna65/Menurut-Lexy-J-Moleong-proses-analisis-data-kualitatif-dimulai-dengan-menelaah/>.

the form of money which is equivalent to 1 quintal of rice at that time. Ironically, for people who hold tightly to this custom, the creditor will charge the debtor in return for rice per each harvest, regardless of whether the creditor experiences success in harvesting or not and has money or not.²²

The debts that occurred in Teras Bendung Village, Lebak Wangi Sub-district are debts that have occurred decades ago, therefore not a few people still have debts. However, because there is no time limit given by the creditor (debtor), the debtor (debt recipient) feels that he has no demands to immediately pay his debt, while the debtor continues to give rewards of rice per harvest to creditors without realizing that the gold debt is increasing over time, because gold is a precious metal whose price will continue to rise every year. So this is burdensome for the debtor to pay back his debt.²³ In these gold debts, if the debtor dies, the debts will be continued by his heirs until the debt can be paid off. Some of the cases that occurred, among others: Umiyati has a debt to one of the debtors, but the debtor has died and the debt has not been repaid, therefore the debt is passed on to her son, who already knows the process of the debts.²⁴ These debts will continue if they have not been repaid, even though the child dies, the debt will be passed on to the grandchildren of the debtor.

Another incident also occurred with another resident, called Anis Fuad. Fuad is the grandson of Mirjan who has a debt to Kemisan, but because Mirjan died the debt was transferred to the parents of Anis Fuad, after the parents of Anis Fuad died and the debt has not been paid, the debt is continued to Anis Fuad, who until now still gives a reward of rice per harvest to the creditor's family.²⁵

The people who transacted gold debts in Teras Bendung Village chose to return their gold debt with cash. On the condition that the money to be returned is the same as the gold when he was owed, which is worth the current price of gold. This case was experienced by Hasbullah himself.

Hasbullah once owed his relatives a sum of gold, amounting to 15 grams in 2002, at that time the price of gold was approximately Rp. 100,000 per gram. Hasbullah did not give a time limit to the debtor, so in 2019, Hasbullah needed money for the construction of his house, therefore Hasbullah came to the debtor to ask for his gold back. The debtor acknowledged the gold debt and paid it to Hasbullah but in cash. During the debt repayment process, Hasbullah requested that the gold borrowed by the debtor be returned in the form of gold, but the debtor did not have gold and felt busy with his work if he had to buy gold first. By mutual agreement, the debtor returns his debt using cash which is equivalent to the current gold price, and is deducted from the selling price of gold.²⁶

It is different with the case experienced by Nawī. Nawī lent gold to his neighbor, but for years the gold had not been repaid by the debtor, until Nawī asked for the gold back by coming to his house. However, debtors find it difficult to collect enough money

²² "Sahadam, "Interview" June 15, 2021"

²³ Anis Fuad, "Interview," June 15, 2021.

²⁴ Umiyati, "Interview," July 12, 2021.

²⁵ Fuad, "Interview"

²⁶ Hasbullah, "Interview," July 12, 2021.

to buy gold borrowed from creditors. Because the creditor feels sorry for the debtor, the creditor provides relief to the debtor, so that he can repay his gold debt with cash. By mutual agreement, the amount of money returned is the price of gold at the time the creditor asks for the gold back.²⁷

From the explanation above, it can be concluded that the practice of paying gold debt by giving rice in return before paying off the debt has existed for a long time. The implementation is when the debtor borrows gold weighing 5 grams, the debtor will give a reward of rice per each harvest as a sign of gratitude because the time for repaying the debt is not limited by time. Due to unlimited time, not a few debtors have died and still have debts so that the debt will be charged to the debtor's heirs. If the debtor is unable to repay the debt, the debtor will receive social sanctions and confiscation of the debtor's valuables. Repayment of debt can be done with gold debt paid in gold, and gold debt is paid with money in accordance with a mutual agreement between the debtor and creditor.

The practice of gold debt using this reward has existed since the time of the ancestors of the local area. The majority of the people of Teras Bendung Village work as farmers, in the process of cultivating rice fields there are many needs that are needed by farmers so that the average community at that time owed money for capital for cultivating rice fields.²⁸

In ancient times parents kept money in the form of gold, because the price was stable and with the hope that the money would last a long time, and every year gold experienced a significant increase, indirectly when the money was stored in gold then the money actually had saved. The gold debts were carried out by 2 people who owed credit to creditors and debtors. At first the debtor borrowed money from the creditor, because the creditor did not have money, the creditor gave valuables in the form of gold to be given to the debtor as a loan, both of them did not have an agreement as to when the gold was returned and what compensation or guarantee the debtor would give to the creditor, who then a contract is formed between two people who owe a debt in the form of gold.²⁹

Because time is not limited by the creditor, the debtor gives a reward in the form of rice when the harvest has come, as a sign of gratitude from the debtor because the creditor does not limit the time for repaying his debt. Initially, the reward for rice was not limited by local residents, but over time for people who owed gold, they were required to give a reward of rice weighing 1 quintal per 5 grams of gold at a time to creditors as a token of gratitude for lending to debtors without a time limit for repayment. gold. Due to this unlimited payback period, the debtor gives rice in return. So that it becomes an inherent custom for those who carry out this custom.³⁰ The people of Teras Bendung Village do not know

²⁷ Ahmad Nawawi, "Interview," July 12, 2021.

²⁸ "Interview."

²⁹ Fuad, "Interview."

³⁰ "Interview."

who initiated the transaction, because this tradition has existed since before the Dutch colonial era.

Debts not only have a positive impact, but can also have a negative impact that can harm others. These debts aim to help people who are in trouble but in practice this is very detrimental and causes harm to those who owe, in addition to having to pay for gold which was initially borrowed, the debtor also has to give rice in return to the creditor who gave the debt.

If he finds a failure in the harvest, the debtor must still give the reward in the form of money which is equivalent to 1 quintal of rice at that time. Ironically, for people who hold tightly to this custom, the creditor will charge the debtor in return for rice per each harvest, regardless of whether the creditor experiences success in harvesting or not and has money or not.

Giving Paddy Rewards Before Debt Repayment

In Islamic teachings, debts are muamalah that are permissible, because they can help and lighten the burden of others, who are experiencing difficulties. Debt is a tabarru' contract (help each other), basically this tabarru' contract is to give something or lend something, whether the object of the loan is money or other valuables. This transaction is essentially not a business transaction that can be used for profit. The tabarru' contract aims to do good, the party who does the good is not entitled to require any compensation to the other party, because the reward for the tabarru' contract will be repaid by Allah SWT, not another human being.³¹ Therefore, scholars agree that it is forbidden for the lender (creditor) to require additional from the debt he gave when returning it.³² This is based on the following hadith of the Prophet SAW:

عَنْ عَلِيِّ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أَنَّهُ قَالَ : كُلُّ قَرْضٍ جَرَّ مَنَفَعَةً فَهُوَ وَجْهٌ مِنْ وَجْهِ الرَّبِّ

From Fadhalah ibn Ubaid, a friend of the Prophet SAW. That the Prophet said: "every debt that brings profit is usury".³³

According to Hanafiyah, any loan that provides a value for the creditor (the debtor) is haraam as long as it is required by the contract, if it is not required then it is allowed. Likewise with gifts or bonuses, which are required by the debtor (debt recipient) to be prohibited from giving gifts to creditors, if the purpose of the gift is to delay payment. This is based on the hadith of the Prophet SAW, namely:

عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ حَدَّثَنِي أَسَا مَهُ بْنُ زَيْدٍ أَنَّهُ سَمِعَ رَسُولَ اللَّهِ ﷺ يَقُولُ لَارْبًا إِلَّا فِي النَّسِيئَةِ

³¹ Haqiqi Rafsanjani, "Akad Tabarru' Dalam Transaksi Bisnis," *Jurnal Masharif al-Syariah: Jurnal Ekonomi dan Perbankan Syariah*, Vol. 1, No. 1 (13 Mei 2016), <http://dx.doi.org/10.30651/jms.v1i1.758>, 1

³² Agus Rijal, *Utang Halal Utang Haram, Panduan Berhutang dan Sekelumit Permasalahan dalam Syariah Islam*, Cet.1 (Jakarta: PT Gramedia Pustaka Utama, 2013), 101

³³ Ibnu Hajar al-Asqalani, *Bulughul Maram*, Penerjemah: A. Hassan, (Bandung: Diponegoro, 1999), Cetakan. xxviii, 381

It was narrated from Sa'id bin Musayyab that Uthman bin Zaid narrated to me that he heard the Messenger of Allah say, "Riba does not occur except by deferred payment."³⁴

The hadith above explains that, usury will not occur except with a deferred payment. If someone gives compensation in any form with the aim of suspending the debt, it is not allowed. Malikiyah scholars are of the opinion that the qardh contract which is profitable is not valid because it is usury. It is unlawful to take property from the debtor (debt recipient), such as riding a vehicle or eating at the debtor's house. If it is intended to pay debts, the lender (creditor) is not a tribute. Likewise, it is forbidden to give gifts to creditors if they are intended to repay debts.³⁵

Rewards in any form, if their presence is used as a condition for those who owe debts, it is not allowed, any person who owes is not allowed to require a reward either from the creditor to the debtor, or the debtor who offers it himself, if the purpose of the compensation is to postpone a debt or it is intended to repay a debt, then this is not allowed and includes usury. If the reward is not required at the beginning of the contract and the debtor gives the reward voluntarily then it is permissible, even if you are among the good people in repaying the debt. As stated in the following hadith:

النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ أَطِيعِ فَإِنَّ خَيْرَ النَّاسِ أَحْسَنُهُمْ قَضَاءً (رواه المسلم)

"The Prophet SAW. He said, "Give it. Verily, the best of people are those who are best in giving payment." (HR Muslim)³⁶

There are debt-receivable contracts (qardh) that are allowed with two conditions, namely:

- a. Qardh (debts) is not allowed to bring benefits or benefits to creditors (people who give debts).
- b. Qardh contracts (debts) are not accompanied by other transactions, for example, buying and selling and so on.³⁷

In Islamic law, the payment of debts that are in excess of the price of the goods lent, whether the excess is due to a delay in repaying the debt or being a requirement at the beginning of the contract, is included in usury. Additions that are included in usury are additions that are required in business transactions without the existence of an 'iwad (counterweight/substitute) which is justified by the Shari'ah for the addition.³⁸ If this has become a habit in the environment or if the borrower is known to like to do it, it is makruh for the lender to accept it, because something that has become a habit such as the specified conditions.³⁹ Riba in

³⁴ Hadits Riwayat Ahmad, *Musnad Sahabat Anshar* (Hadits Usamah bin Zaid Kecintaan Rasulullah SAW) No 20767," diakses 6 Oktober 2021, <https://hadits.in//ahmad/20767>.

³⁵ Rachmat Syafe'i, *Fiqh Muammalah* (Bandung: Sinar Baru Algensido, 2013), h. 156

³⁶ Al-Asqalani, *Bulughul Maram...*, 380

³⁷ Imam Mustofa, *Fiqh Mu'amalah Kontemporer*, Cet.1 (Jakarta: PT RajaGrafindo Persada, 2016), 172

³⁸ Hariman Surya Siregar dan Koko Khoerudin, *Fiqh Muammalah Teori dan Implementasi*, cet. 1 (Bandung: PT Remaja Rosdakarya, 2019), 63-64

³⁹ Muṣṭafá Dīb Bughā and Fakhri Ghafur, *Buku pintar transaksi syariah: menjalin kerja sama bisnis dan menyelesaikan sengketanya berdasarkan panduan Islam* (Jakarta: Hikmah, 2010).

language is tamabah, grows and enlarges, while according to the meaning of the term usury is defined as an addition to the basic assets in vanity, both in buying and selling, debts and in other forms of transactions.⁴⁰ The Islamic scholars argue that usury is the credit interest that must be given by the person who owes the debt (creditor), as a reward for using his money. Riba refers to the act of taking advantage of the debtor (one who owes excessive debt).⁴¹

In the revelation of the Qur'anic verse regarding usury it was not revealed simultaneously, but was revealed in four stages, including:

- a. Allah shows that usury is negative. Allah SWT states in advice that, Allah SWT does not like people who do usury. Allah SWT rejects the notion that usury loans, which they consider to help humans, are a way to get closer to Allah.⁴²

وَمَا آتَيْتُمْ مِنْ رَبًّا لِيَرْبُوهَا فِي أَمْوَالِ النَّاسِ فَلَا يَرْبُوهَا عِنْدَ اللَّهِ وَمَا آتَيْتُمْ مِنْ زَكَاةٍ تُرِيدُونَ وَجْهَ اللَّهِ فَأُولَٰئِكَ هُمُ الْمُضْعِفُونَ ﴿٣٩﴾

“And whatever you lay out as usury in order that it may increase on people’s property (Dhikr you do without wishing to reach Allah while you are living), it shall not increase in the Presence of Allah (it does not bring the glorious lights in to your souls hearts and does not increase them). Whatever you give in Zakat (Dhikir you do) seeking Allah’s Face (seeking to reach Allah), it is these that shall get manifold (increase the glorious lights in the souls’ hearts).⁴³”

- b. Riba is described as something bad, Allah SWT threatens to give harsh retribution to the Jews who eat usury.⁴⁴

فَيُظْلَمُ مِنَ الدِّينِ هَادُوا حَرَّمْنَا عَلَيْهِمْ طَيِّبَاتٍ أُجِلَّتْ لَهُمْ وَبِصَدِّ هُمْ عَنْ سَبِيلِ اللَّهِ كَثِيرًا ﴿١٦٠﴾ وَأَخَذِهِمُ الرِّبَا وَقَدَّحُوا عَنْهُ وَأَكَلِهِمْ أَمْوَالِ النَّاسِ بِالْبَطْلِ وَأَعْتَدْنَا لِلْكَافِرِينَ مِنْهُمْ عَذَابًا أَلِيمًا ﴿١٦١﴾

“Because of the Jews’ tormenting and keeping others from the way of Allah, We made unlawful for them certain good and clean things which were made lawful to them. This is because of their taking usury (Ribâ) though they were forbidden it and their consuming the property of the men falsely; and We have

⁴⁰ Didi Suardi, “Pandangan Riba Dan Bunga; Perspektif Lintas Agama Dan Perbedaannya Dengan Sistem Bagi Hasil Dalam Ekonomi Islam,” *Banque Syar’i : Jurnal Ilmiah Perbankan Syariah* 5, no. 1 (15 Juli 2019): 10, <https://doi.org/10.32678/bs.v5i1.1940>, 61

⁴¹ Siregar dan Khoerudin, *Fiqh Muamalah ...*, 65

⁴² Rozalinda, *Fiqh Ekonomi Syariah: Prinsip dan Implementasinya pada Sektor Keuangan Syariah*, cet. 1 (Jakarta: Rajawali Pers, 2016), 246

⁴³ *Departemen Agama RI, Al-Qur’an dan Terjemahnya*, 408

⁴⁴ Rozalinda, *Fiqh Ekonomi Syariah: Prinsip dan Implementasinya pada Sektor Keuangan Syariah*, 246

prepared for the disbelievers from among them a painful torment.” (Q.S An-Nisa: 160-161).⁴⁵

- c. Riba is forbidden by being associated with a multiplier addition. The commentators argue that taking interest at a fairly high level was a phenomenon that was widely practiced at that time. Allah SWT says:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا الرِّبَا أَضْعَافًا مُضَاعَفَةً وَتَقُوا اللَّهَ لَعَلَّكُمْ تُفْلِحُونَ ﴿١٣٠﴾

“O you who believe (who are âmenû)! Do not eat up usury doubled and multiplied, and have piety towards Allah that you may attain Salvation.” (Q.S Al-Imran: 130)⁴⁶

- d. Allah clearly and emphatically forbids any kind of addition that is taken from a loan, and does not differentiate between large and small.⁴⁷

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَذَرُوا مَا بَقِيَ مِنَ الرِّبَا إِن كُنْتُمْ مُؤْمِنِينَ ﴿٢٧٨﴾

تَظْلَمُونَ ﴿٢٧٩﴾ فَإِن لَّمْ تَفْعَلُوا فَأْذَنُوا بِحَرْبٍ مِّنَ اللَّهِ وَرَسُولِهِ ۗ وَإِن تُبْتِغُوا فَكُمُ رُءُوسُ أَمْوَالِكُمْ ۖ لَا

“O you who believe (are âmenû)! Have piety (takwâ) towards Allah and relinquish what remains from usury, if you are (true) believers. But if you do not do (it), then be apprised of war from Allah and His Messenger; and if you repent, then you shall have your principal, you shall not (thus) wrong and you shall not be wronged.” (Q.S Al-Baqarah: 278-279)⁴⁸

Based on the verse above, Allah SWT clearly and firmly forbids any kind of addition that is taken from a loan.

There are four types of usury in muamalah fiqh: usury qardh, jahiliyah, fadhl, and usury nasi'ah.⁴⁹ As for what is said with usury qardh is a certain benefit or advantage that is required of the debtor. Riba jahiliyah is a debt that is paid more than its principal because the debtor is unable to pay the debt at the stipulated time. Riba fadhl is an exchange between similar goods with different levels or doses, while the goods exchanged are included in the type of usury goods. Riba fadhl means additional, the Shari'a has explained its prohibition in six items, namely gold, silver, white wheat, red wheat, dates and salt. The scholars have agreed on the prohibition of adding these items if they are of the same type. As for usury nasi'ah, it is the suspension of payment or receipt of types of usury goods that are exchanged for other types of usury

⁴⁵ Departemen Agama RI, *Al-Qur'an dan Terjemahnya*, 103

⁴⁶ Departemen Agama RI, *Al-Qur'an dan Terjemahnya*, 66

⁴⁷ Rozalinda, *Fiqh Ekonomi Syariah: Prinsip dan Implementasinya pada Sektor Keuangan Syariah*, 247

⁴⁸ Departemen Agama RI, *Al-Qur'an dan Terjemahnya*, 47

⁴⁹ Muhammad Syafi'i Antonio, *Bank syariah*, 41

goods. Riba in nasi'ah arises because of a difference, change, or addition between what is given here and what is given later.⁵⁰

According to Satria Effendi, usury nasi'ah is an additional payment for the required amount of capital that must be paid by the borrower to the borrower without risk in return for the payment interval given to the debtor. Riba nasi'ah occurs in debts, therefore it is also called *duyun* and is also called usury jahiliyyah.⁵¹

Islam strictly forbids usury. This is to protect the benefit of human life from moral (moral), social and economic damage. According to Yusuf Qardhawi, the scholars have mentioned the wisdom of rationally prohibiting usury, including:

- a. Riba means taking other people's property without rights.
- b. Riba can weaken human creativity to try or work, so that humans neglect their trade, their companies and their lives will depend on usury which is allowed without effort. This destroys the economic order.
- c. Riba removes the value of goodness and justice in debts. The prohibition of usury makes the human soul holy from the nature of usurers. This contains a very high moral message.
- d. Usually people who give debt are rich people and people who owe are poor people. Taking excess debt from a poor person is very contrary to the nature of the mercy of Allah SWT.⁵²

Ahmad Wardi Muslich also argues about the wisdom of the prohibition of usury:

- a. Riba causes enmity between one individual and another, and destroys the spirit of mutual help between them. In all religions, especially Islam, strongly encourages the attitude of helping and caring for others, as well as fighting the nature of ego and exploiting others.

- b. Riba encourages the formation of an elite class, which without hard work they get wealth, like a parasite that sucks up other people all the time. Whereas Islam really glorifies work and respects people who work, and makes work one of the main forms of business.

- c. Riba is a *wasilah* or intermediary for colonialism in the economic field, rich people exploit and oppress poor people

- d. In this case, Islam encourages its followers to be willing to give loans to other people who need the "qardhul hasan" model or interest-free loans.⁵³

From the explanation above, it can be concluded that gold debts with the provision of rice in return before paying off the gold debt that occurred in

⁵⁰ Abdurrahman Sa'di, *Fiqh Jual Beli: Panduan Praktis Bisnis Syariah* (Jakarta Selatan: Senayan Publishing, 2008), 169

⁵¹ H. Abd Rahman Ghazaly, H. Ghufon Ihsan, dan Sapiudin Shidiq, *Fiqh muamalat* (Jakarta: Kencana Prenada, 2010), 218

⁵² Ghazaly, Ihsan, dan Shidiq, *Fiqh muamalat*, 222

⁵³ Ahmad Wardi Muslich, *Fiqh muamalat* (Jakarta: Amzah, 2010), 263

Teras Bendung Village, Lebak Wangi Sub-district are included in usury nasi'ah, because these debts use rice in return before paying off the rice debt. the type of ribawi goods, and the purpose of the rice reward is to defer debt, and this is very contrary to Islamic law.

Therefore, based on the verses of the Qur'an, hadith, and the explanations of the scholars above, the legal position of debts of gold in exchange for rice in Teras Bendung Village, Lebak Wangi sub-district is forbidden (haram).

1. Delegation of Responsibilities and Consequences of the Debtor If People Can't Pay Off His Debt

People who bear the burden of debt, must try to settle the debt until it is paid off. Despite the difficulties in the economy the debt must still be resolved according to the agreement. Keeping promises is mandatory and everyone is responsible for the promises he has made.⁵⁴ this is based on the letter al-Isra verse 34, as follows:

وَلَا تَقْرَبُوا مَالَ الْيَتِيمِ إِلَّا بِالَّتِي هِيَ أَحْسَنُ حَتَّىٰ يَبْلُغَ أَشُدَّهُ وَأَوْفُوا بِالْعَهْدِ إِنَّ الْعَهْدَ كَانَ مَسْئُولًا ﴿٣٤﴾

“Do not approach the property of an orphan except in a goodly way till he attains his the age of full strength (puberty)! And fulfill the covenant! Surely the covenant makes (you) responsible.” (Q.S Al-Isra: 34)⁵⁵

Everyone who is in debt is obligated to settle the debt, when someone tries and intends to pay the debt, Allah will pay the debt and vice versa when someone takes someone's property with the intention of destroying it, Allah will also destroy it. This is based on the following hadith:

عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ : (مَنْ أَخَذَ مَوَالَ النَّاسِ يُرِيدُ إِذَاءَهُمْ أَدَّى اللَّهُ عَنْهُ، وَمَنْ أَخَذَهَا يُرِيدُ إِتْلَافَهَا أَتْلَفَهُ اللَّهُ تَعَالَى)

From Abi Hurairah, the Prophet SAW said: “Whoever accepts someone’s property with the intention of paying it off, Allah will surely help him to fulfill it, and whoever wants to destroy it, Allah will destroy it too.” (HR Bukhari)⁵⁶

Debt is different from grants, shadaqah, and gifts. Grants, shadaqah, and gifts are gifts that do not need to be returned. While debt is the giving of ownership of goods with the condition that the goods must be returned. Thus, if someone has a debt and he is able to pay it, then the debt should be repaid immediately, and not delayed. If he is able, but he delays the payment of his debt, then he is a wrongdoer. This is in accordance with the hadith:

⁵⁴ Panji Adam, *Fikih muâmalah mâliyah: konsep, regulasi, dan implementasi*, Cetakan kesatu (Bandung: Refika Aditama, 2017), 242

⁵⁵ *Departemen Agama RI, Al-Qur'an dan Terjemahnya*, 285

⁵⁶ Hassan, *Bulugul Maram*, 379

عَنْ أَبِي هُرَيْرَةَ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ : مَطْلُ الْغَنِيِّ ظُلْمٌ، وَإِذَا أَتِيَ أَحَدُكُمْ عَلَى مَلِيٍّ فَلْيَبْتَغِ {رواه ابوداود}

“From Abu Hurairah that the Messenger of Allah (PBUH) said: Delay (payment of debt) by a rich (capable) person is persecution, and if one of you (his debt) is transferred to a rich (capable) person, then he should accept it.” (Narrated by Abu Dawud)⁵⁷

Islam strongly recommends carrying out the mandate, paying the dependents and giving rights to the owner. Procrastinating the payment of debt in a state of being able is an act of injustice. This hadith explains the impact that can be experienced by people who delay the payment of their debts even though they are able to pay them off.

The conclusions of the hadith above are, first: Procrastinating the payment of debts in a state of being able to include acts of injustice. Second: It is permissible to complain and say firm sentences to capable people who are stalling the payment of debts. Third: may apply to the judge to detain capable people who are stalling to pay debts.⁵⁸ From the description above, it can be concluded that the delegation of responsibility for these debts will be given to the heirs, because this has become the obligation and responsibility of the debtor.

Gold debts by using rice compensation in Teras Bendung Village, Lebak Wangi Subdistrict, which has previously been explained above that these debts in practice the debtor is required to pay compensation before paying off his debt of 1 quintal per 5 grams of gold that he owes per each harvest. . This causes swelling in the debt of gold borrowed, and the obligation to pay a reward per each harvest.

In several field interviews found by the researcher, there were several cases that occurred in the Teras Bendung village area in the implementation of the debt. As experienced by Mr. Kholik, the gold he owed was not returned and the reward for the previously received rice was also not given. People who owed Mr. Kholik left the local area because they were in a large gold debt to several people who were around them, so they could not pay off their debts.

However, the person left his house on a land area of up to 50 square meters and a kindergarten (Kindergarten) school, so the house and land were confiscated by the local community whose property was not returned by the debtor. And that person can no longer be trusted by the people of Teras Bendung Village.⁵⁹

It's different with the case experienced by Mr. Usman, Mr. Usman is one of the people who made the gold debts, he is 72 years old. Mr. Usman has

⁵⁷ “Ensiklopedi Hadits, Hadits Riwayat Abu Daud No 2903,” Accessed 8 October 2021, <https://hadits.in//abudaud/2903>.

⁵⁸ Imam Al-Hafdz Ibnu Hajar AL-Aqalany, *Bulugul Maram*, (Jakarta: Mizan Publika, 2012). 512

⁵⁹ Ahmad Kholik, “Interview,” July 11, 2021.

assets which he owed by a local resident, the debts were made approximately 30 years ago. The debt that was lent was 20 grams to the debtor, at that time the price of gold was around Rp. 12,000 per gram. But until now the gold has not been returned. Because the debtor owns a rice field, the rice field is taken over by Mr. Usman, with the approval of his family, because the person who owed the debt died and his family knew about the debt.⁶⁰

Next is the case experienced by Mr. Sarip, the assets he owed were never returned by the debtor, not only debts that were not returned the rewards he usually received were not given. When Sarip visited the debtor's residence, the debtor said that he was unable to pay the debt that Mr. Sarip owed, and the rice he used to manage repeatedly experienced crop failures so that the debtor was unable to provide compensation for rice per each harvest, but because Mr. Sarip has the rice fields that he did not cultivate, then Mr. Sarip asked the debtor to work on his fields until the income from the fields reached the price of the goods he owed at that time, by mutual agreement.⁶¹

In addition, there is the case of Khusnul's mother, the property she owed at that time was not returned by the debtor, because the debtor at that time only lent his friend. The debtor owes on behalf of his friend, but the friend does not feel he owes anyone, and does not ask people to owe. Because the problems were complicated and the debt he gave was not much, he gave up the treasure, but didn't trust the person anymore.⁶²

From the various cases above, it can be concluded that these debts have no legal impact that can be brought to court, because these debts are transactions based on a *tabarru'* (please help) contract so that there are no witnesses or written evidence that underlies the debts. the debt is true. In the case that occurred in Teras Bendung Village, people who cannot pay off their debts will receive social sanctions. The social sanction is the loss of public trust in the debtor because he is negligent in paying his debts, besides that there are also several debtors whose assets were taken over by creditors because the debts borrowed were very large.⁶³

From the several cases above, it can be understood that even though these debts cannot be brought into the realm of law, there are still social sanctions that will be received by the debtor if the debtor is unable to pay off his debts. Even if the debtor owns the inheritance he left, by mutual agreement the property can be taken over by the creditor.

2. Repayment of Debt by Using the Exchange Rate of Goods

⁶⁰ Anis Fuad, Interview

⁶¹ Hidayat Sarip, "Interview," July 12, 2021.

⁶² Khusnul, "Interview" July 11, 2021.

⁶³ Hasbullah, "Interview," July 11, 2021.

The practice of repaying debt by using the exchange rate of goods in Teras Bendung village, Lebak Wangi sub-district, generally returns gold debt with gold. Without subtracting and adding levels and types.

The scholars agree that debtors are obliged to return the same amount at the time of debt, it cannot be increased or decreased, ignoring the rise and fall of gold prices. Even though there is an increase or decrease in the value of gold prices, this does not affect debt transactions. The amount of gold owed must be equal to the amount of gold at the time it is owed.⁶⁴

According to the authentic opinion of Syafi'iyah and Hanabilah, ownership in qardh applies when the goods have been received. Furthermore, according to syafi'iyah, the debtor returns the same if the goods are mal mitsli, if the goods are mal qimi, then he returns it with goods whose value is the same as the goods he borrowed.⁶⁵

According to Hanabilah, items that are measured and weighed, according to the fuqaha's agreement, are returned with the same items. Whereas in goods that are not measured and weighed, there are two opinions, namely:

1. Returned at the price in effect at the time owed.
2. Returned with goods with the same characteristics as the goods owed.⁶⁶

From the explanation above and from some of these cases, it can be concluded that these gold debts can be settled amicably, because the people of Teras Bendung Village are used to these gold debts. The return of the gold debt using the exchange rate of the goods is not a problem for the people of Teras Bendung Village as long as the return is in accordance with the amount of gold at the time the debtor owes the debt and the price is appropriate when the debtor will pay the money.

CONCLUSION

Debts of gold in exchange for rice before paying off the debt, have long been carried out by the people of Teras Bendung Village. Debtors who borrow 5 grams of gold will give rice in return from the debtor 1 quintal of rice. The background of these debts is that the majority of the people of Teras Bendung Village own rice fields. The debt is used for the needs of cultivating the fields. So that the occurrence of debts of gold in exchange for rice. Gold debts in exchange for rice before paying off the debt are haram, because the addition is used to postpone the payment period.

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⁶⁴ "GAKOPSYAH JAWA BARAT," <https://gakopsyah.com/artikel/detail/40/hutang-dan-inflasi.html>, Accessed 8 October 2021, 23.45 WIB .

⁶⁵ Ahmad Wardi Muslich, *Fiqh muamalat*, h. 97

⁶⁶ Wahbah al-Zuhaili, *al-Fiqh al-Islami Waadillatuhu.*, Juz.IV (Beirut: Dar al-Fikr, 1989), 280

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