


Implementation Of Kafalah Dhamman & Selling In Buying And Selling

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Article Info	ABSTRACT
Keywords: Ju'alah, Kafalah dhaman, Buy and Sell	Study This discuss two types contract in transaction service in perspective jurisprudence transactions, namely caravan dhaman (guarantee) and jua'alalah (reward for services). Research objectives This is For understand concepts, characteristics, and applications second contract the in practice Islamic economics through library research approach. Research methods This depend on study library from books, articles journals, and sources relevant Islamic law. Kafalah dhaman is agreement involving guarantee payment or settlement obligation from party guarantor (kafil) if the guaranteed party (makful ' alayh) fails fulfil obligations. Contract This aiming For provide a sense of security for the party that does transaction, because existence guarantee settlement obligation from party third. Instead, go for it is contracts that focus on giving reward on a service or successful achievement achieved. Rewards given after designated party succeed fulfil task or agreed conditions, with objective For push achievement objective certain in public or business. Research results show that although second contract This own difference fundamental in purpose and its application, both reflect principle base in Islamic economics, namely justice and transparency in transaction.
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INTRODUCTION

Islam regulates all over aspect life human, no just aspects of worship, but also aspects transactions, especially Islamic economics. The Qur'an in general firm state the perfection of Islam in Lots verses, including the Perfection of Islam No just recognized by intellectuals Muslims, but also Western orientalis, including HAR Gibb who said, "Islam is much more than a system of theology, it's a complete civilization." One of them Islamic teachings that regulate life man is aspect economics (*mua'malah, iqtishodiyah*). Islamic teachings about economy Enough many, good in the Koran, *Sunnah*, and *ijtihad* of the scholars. This is show that Islamic attention in problem the economy is very large.

true purpose of Islamic law is objective Creator Islamic law is itself. The purpose of Islamic law is direction every behavior and actions the human being in frame reach happiness life with obey as well as avoid what has been become His law. Allah SWT's purpose. mandate the law is look after welfare human, at the same time avoid *mafsadat*, both in this world and in the afterlife. that goal want to achieved through commands and prohibitions (taklif), the

implementation of which depends on understanding source the main law, namely the Qur'an and the hadith. In His Word, Allah SWT explicitly firm give all his creation in humans That no there is something in vain. As explained in the Qur'an surah Al- Mu'minun paragraph 115 :

بَارِكُوا فِي مَا أَنْزَلْنَا عَلَيْكُم مِّنَ السَّمَاءِ مَاءً يُسْقِيكُم فَتَأْكُلُوا مِن ثَمَرِهِ وَمَا يُلْقِي مِن ثَمَرِهِ لَآتٍ لِّئَلَّا يُرْتَدَّ كَيْفَ مَا كُنتُم مِّن قَبْلُ لَئِيْلًا لِّئَلَّا تُرْجَعُوْنَ bless you God

Meaning : " *Then what? You think, that Indeed, We created You just for fun (and that) You No will returned to us?*" (QS Al- Mu'minun verse 115)

Activity economy in Islam it is known with designation *muamalah*, which includes activity sell buy, rent rent, debt receivables and so on. As time goes by time, society the more many have turned to activities principled economy sharia, because proven more fulfill a sense of justice. Among them proven with The birth of financial institutions Sharia (LKS) in Indonesia, both in Bank and non-bank forms of use fulfil need public For transact Sharia compliant and free from usury.

In Islam borrowing and lending is something that is forbidden. On the contrary, it is suggested that the relationship This done with profitable way One each other, so that can tighten rope brotherhood. What is needed be noticed is that practice This must in accordance with Islamic teachings. *Contract qardh* is type of fund without the reward in which the borrower must return amount main loan, good in a way full or through payment periodic in term the time that has passed determined. Principle the main thing is that contract *Qardh* forbid giving addition to giver loan. In other words, the lender loan forbidden request reward on loan besides cost reasonable administration. Principles This in accordance with practice *Islamic Development Bank* (IDB) and institutions other Islamic finance around the world. There are contract services, such as contract *kafalah*, which has used during for years in practice Islamic banking. *Kafalah* is agreement in which the parties first, or guarantor, give guarantee to obligation party second, or party Thirdly, Islamic banks provide guarantee to parties related through contract *kafalah*. Party third is the requesting party clarity related transactions carried out. Islamic banks have right For demand guarantor For bear obligation Customer if Customer No capable fulfil his obligations. However moment This draft *ju'alah* develop rapid specifically in the business world. In the modern world, the concept *Al Ju'alah* has become *platform innovation* and *activity creative* winner awards and many more in demand.

Jua'lah often regarded as competence or a competition whose purpose is is get something from the person who held it contest mentioned, *kafalah*, *Dhamah* and also *Jua'alah* is component from jurisprudence frequent muamalah present in life society, increasingly its development society sometimes don't understand about the concept that they do so that often not be on the halal path or in a way Islam, so that with saidtheauthor interested For discuss contract to *Kafalah Dharma* and also *Jua'lah* who is looked at in corner view jurisprudence connected transactions with context Islamic economics.

RESEARCH METHODOLOGY

Study This including study qualitative research conducted with study library research, namely a research conducted with gather ingredients library, reading books, literature and review from various type theory that has connection with problems being researched. Research This

is type study qualitative (*field research*), data sources used that is journal, article, thesis as well as the existing books related what was discussed.

RESEARCH RESULTS & DISCUSSION

General Purpose of Khafalah Dhaman (Guaranty)

Understanding Khafalah Dhaman (Guarantee)

Meaning *al - kafalah* from perspective Language that is *aladhaman* (ensuring), *hamalah* (burden) and *za'amah* (responsibility). In addition to those mentioned above, guarantee also means ability, and those who are bound with understanding contract called *kafil* and *za'im* (which are all has the meaning of the party that guarantees). Then, if based on the views of scholars Syafi'i and Al- Mawardi that the word *al- damin* used in insurance as wealth, *al-pregnant* interpreted type *diyat* (abundance that must be given to the victims Because crime a act criminal), *al- za'im* for type riches abundant, and *al- kafil* special used for people or yourself. If you look at from corner view special, there is difference opinion from various scholars.

Kafalah is enter responsibility a individual on responsibility individual other in a demands law, in meaning give responsibility individual other related treasure objects, lives, and goods valuable. As stated by *Wahbah Zuhayli*, *al- kafalah* is a ability For with on purpose give right as guarantee to others. *Al- kafalah* often interpreted as move One type liability to different liabilities. *Kafalah* own connection with *rahn*, but both of them own different capacities, in contract contract, agreement the applicable as guarantor who pays someone's debt. So the relationship *caravan* with *rahn* is there is equality transactions which are guardianship For hold guarantee as form trust.

Kafalah is guarantee receivables given by people or organization to the party that does not can pay off his debt. In case somebody No can responsible answer to his debt alone, is it guarantor own right For replace his debt said ? Scholars agree that guarantor obliged For take care of other people's debts that have been charged to him. Guarantor must pay it If use *caravan bil mal*, whereas If according to *the kafalah of the son of nafs*, then guarantor No must pay it, guarantor Enough with provide related data existence of the person in debt. *Kafalah* There are 2 types, namely :

- 1) *Kafalah* with soul. *Kafalah* with soul also known as designation guarantee face, namely commitment *the caravan* For presenting the person in charge to *creature oh*.
- 2) *Kafalah* with property :
 - a) *Kafalah bid- dain* Commitment obligation debt payments that become other people's responsibility. In debt cases, it is implied namely, the debt stated Correct existence at the time the occurrence transaction guarantee, and item status known, because No legitimate if the status is not known.
 - b) *Kafalah* with goods or *caravan* with handover *Kafalah* with goods or *caravan* with submission, namely commitment For deliver goods certain things that are in the hands of others.

acceptance, *acceptance* can in the form of statement that party guarantor Ready For ensure payment debt, implementation obligation, or matter others that must be implemented by the guaranteed party. *Consent* This must clear, firm, and not There is doubts in it so that an agreement is created legitimate according to Islamic law. For example, if somebody owe to party other, then party guarantor Can to pronounce *consent* in the form of promise For replace or pay off debt the If debtor No can fulfil his obligation. *Acceptance* This is statement or action from the guaranteed party (or other authorized parties) who acknowledge and accept not quite enough answers submitted by the parties guarantor.

In addition, in contract *kafalah*, is also necessary There is clear provisions about object or guaranteed object. This means that the party that provides guarantee must know with Certain what is becoming not quite enough guaranteed answer. For example, if *caravan* done For ensure settlement debt, then must clear How many amount debt that must be paid paid and how method its settlement. This is also for prevent existence potential dispute between parties involved in contract *kafalah*. In case this, clarity object agreement be one of condition legitimacy contract *caravan* according to Hanafi school. According to Hanafi school of thought, pillars *caravan* only one, namely *ijab* and *qabul*, while According to other scholars, harmony and conditions caravan includes :

- 1) *Kafil / Dhamin / za'im* (person who guarantees) Required must baligh, sane, not prevented spend his wealth (*mahjur*) and done with his will Alone.
- 2) *Thank you lahu / madhmun madmun lahu* (Person who owes money) Required is known / known to the guarantor and is reasonable.
- 3) *Makful 'anhu / madhmun 'anhu* (person who owes money) Required own ability deliver object *kafalah*, good in a way direct and also represented and must known good by *kafil*.
- 4) *Thank you bih / madhmun bih* (debt, goods / people) Required can known, still the circumstances are / binding, really become not quite enough answer *makful ' anhu* capable filled *kafil*.
- 5) *Shighat / lafadz* (consent and acceptance) Required contain meaning guarantee, no hung up on something and nothing nature temporary.

caravan dharma according to the scholars

Al- Zuahaili and *Al-Jazirah* grouping opinion from the scholars about *al- kafalah* or *al-dhaman* as following :

- 1) As put forward by the Hanafi School, that contract *caravan* has 2 meanings, namely specific that is the union One liability with liability other in debt collection, and definition furthermore is the union One liability with other liabilities.
- 2) According to School Syafi'i, contract *caravan* that is agreement Where the determination right to other liabilities.
- 3) According to Maliki school, contract *caravan* that is the party receiving coverage from the party giving liability Good bear the same job, or No.
- 4) As stated by the Hanbali School, akad *caravan* that is matter Where must for others and articles that are not intermittent charged. As shown by the above understanding, it tends to considered that word is called *al- dhaman* or *al- kafalah* that is mixture from 2

coverages in request debt contract *caravan* considered as contract guarantee by *kafil* or guarantor given to the party outside to bear liability the party that has liability the.

Meaning of the word *dhaman* is combine, while the meaning of the word *kafalah* is guarantee. However, as has been Ibn Arabi expressed, *dhaman* and *kafalah* own the same meaning. Therefore that's the same too base laws, pillars and conditions *dhaman* with *Kafalah*. *Kafalah* in a way Language It means *al-dammanu* (combining), or *aldammam* (guarantee), *hamalah*, and *za'amah* (liability). According to term, *kafalah* is guarantee given by the guarantor (*kafil*) to party third For fulfil obligation party second or that which is borne. In the sense In other words, *kafalah* also means divert not quite enough answer a guaranteed person with hold on to responsibility answer other people as guarantor (*kafil*). In fiqh books found that *jurist'* use pronunciation *dhaman* (guarantee) in things as following :

- 1) Majority *jurist'* from *malikiyah*, *syafiiyah*, and *hanabilah* using the words *dhaman* (guarantee) and *kafalah* (guarantee) as synonyms. Both means something that includes guarantee property, soul, and demands. In fact, they use pronunciation *dhaman* (guarantee) on a larger object wide from that is, that is *dhaman* (guarantee) in absolute, good with transactions, *dhaman* (guarantee) damage, attacks and so on.
- 2) *Hanafi* use the word *kafalah* (guarantee) for something that is given to him applicable *dhaman* (guarantee) with transactions and covers *kafalah* (guarantee) for life, property, and *kafalah* (guarantee) with hand over accept. As for *dhaman* (guarantee), they use For to mention something more general which includes *dhaman* (guarantee) with transactions and *dhaman* (guarantee) with without transactions. They agreed with majority *jurist'* that *dhaman* (guarantee) applies to more objects general than *the kafalah*.
- 3) Between *jurist'* there are those who specialize *dhaman* (guarantee) on property, and *kafalah* (guarantee) means is *dhaman* (guarantee) of the soul. Definition *Dhaman-Yadhmanu asy-syai'*, know for sure *dhamin*, meaning *kafalahu* " guarantee something ". In *etymology* of the word *kafalah* means guarantee. In terminology *caravan* is ensure liability of the insured person in carry out mandatory rights Good instantly or what will be come.

According to *Al-Jaziri* quoted by Ismail, that authority an action (*kafalah*) is one that is permissible act (reasonable) healthy) promised to fulfill rights that must be exercised by other people or promise present right the from court. *kafalah* is A authority authority For do guarantee to other parties to something that is permitted by sharia.

Implementation and Disputes Dhamma Kafalah

Party guarantor must truly realize not quite enough answer that must be carried, well That in the form of debt payment, implementation obligation, or matter others listed in agreement. As well as the guaranteed party, they must know with Certain that they has to obtain guarantee on existing obligations. Ambiguity about rights and obligations This Can cause agreement *caravan* become cancelled or No valid, even though *acceptance* and *acceptance* has done with right. With Thus, it can concluded that in Hanafi school of thought, *ijab* and *qabul* are two pillars that are not Can separated in implementation contract *kafalah*. Second harmonious This must exists and is implemented with true so that the contract

caravan can legitimate in a way law. *Ijab* must contain a clear and firm offer from party guarantor, while *accepted* must in the form of clear acceptance from guaranteed party. Both must happen in One time without existence long pause. With fulfil all condition said, the contract *caravan* in Hanafi school of thought will valid and binding second split party in accordance with applicable provision in Islamic law. While according to the scholars said that pillars and conditions *caravan* is as following :

a. Kafalah with soul

Kafalah in The Islamic View of *Kafalah* with soul This also known as *kafalah al- wajhi*, namely existence obligation on the part of guarantor (*kafl*, *damin* or *za'im*) for presenting the person he responsible for what he promise his responsibility. According to sect Syafi'i that caravan stated legitimate with present the person in question (guarantor) because related with right humans, such as punishment *qisas* (equivalent) and *qadf* (accusing of adultery). Both type punishment the according to Shafi'i is right including the usual rights applies, if related with Had punishment (which has been determined), then problem like This No legitimate with the *kafalah*.

Kafalah in the Islamic view is very important concept in matter not quite enough responsibility and guarantee. *Kafalah* with soul, or more known with caravan Al- Wajhi, is one of the form mandatory guarantee to party guarantor (known with term *kafl*, *damin*, or *za'im*) for ensure that the person he guarantee will presented to the authorized party accept his responsibility. There is no strength law in form guarantee that can be made into reference in case like that, and implementation limits only can done by real people do the act in question. In the sect Syafi'i, *kafalah* considered legitimate if guarantor succeed present the person he guaranteed, because matter This related with rights humans, for example in punishment involving *qisas* (appropriate punishment) or *qadf* (accusing of adultery)..

b. Kafalah with treasure

That is obligations that must be fulfilled fulfilled by *damin* or *guarantor* (guarantor) with payment (extermination) in the form of property. *Kafalah* treasure shared into 3 (three) types, namely :

- 1) *Kafalah bin al- dayn* (debt guarantee), namely must pay the debt that has become burden of others. In the hadith Salamah bin Adwa that Prophet saw. Did not pray corpse that has obligation pay the debt, then qatdah ra.a. said : " Pray he and i will pay his people, the prophet Then pray for him ". In debt *kafalah* it is stipulated as following :
 - a) Should be mark goods the stay on time the occurrence transaction guarantees, such as *qirad* money, wages *anddowry*, such as a said ; " *sell it* object That to A and I obliged ensure the payment with price that's all ". So that price sale object the clear. While Abu Hanifah, Malik and Ahmad are of the opinion may ensure something of value Not yet determined.
 - b) Should be guaranteed goods known, according to School Syafi'i and Ibn Hazm that somebody No legitimate ensure items that are not known. Because action the is *gharar* (deception). Meanwhile, Abu Hanifah, Malik and Ahmad argued that somebody yes ensure something that is not known.

- 2) *Kafalah* with handover objects, namely obligation to direct objects certain things that are in the hands of others, such as return stolen goods (borrowed) No tell) and direct goods sale to Buyer, required material the guaranteed For results, such as in ghasab. However, if No shaped guarantee, *guarantee* cancelled.
- 3) *Kafalah* with „ disgrace (disability), meaning that items found in the form of treasure sold and available danger (disability) because too long time or Because things others, so that he (carrier) goods) as guarantee For right buyer to seller, such as If proven items for sale is belonging to someone else or goods the is goods pawn.

General Objectives of *Ju'alah*.

a. Understanding *Ju'alah*

The term *ju'alah* in life daily understood with *fuqaha*, namely pay people to look for lost item or cure disease or dig well until there is water or there is a winner race like giving present to winner achieve or from a competition official. Form of contract *Ju'alah* in a race is if There is One or organizer, giving present to participants who can finish work in accordance specified category.

Another opinion was put forward Wages (*ju'alah*) according to Language is what is given to somebody Because something he does, while wages (*ju'alah*) according to sharia, Al- Jazairi mention present or giving somebody in amount certain to the person who does the work action special, known or No known. *Ju'alah* is ask to return lost item with specified payment.. 3 Words *jialah* in a way Language It means to pay. In *syara* ' as put forward by Sayyid Sabiq: " a contract For get material (wages) that are suspected strong can obtained ". The term *is* in life daily interpreted by *the fuqaha* that is give wages to others who can find the lost item or treat sick people or dig well until emit water or somebody win in A competition. So, *let's* No only limited to lost items However can every work that can be done profitable somebody.

b. Legal Basis for *Selling*.

Sell it in Islamic law is contract based on agreement between two parties, where one party promising reward or present on achievement certain by other parties. However, the concept give reward or present to somebody For finish task certain can seen in a number of related verses with not quite enough responsibility, giving and compensation on work. In Surah Al-Baqarah verse 282, for example, Allah states about clear transaction between the parties involved, who contain principle justice and transparency in agreement, which is also in line with mechanism *sell it*. In addition, in context of the Hadith, there is history that shows practice similar with *sell it*. One of examples that can be made into base law *sell it* is hadith narrated by Al-Bukhari and Muslim which reads : "If someone from you rent a workers, should He give what has been promised to him with appropriate rights. " this hadith teach principle that work done by a person who is given task must valued with the rewards that have been agreed together, in line with principle *sell it*, where is the reward or present given For work or achievement certain..

c. Terms and Conditions *Sell it*

Transactions *Al Jua'alah* will become legitimate If fulfilled terms and conditions as following :

- 1) *Shighat* or the agreement that shows the work to be done given reward. Word *shighat* must clear and easy understood as well as containing promise For give reward on the prescribed charity. Such as the saying " Whoever can memorize 12 juz of the Qur'an in 1 year, then for him a cash reward of Rp. 10,000,000. Because, basically people who do charity without know charity the is *Ju'alah* he charity voluntary just. Signal a mute person in *shighat* However Can understood, then matter the his position like as it is legitimate *shighat*.
- 2) Wages/ Rewards. Rewards This must clear and not vague, then, no may such as " Whoever found my motorbike, then for him present interesting. Such a thing is contract *Ju'alah* is broken. Because of the reward in contract the No clear. It should be wages given comparable with the weight charity work.
- 3) The One Who Promises Rewards. Promising person wages No must have desire However may Who only those who are willing give his wages.
- 4) Permissible jobs. Related jobs with *Ju'alah* must be No forbidden work such as gambling, adultery, witch doctors, or to oppress fellow muslim.

However, the work which is of a nature permissible in Islam. So, it is not may even forbidden to follow *Ju'alah* such as, " Whoever can black magic so and so (a muslim), then for him reward of 10 million rupiah." for example." In the case of condition This *The Revelation of Zuhaili* mention There are 3 conditions :

- 1) *The Expert ta'auqud* (competent)
 - 2) Clear, obvious rewards What will become the reward.
 - 3) Should be benefits obtained truly real as well as allowed in a way syar ' i.
- Between pillars and conditions *ju'alah* (giving) wages) is as following :

- 1) Pronunciation. Pronunciation That must contains the meaning of permission to those who will work and not determined time. If you do *ju'alah* (giving) wages) without the permission of the person who ordered (owned the goods) then for him No entitled to obtain reward If goods That found.
- 2) The person who promises give wages. In case this is a promising person wages That may the person give give work That Alone or others.
- 3) The work to be done implemented (searching for) lost items). Jobs This No contradictory with Islamic law.
- 4) Wages. Wages must be clearly, the amount that will be accepted to those who seek in accordance with transactions that have been determined.

Technical implementation *ju'alah* (giving) wages) can done in two ways. First, by special determined by the person seeking lost item, a example Amen. Amen with by itself try look for lost item. Second, in general general meaning a person who is burdened work look for lost item No determined one, but For everyone (applicable) general). In implementing work and its magnitude wages, a person That determined through standard the competencies he has, namely as following :

- 1) Competence *technical*, namely work that is of a nature skills technical, for example : work related to mechanics workshop, work on projects of a technical nature physical, and work in the field industry Mechanic other.

- 2) Competence *social*, namely work that is of a nature connection humanity, such as marketing, relationship society, and so on.
- 3) Competence *managerial*, namely work that is of a nature arrangement and setup business, such as manager, source Power human, manager production, manager finance, and so on.
- 4) Competence *intellectual*, namely power in the field planning, consultants, lecturers, teachers, and so on. In practice giving wages, following system market wages, system wages progressive, system wages through scale and structure wages, and so on. Problem work That depends type, load, and time work.

d. the opinion of the scholars

In the book Encyclopedia of Islamic Law *ji'alah* means wages or the gift given to somebody because of that person do or carry out a work or action certain. Although *pray* shaped wages or present as confirmed by Ibnu Qudamah, a scholar of the Hanbali School, he can differentiated with *Lease* from five aspects. First, on *ji'alah* wages or the promised reward only may accepted by the person who stated able to For realize what is becoming object work or action said, if work or action the has realize results with perfect. Whereas in *ijarah*, the person who carries it out work the entitled accept wages in accordance with size or level achievements that have been given to him although work That Not yet perfect implemented it. Second, on *ji'alah* there is element *gharar* (fraud, speculation, profit) because in it there is indecisiveness from time limit aspect settlement work or way and form settlement his job. While in *lease*, time limit completion, form work, and how to his work mentioned in a way firm in agreement, so that the person who carries it out work in leasing must do work that is done object agreement in accordance with time limit and form the job mentioned in transaction. Third, on *ji'alah* No justified existence giving reward wages or present before work implemented. While in *leasing*, giving wages moreover formerly justified, good in a way overall or some, good before work implemented and also when work currently taking place. Fourth, action law that is carried out in *pray* nature voluntary. So that what was promised may just cancelled (*fasakh*) during work Not yet started without cause consequence law, whereas *lease* is transactions of a nature tie all the party that does agreement Work.

With Thus, if agreement the cancelled, then action That cause consequence law for party concerned, one of the party that does lease agreement can submit demands change make a loss to other party Based on rules the so work dig well until find water, or become servant House ladder during a month for example, can become object in transaction lease, but No become object in transaction pray.

The majority of scholars do not give limitation maximum or at least. Because, no There is the argument that requires For limit it. Hanafiyah scholars No set work about beginning time agreement, while the Shafi'iyah scholars requires it, because if No restricted matter That cause No known by the beginning mandatory time fulfilled. Madzhab Malikiyah declare, contract pray may canceled when work Not yet carried out by workers (' *amil*). Whereas according to Syafi'iyah and Hanabilah, contract *pray* may canceled whenever, as contracts others, such as *partnership* and *partnership*, before work completed in a way perfect. If the contract canceled at the beginning, or in the middle ongoing contract, then matter That No

problem, because objective contract Not yet achieved. if the one who cancels it That the promising party wages then that works entitled demand wages as much as work that has been done done.

e. Implementation and disputes sell it

Sell it in Islamic law is contract involving giving reward to other party to finish task or reach results certain. As example, a person Can offer present to the person who can find lost item or get a number of goods in time certain. In the business world, *sales* are also often used For give reward on achievement of certain targets, such as sale product in specific amount. Settlement Can done in a way negotiation between second split parties, where they try reach mutual agreement profitable. If that No successful, if all effort outside settlement court failed, the party who feels disadvantaged Can bring dispute This to court For get legitimate decision.

However Thus, the rules about dispute to judge in law law This had time cause problem law among expert law. Experts own diverse understanding (multi - interpretation) of the existence of Article 55 paragraph 2 of Law No. 21 of 2008 which regulates about dispute to judge, so that cause dualism authority justice, namely justice general and religious courts in finish dispute. Dualism dispute authority to judge This has walk along time so that Then problem dispute to judge This brought and decided by the Court Constitution

CONCLUSION

Kafalah Dhaman (Guarantee) *Kafalah dhaman* is a contract in which someone (the guarantor) guarantees payment or settlement a obligation for other party if party the fail fulfil obligation. In the contract In this case, the guarantor (*kafil*) is responsible answer in a way full on obligations that are not can fulfilled by the guaranteed party (*makful 'alayh*). The main purpose from contract *caravan dhaman* is give guarantee security and certainty for the transacting parties. And *Jua'alah* (*Reward for Services*) *Jua'alah* is an agreement in which a person offer reward or present certain For do or finish a work or task certain. The party receiving reward (*muqtaridh*) entitled on present the after succeed fulfil conditions determined by the giver In the *contract* this, payment or present given as award on service or performance certain successful achieved, and not depending on the results that do not fit

REFERENCES

- Abdul Halim Hasan Binjai. 2006. Tafsir Al-Ahkam. Edisi 1 Cetakan 1. Jakarta. Kencana.
- Abdullah Bin Muhammad Ath-Thayyar, Dkk. Ensiklopedi Fiqih Muamalah Dalam Pandangan Madhhab (Jogjakarta: Griya Wirokerten Indah, 2009)
- Afriani & Ahmad Syaefuddin. (2018) IMPLEMENTASI AKAD JU'ALAH DALAM LEMBAGA KEUANGAN SYARIAH, EKSISBANK Vol. 2 No. 1 Desember 2018
- Arief, Syaikhul.(2019) JU'ALAH DALAM PANDANGAN ISLAM, Siyasa: Jurnal Hukum Tata Negara e- ISSN: 2656-9671, p-ISSN: 2685-6077 Volume 2, Edisi 2 (Desember 2019), www.ejournal.annadwahkualatungkal.ac.id
- Arif, M. S. (2019). Ju ' Alah Dalam Pandangan Islam. Siyasa: Jurnal Hukum, 2(Desember)2019

- Arif, Syaikhul. & Siti Halilah.(2019) kafalah dalam pandangan islam, Siyasa: Jurnal Hukum Tata Negara e- ISSN: 2656-9671, p-ISSN: 2685-6077 Volume 2, Edisi 2 (Desember 2019), www.ejournal.annadwahkualatungkal.ac.id
- Ascraya. Akad dan Produk Bank Syari'ah. Jakarta: Raja Grafindo Persada, 2012
- Asriadi, Ari.dkk.(2023) ANALISIS KAFALAH DAN QARDH DI INDONESIA, Edunomika – Vol. 08, No. 01, 2023
- Budi Abdullah,,Ansari, Asmuni Penyelesaian Sengketa Ekonomi Syariah di Peradilan Umum Vol. 21, No. 1, Juni 2022
- Ghazaly,H. Abdul Rahman, Fiqh Muamalah,Jakarta: Kencana Prenada Media Grup, 2010
- Hasan, Zaenul. & Ana Puspita (2021) Sistem Bonus Bisnis Multi Level Marketing Pada PT. Melia Sehat Sejahtera di Kabupaten Jember Perspektif Akad Ju'alah, Tabsyir: Jurnal Dakwah dan Sosial Humaniora Vol.2, No.1 Januari 2021 e-ISSN: 2964-5468; p-ISSN: 2964-5484, Hal 36-47 DOI: <https://doi.org/10.59059/tabsyir.v4i4.633>
- Hasanudin, dan Jaih Mubarak. 2017. Fikih Mu'amalah Maliyyah: Akad Ijarah dan Ju'alah. (Bandung: Simbiosis Rekatama Media).
- Hayati, Siti.(2020) ANALISIS DHAMAN (GANTI RUGI) BAGI NASABAH WANPRESTASI DALAM PERBANKAN SYARIAH (Study Pada Pembiayaan Murabahah), SYARIKAT : Jurnal Rumpun Ekonomi Syariah Volume 3 Nomor 2, Desember 2020 p-ISSN 2654-3923 e-ISSN 2621-6051
- Herdiansyah, Haris. 2019. Metodologi Penelitian Kualitatif Untuk Ilmu-Ilmu Sosial. (Jakarta: Salemba Humanika).
- Hubur, AA.Dkk.(2024) APLIKASI AKAD JU'ALAH DALAM MARKETING VILLA SYARIAH OMIRA PADA SEKOLAH ISALMIC ENTREPRENEURSHIP BOARDING SCHOOL GLOBAL CAHAYA NUBUWAH INSANI PURWAKARTA, Jurnal Pengabdian Mandiri Vol.3, No.8 Agustus 2024
- Ismail Nawawi, Fiqh Muamalah Klasik Dan Kontemporer, (Bandung: Ghalia Indah, 2012)
- Kusuma, Nurul. Dkk.(2024) Tinjauan Kaidah Fiqih Ju'alah Dan Maisyir, Eco-Iqtishodi Jurnal Ilmiah Ekonomi dan Keuangan Syariah Volume 5, Nomor 2, Januari 2024 ISSN: 2685-2721
- Madinah, D., & Faiq, A. M. (2022). Tinjauan Hukum Islam Terhadap Praktik Pemancingan Sistem Galatama di Pemancingan Galatama Lele Putra Panawuan Cilimus Kabupaten Kuningan. Jurnal Pemikiran Hukum Dan Hukum Islam, 2(2), 102–126
- Mardani. 2019. Fiqh Ekonomi Syariah. (Jakarta: Kencana Prenadamedia Group).
- Muhammad Nur Iqbal. Dkk. (2023) Tujuan Hukum Islam Dalam Perspektif Maqashid Al-Syari'ah, Jurnal Pendidikan dan Konseling Volume 5 Nomor 1 Tahun 2023 E-ISSN: 2685-936X dan P-ISSN: 2685-9351 Universitas Pahlawan Tuanku Tambusai hal.4888
- Nawawi, Ismail. Fiqh Mu'amalah. Jakarta: Dwiputra Pustaka Jaya, 2010.
- Pasi, Rosdiati.(2023) PENGGUNAAN APLIKASI TIKTOK DALAM MENINGKATKAN PENGHASILAN MAHASISWA BERDASARKAN AKAD JU'ALAH, Tansiq : Jurnal Manajemen dan Bisnis Islam, Volume 6, No. 1 Januari – Juni 2023: 53 – 73

- Roup, Mumin.et.al (2022) Tafsir Maqāshidī: Telaah Terhadap Kitab Tafsir al-Ahkam karya Abdul Halim Hasan, Jurnal Studi Alquran dan Hadis Volume 6, Nomor 2, 2022 ISSN 2580-3174 (p), 2580-3190 (e) <http://journal.iaincurup.ac.id/index.php/alquds>
- Satria, Muhammad. Dkk.(2020) ANALISIS HUKUM ISLAM TERHADAP PENERAPAN TA'WIDH (GANTI RUGI) PADA PEMBIAYAAN KARTU KREDIT SYARIAH, Jurnal wastir Vol. 1, No.1, JUNI 2020 www.staimaarifjambi.ac.id
- Sudiarti, S. (2018). Fiqih Muamalah Kontemporer. FEBI UIN-SU Press. http://repository.uinsu.ac.id/5517/1/FIQH_MUAMALAH_KONTEMPORER.pdf
- Sugiyono. 2017. Metode Penelitian Kuantitatif, Kualitatif, Dan R&D. (Bandung: CV Alfabeta).
- Yuschoiantii. Descha. (2017) PENGGUNAAN AKAD KAFALAH BI AL- 'UJRAH PADA PEMBIAYAAN TAKE OVER PERSPEKTIF HUKUM ISLAM, jurnal maliyah Vol. 07, No. 01, Juni 2017
- Zainuri, Hamzan. (2017) FEE PADA PERJANJIAN KAFALAH (ANALISIS BANK GARANSI), Jurnal Bisnis Islam vol.3 no.1 2017