

# ISLAMIC BANKING AND TAKAFUL

LBA 3013

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## Introduction

- In 2002, Tun M proposed the GD to be used for international trade.
- Moving towards the unifying currency used in commercial dealings and to minimise the USD hegemony.
- The early jurist had categorized money into two: money by its nature which is pure gold and silver and money by social convention which refers to contaminated dinar or dirham.

## Historical Background

- When paper currency was first introduced in the 16<sup>th</sup> century it was fully backed by gold. The goldsmiths used a 100 percent reserve system. They only issued receipts equivalent to the reserved gold that they held in their vaults.
- The system requires the government not to print paper currency exceeding the national gold stock. However, the system was collapsed when the world wide Depression of 1930s occurred.

## Cont...

- In 1944, major nations held an international conference at Bretton Woods, New Hampshire and agreed to accept gold and dollar as international reserve. The US had printed dollar exceeded its gold stock to solve its financial problem.
- Eventually, in 1971, the USA began a world wide movement to end tying currencies to gold. Since then, paper currencies all around the world are no longer backed by gold. This type of currency is called *fiat money*.

## Fiat Money

- in Latin means 'let there be'
- fiat money serves as the medium of exchange by government declaration
- fiat money is a type of money that is not backed by any physical good or commodity.
- The value of fiat money or its purchasing power lies on public acceptance, government decree and relative scarcity.
- Cash, cheques or bank notes

## World Currency

US Dollar USD	Ringgit Malaysia MYR
Australian Dollar AUD	Kuwaiti Dinar KWD
Euro EUR	Philippines Peso PHP
Indian Rupee INR	Saudi Riyal SAR
Rupiah IDR	Swiss Franc CHF
Iranian Rial IRR	Swedish Krona SEK
Yen JPY	Baht THB
South Korean Won KRW	
Pound Sterling GBP	

## Fiat Money: Syariah Perspective

- 3<sup>rd</sup> conference of Islamic Fiqh Academy which held in Amman Jordan on 16 October 1986,
- "Fiat money is a currency that stands with its own value. Its rule is similar with the rule of gold and silver. Thus, it is treated as one of zakatable as well as ribawi (usurious) items".

## Reason D'etre

- **Qiyas:** Scholars of *usul fiqh* make analogy between fiat money with gold and silver which had been used as currencies during. Illah: Holding monetary value.
- **Istihsan:** As fiat money become the only acceptable payment around the world its use is inevitable either in domestic market or at international trade level.

## Cont....

- social convention or '*urf*: non-contradict with the textual revelation neither from the Qur'an nor the Sunnah and the subject matter must be a general custom (*al 'urf al 'am*).
- *masalih mursalah*: interest, welfare, advantage and wellbeing
- *sad al-dharai'*: blocking the means which leads to unlawful matter.
- the views of *usul fiqh* scholars indicate that the utilization of fiat money is legitimate

## Why?

- Current monetary regime dominates financial transactions with elements of riba, maisir and gharar.
- Currency speculators earned money by manipulating weaknesses in the international monetary regime.
- IFIs are tied to the market interest rate.
- Forever in debt.

## Dinarist vs the Opponent

- Dinarist- Rais Umar Vadillo, Masudul Chowdury and Ahamed Kameel Myden Meera.
- Possible to return to Gold Standard
- The Opponent- Nejatullah Siddiqi, Muhammad Farouq, Mahmoud ElGamal.
- In current monetary system, it is almost impossible to implement the GD.

## Features and Characteristic of GD

- Muslim used dinar since the prophet's time.
- WITO adopted this standard as specific weight of 22 carat gold = 4.25 grams with a parameter of 23 mm.
- 1 Dinar = RM165
- Proposal is to return to Bretton Woods policy on gold-reserve system.

Dinar	Fiat Money
Commodity based. Has its intrinsic value	Based on supply and demand. No intrinsic value
Does not need govt. to issue it. Only need the freedom to possess and use gold and silver	Managed and issued by govt.
Naturally international currency notwithstanding different names and weight	Only recognized within the boundary of the issuing government
Cannot be inflated by printing more of it.	Value dependent upon the investor's belief that the promise will be fulfilled

## Malaysia's Monetary System

- Malaysian Currency (Ringgit) Act 1975- Ringgit and Cent.
- S2 MCRA – the unit currency shall be the ringgit which shall be divided into 100 cent.
- T4 BNM is empowered to issue notes and coins in RM.
- RM local legal tender and not tradable abroad.
- Malaysia has been reducing the use of USD. 1998 Crisis- RM5.80 for USD1

## Legal Framework for international trade

- Limited application of GD- Currency for international trade only and to be held as central bank reserve.
- S 2 (b) of Article iv under the IMF article of agreement- use of GD could contravene the IMF.- t4 Malaysia's proposal is only to be used as a currency to settle bilateral payment arrangement.



## Legal Framework In Islamic Banking Business

- The need for a new and specific act.
- Relevant legal framework-The IMF do not allow the use of gold currency. – Tax and fiscal incentives.
- Special powers of BNM to regulate and monitor the usage of GD.

## The Legal Effect of GD

- 1. The creation of dual currency system in Malaysia
- 2. Responsibilities of BNM
- 3. Permissibility of transactions

## Tutorial

- A debate on “The Viability of Gold Dinar: Realistic or Idealistic”
- T1- USIM Islam Bank and Al-Kauthar Bank will be the opponent of GD. ADDinar Bank will be the proponent of GD.
- T2 –Barakah Bank Bhd and Al-Burtuqaal Bank will be the opponent of GD. I-Global Bank will be the proponent of GD.

## Next Lesson

- Salient features of Islamic banking
- An overview of the jurisdiction of the courts in cases pertaining to Islamic banking and finance.
- Salient features of various statutes governing Islamic banking and finance.
- Theory of the classifications of transactions in Islamic commercial law