

REFORMATION OF PAWBROKERS ACT 1972: A COMPARATIVE STUDY WITH BRUNEI

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ABSTRACT

This research paper is a revision of pawn broking laws in Malaysia, by way of comparing it with the pawn broking system in Brunei. More specifically, the current laws being practised in Malaysia in regulating pawn broking transaction business are being revised and the provisions which have been found to be insufficient or prejudicial to the public will be compared to Brunei in order to solve the problem. To conduct this study, extensive research has been made pertaining to pawn broking practise in Malaysia and Brunei. The provisions in the current laws also have been referred to and an interview session with a few customers has been conducted to gain more information. The findings showed the list of the provisions which are in flaw and solution to the problems have been suggested by comparing it with pawn broking system in Brunei. Finally, some recommendations are made in order to ensure that better set of laws governing the pawn broking system in Malaysia can be guaranteed.

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CHAPTER ONE

INTRODUCTION

1.0 Research Background

Pawn broking system is a simple business transaction, which can be referred to as pawnshop loan. The pawnbroker will introduce a fixed-term loan to customers, who will then use their collateral to guarantee a loan.¹ To be on par with the economic development of the country, the pawn broking system has been divided into two main approaches, namely the conventional approach which is governed under the Pawnbrokers Act 1972 (PBA 1972), and the Islamic approach known as Ar-Rahnu. Conventional approach under PBA 1972 works in such a way that there will be no credit check as the loan is secured by the collateral. Later, the pawnbroker will give the customer a pawn ticket with his name, address, description of the pawned item, the loan amount and the maturity date.² In contrary, Ar-Rahnu means a pledge or security for a loan, the Holy Quran refers it as a pledge with possession. The borrower is required to pledge or produce redeemable collateral in the form of gold or silver to ensure repayment of loan. This collateral acts as an instrument to guarantee that the loan will be repaid at the maturity of the agreement.³ In the circumstances whereby the borrowed sum is not being repaid on maturity, the lender has the right to sell the collateral to recover the loan.

Generally, the concept of both approaches are similar in nature, except that in Conventional approach the pawners will be charged for the interest rate whereby in Ar-Rahnu the customers will only have to pay for the minimum

¹ Om Paramapoonya, "The Pros and Cons of Pawnshop Loans" 1996, <http://omparamapoonya.hubpages.com/hub/Pawnshop-Loans> (23 March 2012)

² Ibid at page 1 para 1

³ Payal Bhatt and Jothee Sinnakkanmu ("6th International Islamic Finance Conference.") *Peer Reviewed Paper* (2008)