

CHEQUE-BASED GOLD TRANSACTIONS IN ISLAMIC LAW: AN ANALYSIS OF QABD AND CONTEMPORARY PAYMENT PRACTICES

Mior Zulfadly Bin Mior Pi ¹
Ishak Bin Suliaman ²
Norazam Khair Bin Mohd Ithnin ³

¹ PhD Candidate, Department of al-Quran and al-Hadith, Academy of Islamic Studies, University of Malaya, 50603 Kuala Lumpur, Malaysia

Email: s2035663@siswa.um.edu.my

² Professor Department of al-Quran and al-Hadith, Academy of Islamic Studies, University of Malaya, 50603 Kuala Lumpur, Malaysia

Email: ishakhs@um.edu.my

³ Senior Lecturer, Department of al-Quran and al-Hadith, Academy of Islamic Studies, University of Malaya, 50603 Kuala Lumpur, Malaysia

Email: norazamithnin@um.edu.my

* Corresponding author: ishakhs@um.edu.my & norazamithnin@um.edu.my

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Abstract: Muslim scholars have long given serious attention to gold trading transactions in order to prevent *riba* (usury). With the advancement of financial technology, various payment methods have emerged in commercial practice. This study analyses scholarly opinions regarding the use of cheques as a mode of payment in gold transactions. It further examines how cheque-based payments are categorised under *qabd hukmi* (constructive possession) or *qabd haqiqi* (actual possession). Employing a qualitative research methodology, this study finds that the purchase of gold and silver using cheques is permissible, provided that the financial and legal conditions are fulfilled most notably, that sufficient funds are available in the account, thereby rendering the cheque equivalent to a recognised legal tender such as banknotes. No legal distinction is drawn between the use of ordinary cheques, certified cheques, or traveller's cheques in such transactions. Accordingly, gold trading via cheque is considered valid as it satisfies the condition of *qabd* (receipt/possession), provided that *al-Thamaniyyah* (monetary function) remains present in gold and silver jewellery. In its absence, the transaction falls under the category of *bay' al-'ayn al-halah bi al-thaman al-mu'ajjal* (sale of a present commodity for a deferred price). Furthermore, cheque-based gold transactions do not fall under the category of *al-sarf* (currency exchange), but rather under *bay' al-naqd bi al-'urud* (exchange of cash for goods).

Keywords: gold and silver, currency, use of checks, *qabd*, 'illah *riba*

Introduction

In contemporary practice, the sale and purchase of gold and silver are no longer confined to transactions concluded within a single contractual session (*majlis al-‘aqd*). This paradigm has undergone a structural and fundamental transformation, whereby commerce has evolved from merely serving as an alternative channel into becoming the primary infrastructure supporting a substantial portion of modern commercial activities. This development includes gold and silver transactions, which are increasingly conducted through cashless payment methods as a direct consequence of rapid technological advancements in financial services (Uriawan et. al, 2025)

Technological innovation has significantly transformed the manner in which gold transactions are conducted, particularly with the emergence of digital investment platforms that enable users to purchase gold units online. In response to these developments, contemporary fatwa authorities such as DSN-MUI have reinterpreted the Prophetic traditions concerning gold transactions contextually, asserting that gold and silver are now regarded as commodities (*sil‘ah*) that may be traded like ordinary goods, rather than functioning as *thaman* (money or medium of exchange) (Jamil et.al, 2024; Abdillah, 2022).

Nevertheless, digital gold transactions that do not fully comply with Shariah principles continue to raise several concerns, including ambiguity in contractual mechanisms, the absence of direct possession or delivery, and the potential existence of *gharar* (uncertainty) and *riba* (usury) within such transactions. Consequently, scholarly discussions concerning the validity of gold and silver transactions within digital environments continue to evolve within contemporary Islamic jurisprudential discourse on *fiqh muamalat* (Oktavina & Husnul, 2026).

This gives rise to a fundamental question: to what extent does Islamic law govern the sale and purchase of gold and silver when conducted through cheque-based payment instruments?

Historical Background of Gold Transactions

Contemporary scholarship increasingly recognises that the evolution of monetary systems from intrinsic-value currencies to fiduciary and digital instruments has significantly influenced Islamic commercial jurisprudence, particularly regarding gold and silver transactions, *riba*, and the concept of *qabd* in modern financial practices (Uriawan et. Al, 2025).

If we look back at the historical development of monetary law and commerce, it is evident that the gold dinar and silver dirham functioned as the two principal trading currencies, with virtually no commercial transactions conducted outside these two mediums. References to gold and silver during that period therefore primarily referred to these currencies rather than to the metals themselves. Historical records clearly show that the Arabs during the *Jahiliyyah* period did not mint their own dirhams or dinars; instead, they relied on the currencies of the Roman and Persian empires. Roman gold dinars and Persian silver dirhams entered the Arabian Peninsula through the trade routes travelled by the Arabs during their winter and summer commercial journeys. The circulation of Persian and Roman currencies emerged through commercial exchange (*al-tabādul al-tijāri*) between the Arabian Peninsula and territories under Roman and Persian influence or rule (al-Ballazhariy, *Futuh al-Buldan*, p. 654).

These currencies continued to be used even after the advent of Islam, following the appointment of Prophet Muhammad SAW and the establishment of the Islamic state founded upon principles of justice and the elimination of oppression in social, economic, and political life. Although Islam placed strong emphasis on economic matters—one of the Prophet’s priorities after the

Hijrah from Makkah to Madinah being the establishment of an Islamic market governed by Shariah principles, there is no evidence that Prophet Muhammad SAW prohibited the use of Roman and Persian currencies in trade. On the contrary, their continued use was permitted for several reasons, although these are beyond the scope of the present discussion.

After the passing of Prophet Muhammad SAW, the Muslims appointed Abu Bakar RA as the first caliph, and the use of these currencies continued unchanged, just as during the Prophetic era. Abu Bakar RA did not introduce a distinct Islamic currency, most likely because there was no urgent necessity to do so, as society remained comfortable conducting transactions using the Roman and Persian monetary systems already in circulation.

During the period of the three subsequent caliphs of Umar, Uthman, and Ali, several general monetary reforms and terminological adjustments were introduced. However, a fully independent Islamic currency had yet to replace the existing non-Islamic currencies. Among the reforms implemented were modifications to certain coin designs and the addition of Islamic inscriptions such as “There is no god but Allah” and “Muhammad is the Messenger of Allah” (al-Ubbar, *Qadaya Muasirah fi al-Nuqad wa Mauqif al-Fiqh al-Islamiy minha*, p. 77).

This situation continued until the Umayyad period under Caliph Abd al-Malik ibn Marwan, who carried out major monetary reforms, including the minting of coins representing the Islamic state. This reform took place in 74 AH and is regarded by historians as the beginning of the formal emergence of Islamic coinage (al-Ballazhariy, *Futuh al-Buldan*, p. 652).

Following this development, Islamic coins became increasingly widespread throughout the Muslim world. These Islamic currencies bore inscriptions and symbols representing the Islamic state, encouraging society to gradually abandon the use of Roman and Persian currencies. Eventually, Islamic coinage fully replaced the Roman and Persian monetary systems.

Initially, gold and silver currencies remained the dominant forms of money throughout the Islamic world. Later, copper coins known as *al-fulus* emerged as supplementary currency, primarily used for lower-value transactions and inexpensive goods. In contrast, large-scale or high-value transactions were commonly associated with gold and silver, which were regarded as *al-nafisah* or *al-thaminah* (valuable currencies). These forms of money became widely accepted and highly influential in commercial activities. Muslim jurists later discussed issues relating to pure and adulterated gold and silver currencies, particularly concerning mixtures of gold or silver with other metals such as copper, to the extent that certain coins could no longer genuinely be classified as gold or silver currencies. Over time, the value of money increasingly became fiduciary in nature, whereby its nominal value exceeded its intrinsic material value. As a result, the circulation of gold and silver gradually declined, while monetary systems became increasingly dominated by commodity and fiduciary valuation rather than intrinsic value itself.

Research Question

With the emergence of currencies other than gold and silver, various questions arose concerning the legitimacy of conducting transactions using copper-based currencies from the time of their introduction, as well as later paper money. Scholarly discussions primarily focused on the issue of monetary valuation (*al-Thamaniyyah*), particularly whether this characteristic was exclusive to gold and silver currencies alone or whether it could also extend to other forms of currency.

In addition, an important question emerged: Does Islam recognise and permit the use of currencies other than gold and silver? This issue subsequently led to wider discussions regarding the underlying cause or *'illah* behind the consideration of gold and silver as money. These matters will be further examined in the forthcoming discussion, together with an evaluation of the selected scholarly opinions on the subject.

Previous Research Literature

Contemporary studies on gold transactions in Islamic finance have increasingly focused on emerging commercial practices, including Multi-Level Marketing (MLM), online gold purchases through lock-price mechanisms, digital gold investment platforms, and Shariah-compliant Islamic Exchange Traded Funds (i-ETF). Scholars such as Muhammad Zuhaili Saiman and others have highlighted the growing need to reassess Shariah parameters governing modern gold transactions in response to rapid developments in financial technology and digital commerce (Saiman & Hussain, 2023).

A study entitled “Kajian Transaksi Jual Beli Emas melalui Pemasaran Berbilang Tingkat (Multi Level Marketing) dalam Islam: Sorotan Literatur” was conducted by Mohammad Syahir bin Mohamad, Salmy Edawati binti Yaacob, and Azlin Alisa binti Ahmad in 2017. The study reviewed previous scholarly works related to gold trading transactions conducted through Multi-Level Marketing (MLM) schemes from an Islamic perspective.

Another related study entitled “Parameter bagi Pembelian Emas dalam Talian Secara Kaedah Kunci Harga” examined the practice of lock price, whereby the buyer secures the gold price at a particular point in time and the agreed price remains unaffected by subsequent fluctuations in gold value. This article, written by Muhammad Zuhaili Saiman in 2022, analysed the lock price mechanism in gold transactions to evaluate its Shariah compliance based on the guidelines governing gold transactions from the perspective of Islamic finance.

Previous literature has also discussed the Shariah issues surrounding gold-based Islamic Exchange Traded Funds (i-ETF) listed on Bursa Malaysia. This study was conducted in 2021 by Ahmad Azam Sulaiman @ Mohamad, Nasriyah Adnan, Muhammad Ashraf Misran, Abdul Rahman Md. Sahid, and others. The study focused on identifying the concept of gold i-ETF from a Shariah perspective, including its Shariah parameters and related Shariah issues. Gold i-ETF refers to an exchange traded fund product that uses gold and silver assets, such as bullion or gold and silver bars, as its underlying assets in accordance with Shariah principles.

Research methodology

The study employed a qualitative research methodology. Data were collected from authoritative classical sources of fiqh and hadith, and subsequently analysed based on the views and interpretations of prominent hadith scholars and Islamic jurists.

Summary and analysis

Table 1: Arguments Supporting the Permissibility of Cheque-Based Gold Transactions

First Argument	Second Argument	Third Argument	Fourth Argument	Fifth Argument	Main Conclusion
A cheque is regarded as equivalent to immediate possession (al-taqabud al-hali) in al-sarf transactions because it functions similarly to paper currency and is legally protected.	Cheques have become an accepted commercial custom ('urf tijari) for settling debts and financial obligations.	The concept of qabd is determined according to prevailing custom ('urf). Since society recognises cheques as secured payment, receiving cheque is treated similarly to receiving cash.	Acceptance of a cheque represents the transfer of monetary value as functions similarly to a paper currency hiwalah.	Legal safeguards, penalties against fraud, and government protection strengthen public trust in cheques in the same way as paper currency.	Cheque-based gold transactions are permissible because cheques fulfil the Shariah requirement of qabd according to modern commercial practice and legal recognition.

Table 2: Conditions for the Permissibility of Cheque-Based Gold Transactions

First Condition	Second Condition	Legal Effect
The cheque must be dated on the same day as the transaction to fulfil the requirement of immediate possession (<i>al-taqabud al-hali</i>).	The issuer must possess sufficient funds in the account to cover the cheque amount. If insufficient funds exist, the cheque becomes merely a guarantee document (<i>wathiqah daman</i>) rather than a valid settlement instrument (<i>wathiqah wafa'</i>).	Failure to fulfil these conditions invalidates the requirement of immediate reciprocal possession (<i>al-taqabud</i>) in gold and silver transactions.

Analysis

The following are the evidences and arguments relied upon by scholars who support this opinion:

First Opinion

Scholars who uphold this view conclude that the use of cheques in gold sale and purchase transactions is permissible based on the following arguments:

First

The acceptance of a cheque is regarded as equivalent to the acceptance of the exchanged counter-value (al-sarf) itself, as the delivery of a cheque in an exchange transaction is considered an immediate possession (al-taqabud al-hali) within the contract session. This is because, in contemporary commercial practice, cheques are widely recognised and trusted in the same manner as paper currency. Their circulation within society resembles the circulation

of money, while also functioning as a form of transfer (hiwalah), supported by legal protections recognised in modern legal systems.

Furthermore, issuing a cheque without sufficient funds to cover its value is regarded as a serious offence punishable under penal law in most jurisdictions. Based on this consideration, the receipt of a cheque in exchange transactions (al-sarf) may therefore be treated as constructive payment (badal al-sarf) within the contract session. Accordingly, possession of the cheque paper is regarded as possession of its actual monetary value, thereby fulfilling the Shariah requirement of immediate exchange (al-taqabud) (al-Zarqa', al-Mausu'ah al-Fiqhiyyah, Namuzaj, 3/232).

Second

The use of cheques has become an established commercial custom ('urf tijari) and common practice in the settlement of debts and financial obligations.

Third

The concept of possession (qabd) in sale transactions is determined according to prevailing customs ('urf) and accepted commercial practices. There is no single fixed linguistic or technical definition of possession (qabd), and the method of possession may vary according to suitability and context. Since contemporary societal practice recognises the receipt of a cheque as proof of secured payment, receiving a cheque is therefore considered equivalent to receiving cash within the contract session.

Accordingly, a cheque may function as a valid medium of reciprocal possession (al-taqabud) between contracting parties in situations where such usage is appropriate. The acceptance of a cheque is therefore treated similarly to the acceptance of payment substitutes within a contractual session, as it closely resembles paper money in commercial exchange and trade.

Fourth

The acceptance of a cheque effectively represents the transfer of monetary value. In the perception of society and commercial understanding, cheques occupy a status comparable to circulated paper currency and financial transfers (hiwalah). Therefore, when gold transactions are conducted through cheques, the transaction fulfils the Shariah requirements relating to reciprocal possession (al-taqabud) between both parties.

Fifth

The legal accountability imposed upon cheque issuers, together with penalties against misuse, fraud, and forgery, strengthens public confidence in cheques. This position resembles the governmental guarantee provided for paper currency, where legal protection and punishment mechanisms ensure public trust in its circulation and use (Safar al-Ja'id, Ahkam al-Auraq al-Naqdiyyah, p. 334).

Supporters of this opinion further stipulate several conditions for the permissibility of using cheques in exchange transactions:

First Condition

The cheque must be dated on the same day the sale transaction takes place and remain valid on that date, as this is considered sufficient to fulfil the requirement of immediate possession (al-taqabud al-hali) in gold and silver transactions.

Second Condition

The issuer of the cheque must possess sufficient funds in the relevant bank account to cover the cheque amount. If the cheque lacks sufficient funds, and the issuer requests the seller of gold or silver to delay cashing the cheque until a later date to arrange the required balance, then such a cheque is impermissible. In this circumstance, the cheque merely functions as a guarantee document (wathiqah daman) rather than a settlement document (wathiqah wafa') or an immediate substitute for payment in a sale transaction. Consequently, the condition of immediate reciprocal possession (al-taqabud al-hali) within the contract session is not fulfilled.

Analysis

Second opinion:

This group of scholars views the use of cheques in gold sale and purchase transactions as a contemporary issue that requires legal evaluation through qiyas (analogy). They argue that the closest comparable issue is the exchange of currencies through cheques, namely whether cheque transactions in modern exchange dealings (al-sarf) can be regarded as valid immediate exchange or otherwise.

Contemporary scholars discussing cheque transactions in al-sarf generally hold two major views:

The first view maintains that cheque transactions are invalid in matters relating to currency exchange (al-sarf).

The second view permits the use of cheques in exchange operations on the basis that cheques are legally protected financial instruments (wathiqah) recognised by law.

Those who reject the permissibility of cheque usage in gold and silver transactions classify such transactions under al-sarf, which requires additional Shariah conditions not ordinarily required in conventional sale contracts. According to this opinion, the Shariah requirements governing al-sarf are not fulfilled when gold and silver are purchased through cheques, particularly the condition of immediate reciprocal possession (al-taqabud) during the contract session. This is because receiving a cheque is not regarded as actual possession of the exchanged value, as a cheque merely represents a legally protected document rather than immediate ownership or transfer of value. Consequently, it does not satisfy the Shariah concept of qabd required in exchange transactions.

Based on this reasoning, proponents of this view argue that the use of cheques in gold and silver transactions is impermissible for the following reasons:

First

A bank cheque is not actual money in itself; rather, it functions as an instrument of guarantee and trust between contracting parties. Mere trust alone is insufficient in transactions involving gold and silver exchange.

Imam Muslim narrated in his Sahih from Malik ibn Aws, who said:

“I came asking: Who will exchange dirhams? Talhah ibn ‘Ubayd Allah, while sitting with ‘Umar ibn al-Khattab, said: Show us your gold, then return when our servant comes and we

shall give you your silver. ‘Umar ibn al-Khattab replied: No, by Allah, either you give him his silver immediately or you return his gold to him. For indeed the Messenger of Allah SAW said: ‘Silver for gold is riba unless exchanged hand-to-hand; wheat for wheat is riba unless exchanged hand-to-hand; barley for barley is riba unless exchanged hand-to-hand; and dates for dates are riba unless exchanged hand-to-hand.’”

(Sahih Muslim, Kitab al-Musaqah, Bab al-Sarf wa Bay‘ al-Dhahab bi al-Wariq Naqdan, Hadith no. 2968; Sunan Ibn Majah, Kitab al-Tijarat, Bab Sarf al-Dhahab bi al-Wariq, Hadith no. 2251).

They argue that if mere trust were sufficient in exchange transactions, then trust in Talhah ibn ‘Ubayd Allah would certainly be stronger than reliance upon a written cheque issued through banking institutions.

Second

Receiving a cheque in gold and silver transactions does not constitute actual possession (qabd haqiqi). Rather, it merely represents constructive possession (qabd hukmi), assuming sufficient funds exist in the bank account. Consequently, the seller departs from the contract session without obtaining actual physical possession. Separation of the contracting parties without actual transfer invalidates al-sarf transactions.

Furthermore, had constructive assurance through cheques been sufficient, Sayyidina ‘Umar RA would have accepted Talhah’s undertaking to settle the payment later, especially considering Talhah’s trustworthy status among the Companions and his position among the ten Companions promised Paradise.

Third

Allah SWT commanded that debts involving deferred payment should be documented in writing. Allah SWT says:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَنْتُمْ بِدَيْنٍ إِلَىٰ أَجَلٍ مُّسَمًّى فَاكْتُبُوهُ

Translation: “O you who believe, when you contract a debt for a specified term, write it down.” (Surah al-Baqarah, 2:282).

According to this argument, if forms of verification (al-tawthiq) other than documentation (al-kitabah) were sufficient substitutes, Allah SWT would have explicitly mentioned them. However, in al-sarf transactions, the requirement remains actual reciprocal possession (al-qabd al-haqiqi) within the contract session. Had alternative forms of possession been acceptable, the Prophet SAW would have clarified them.

Fourth

If a cheque is considered merely a guarantee document (wathiqah daman bi al-dayn) capable of replacing immediate transfer in the contract session, then by analogy, deferred delivery in exchange transactions would also become permissible through collateral guarantees such as pledges or mortgages. However, no jurist permits such deferment in al-sarf. Therefore, proponents question how cheque delivery could be considered valid in exchange transactions (al-Salus, Istibdal al-Naqd wa al-‘Umulat, p. 60).

Fifth

One of the agreed conditions (muttafaq ‘alayh) in al-sarf transactions is immediate reciprocal delivery within the contract session. This requirement is clearly established through prophetic traditions. A cheque fails to satisfy this condition because it contradicts the principle of “hand-to-hand exchange” (yadan bi yadin) mentioned in the hadith literature. Consequently, separation of the contracting parties (al-iftiraq) occurs without actual possession (qabd), whereas the required possession in al-sarf must be physical possession. Shaykh Hasan Ayyub further argued that cheque possession constitutes merely constructive possession (qabd hukmi) rather than actual possession (al-Salus, Istibdal al-Naqd wa al-‘Umulat, p. 60).

Sixth

Cheque transactions cannot be equated with the use of paper currency because there is a fundamental distinction between the two. A cheque merely represents a documentary instrument (wathiqah) indicating the existence of funds in a bank account; it is not itself actual money (al-Salus, Istibdal al-Naqd wa al-‘Umulat, p. 60).

Seventh

There remains the possibility that the amount stated on the cheque may not ultimately be received. This may occur in several situations, such as:
insufficient funds in the account,
inadequate balance to cover the cheque value, or
the issuer instructing the bank to stop payment of the cheque.

These possibilities further weaken the argument that cheque possession constitutes actual payment (al-Ja’id, Ahkam al-Awraq al-Tijariyyah wa al-Naqdiyyah fi al-Fiqh al-Islamiy, p. 332).

Based on the foregoing arguments, this opinion concludes that cheque transactions are invalid in the exchange of money, gold, and silver because cheques fail to fulfil the agreed requirement of immediate payment in al-sarf transactions. The primary function of a cheque is merely assurance and security (al-daman wa al-istithaq), which is insufficient to replace actual possession (al-qabd) within the contract session.

Analysis

Third opinion:

The proponents of this view distinguish between two types of transactions: first, the sale and purchase of gold and silver using ordinary cheques; and second, the sale and purchase of gold and silver using travellers’ cheques or certified cheques. According to them, transactions involving travellers’ cheques and certified cheques are permissible, whereas transactions using ordinary cheques are not.

They conclude that travellers’ cheques and certified cheques possess a stronger monetary character than ordinary cheques. In this sense, they are closer to contemporary paper currency and may therefore fulfil the requirement of immediate payment more effectively.

Based on the discussion above, the researcher observes that there are several scholarly positions concerning the issue of possession (qabd) through cheques in gold and silver transactions.

First, there are scholars who classify the sale and purchase of gold and silver as a form of currency exchange (al-sarf). According to this view, such transactions using cheques are prohibited because they fail to fulfil the Shariah requirements of exchange (shurut al-mubadalah al-shar‘iyyah) applicable to this type of sale.

Second, there are scholars who do not regard gold and silver transactions using cheques as falling under the category of al-sarf. They therefore argue that selling and purchasing gold and silver through cheques is not a currency exchange transaction and is consequently permissible. Third, some scholars maintain that receiving a cheque does not fulfil the Shariah requirement of possession (qabd) in gold and silver transactions. They argue that the use of cheques is impermissible because the condition of immediate reciprocal possession (al-taqabud fi al-hal) within the contract session is absent. Since this condition is essential for the validity of gold and silver transactions, failure to observe it renders the contract defective (fasid) and the sale invalid.

Fourth, another group of scholars considers cheque possession to fulfil the requirement of qabd. According to this view, the sale and purchase of gold and silver through cheques is permissible because the condition of possession is deemed to have been achieved at the time of the contract. In order to evaluate and prefer one view over another, it is necessary to determine whether gold and silver possess monetary value by their original nature (khilqah) or by human convention and terminology. Muslim jurists have discussed gold and silver as money, ribawi items, and forms of wealth, particularly in relation to the legal cause (‘illah) underlying their rulings. In this regard, scholars differ into two main opinions.

First Opinion

The first view holds that gold and silver are regarded as currency because they possess the quality of monetary value (al-thamaniyyah). The concept of currency (al-naqdiyyah) indicates that the effective cause (‘illah) in gold and silver is their function as money and as a measure of value for goods and services. Thus, gold and silver are considered standards of value rather than ordinary commodities. This represents the view of the majority of jurists from the Maliki and Shafi‘i schools, as well as one view within the Hanbali school (al-Baji, al-Muntaqa Sharh Muwatta’ Malik, vol. 4, p. 258; al-Ghazali, Ihya’ ‘Ulum al-Din, vol. 4, p. 96; al-Nawawi, al-Majmu’ Sharh al-Muhadhdhab, vol. 9, p. 447; al-Mirdawi, al-Insaf fi Ma‘rifat al-Rajih min al-Khilaf, vol. 5, p. 11).

Second Opinion

The Hanafi school, however, holds that the ‘illah of riba in gold and silver is weight when exchanged with items of the same genus, rather than their function as money or price (al-Musili, al-Ikhtiyar li Ta‘lil al-Mukhtar, vol. 1, p. 363).

The opinion of the majority appears to be stronger than that of the Hanafi school. Nevertheless, affirming the majority view raises several further questions. Is the dominant monetary function (ghalabah al-thamaniyyah) of gold and silver an intrinsic and permanent quality rooted in their creation and natural status, or is it merely a conventional value recognised by human usage? Does minting or craftsmanship affect the continuation or disappearance of al-thamaniyyah? Several Muslim scholars, including al-Ghazali and al-Nawawi from the Shafi‘i school, as well as Ibn Khaldun in al-Muqaddimah, state that the monetary value of gold and silver is intrinsic to their original creation, not merely the result of human convention or customary practice.

According to this view, gold and silver were originally created as measures of value, and value is among their inherent characteristics (al-Ghazali, *Ihya' 'Ulum al-Din*, vol. 4, p. 96).

Ibn Khaldun states in *al-Muqaddimah* that Allah created gold and silver as valuable metals for all forms of wealth. They serve as stores of value, means of acquisition, and instruments of ownership among people. Although other items may at times be stored, such storage ultimately aims at acquiring gold and silver due to their stable monetary function. Gold and silver are therefore regarded as the basis of profit, ownership, and savings (Ibn Khaldun, *al-Muqaddimah*, p. 332).

According to this view, the 'illah of gold and silver is *al-thamaniyyah* alone, and this does not extend to other materials such as copper coins (*al-fulus*), iron, lead, or paper. This view implies that customary practice and the widespread use of certain currencies in commercial transactions do not necessarily make them equivalent in value-status to gold and silver. This is the position commonly attributed to Shafi'i jurists.

In contrast, Ibn Taymiyyah and his student Ibn al-Qayyim argue that dirhams and dinars do not possess a fixed Shariah or natural definition. Rather, their monetary status is determined by custom, social convention, and public recognition. According to Ibn Taymiyyah, the essential purpose of money is not tied to its substance, but to its function as a medium through which people conduct transactions (Ibn Taymiyyah, *Majmu' al-Fatawa*, vol. 19, pp. 250–252). Therefore, this function may be fulfilled through any material, whether gold, paper, or copper. It may be argued that the view which considers the *thamaniyyah* of gold and silver as intrinsic was influenced by historical custom. Otherwise, gold and silver would not necessarily have possessed inherent monetary value, as they are metals like other metals. People valued and preserved them due to their qualities, including durability, malleability, and suitability for minting and craftsmanship. These qualities contributed to their monetary status (al-Khayyat, *al-Asfaran: Sil'atan aw Thamanan?*, vol. 2). Thus, if the quality of monetary value disappears, the purpose of using gold and silver as money is also lost. They then become commodities valued by other currencies, subject to market fluctuation like other goods based on supply and demand. Several statements of classical scholars support this reasoning. Ibn Taymiyyah, as cited in *al-Ikhtiyarat al-Fiqhiyyah*, states that it is permissible to sell jewellery made of gold and silver for the same genus without requiring equality in value, and that additional value may be charged in consideration of craftsmanship (al-Ba'li, *al-Ikhtiyarat al-'Ilmiyyah fi Ikhtiyarat Shaykh al-Islam Ibn Taymiyyah*, p. 75).

Ibn al-Qayyim explains that Ibn Taymiyyah's statement refers to permissible jewellery which has become a manufactured item, similar to clothing and other goods, rather than remaining in the category of monetary price. Therefore, *riba* does not apply between jewellery and money in the same way that it applies between two monetary items. This is because craftsmanship removes the item from the category of pure monetary value and transforms it into a commodity prepared for use or trade. As such, *zakat* is not obligatory upon it according to this reasoning, and *riba* does not apply between it and currency as it does between *ribawi* monetary items (Ibn Qayyim *al-Jawziyyah*, *I'lam al-Muwaqqi'in 'an Rabb al-'Alamin*, vol. 3, p. 160).

Ibn al-Qayyim further states that disparity (*al-tafadul*) is permissible in the sale of jewellery of the same genus if the craftsmanship is lawful, such as silver rings and women's jewellery. However, if the craftsmanship is for a prohibited purpose, such as utensils made of gold or

silver, then the transaction remains subject to the rulings of exchange and is not permissible where disparity or deferment exists.

The implication of Ibn Taymiyyah and Ibn al-Qayyim's view is that craftsmanship may transform gold and silver from ribawi monetary items into non-ribawi manufactured goods. Accordingly, if crafted gold jewellery is exchanged with gold dinars, the transaction is not regarded as an exchange between two monetary items (*mubadalah al-thamanayn*). Rather, it resembles the sale of a commodity for a price, where disparity and deferment may be permissible.

This reasoning is also reflected in juristic discussions on zakat. Some scholars maintain that gold used as jewellery is not subject to zakat unless it is held as money or as a form of stored wealth. Imam Malik, al-Layth ibn Sa'd, and al-Shafi'i held that zakat is not obligatory on gold and silver used as jewellery or adornment. In contrast, Imam Abu Hanifah and his companions held that zakat is obligatory on gold and silver, whether minted as currency or crafted as jewellery. The root of this disagreement lies in whether crafted gold and silver are to be treated as ordinary commodities used for adornment or as dinars and dirhams used for monetary exchange. Those who classify them as commodities do not impose zakat, whereas those who classify them as money impose zakat (Ibn Rushd al-Hafid, *Bidayah al-Mujtahid wa Nihayah al-Muqtasid*, p. 183).

In the modern era, the monetary role of gold and silver has significantly declined. They are now largely treated as commodities rather than currencies, particularly because contemporary monetary systems no longer rely on gold and silver as direct backing for money. This development has weakened the economic function of gold as a monetary standard. Consequently, central banks issue paper currency according to the economic needs of the state, without necessarily linking it to gold reserves.

Tarjih Of Scholarly Opinions Regarding Gold Transactions

Therefore, after considering the various scholarly opinions, it may be argued that the stronger view is that the delivery of a cheque in the sale and purchase of gold and silver is permissible for the following reasons.

First

Money plays an essential role in facilitating the flow of capital, ensuring ease of movement, and enabling transactions between individuals and states. Its function is to protect public interests and preserve financial rights. This role has become increasingly important due to the rapid development of modern commercial methods in the global economy, particularly through international trade, capital mobility, and the circulation of wealth within changing human societies.

With the expansion of the economy and the development of modern civilisation, reliance upon gold and silver currency alone is no longer practical. This is due to their limited availability, restricted mining output, and fixed natural supply compared with other minerals, while human need for money that is portable, transferable, and easily circulated has continued to increase. Metallic coins are no longer suitable for an era that requires speed, efficiency, and flexibility in commercial dealings. Consequently, paper currency emerged and gradually replaced metallic currency in sale transactions and other forms of financial dealings.

Historically, paper money initially functioned as a substitute for gold and silver. Later, it developed into a promissory document exchangeable for gold upon demand, before eventually becoming legal tender that must be accepted without requiring conversion into gold. This remains the position until today. Subsequently, deposit money and printed financial instruments such as cheques emerged in economic transactions, especially for large-scale dealings, often exceeding the use of physical paper currency. In this context, paper money functions as a reserve and backing for cheque transactions held by commercial banks. Thus, the banking system plays a role in creating money comparable to the role of minting in the production of metallic currency.

Second

The argument that the requirement of immediate possession (*al-taqabud*) is not fulfilled in the sale and purchase of gold and silver through cheques may be answered from several angles.

First, the disagreement over cheque possession relates to whether receiving a cheque constitutes actual possession of value (*qabd haqiqi*) or merely constructive or formal possession (*qabd hukmi* or *qabd suri*). This difference partly arises from the distinction between the legal treatment of cheques under French law and English law. In legal systems influenced by English law, such as those of England, the United States, and other related jurisdictions, ownership of the cheque value is not transferred to the beneficiary merely upon issuance. Transfer of value occurs only when the cheque is cashed. By contrast, under French law and in many Arab legal systems, the value stated in the cheque is transferred once the cheque is issued and delivered to the beneficiary, who then becomes the owner of the cheque value held by the bank (Ibrahim Bakr, *Bahth fi Ahkam al-Qanuniyyah li Himayah al-Shik*, Manshurat Ma'had al-Dirasat al-Masrafiyyah, Amman, 1982, p. 36).

Accordingly, under English law, ownership of the cheque value is not established until the cheque is honoured and exchanged. Possession of the cheque does not necessarily amount to possession of its monetary value. This differs from the French legal approach, where the beneficiary obtains ownership of the cheque value upon receiving the cheque. The beneficiary may then transact with it through gift, sale, or endorsement.

Where a cheque is issued in accordance with legal requirements and properly delivered to the beneficiary, the beneficiary becomes the lawful holder of its value. This is consistent with the legal principle that good-faith possession of movable property establishes ownership. On this basis, ownership of the cheque and the corresponding bank balance transfers to the beneficiary upon issuance, and the amount represented by the cheque becomes the beneficiary's right.

Under the French legal framework, a cheque may therefore be treated as money because it fulfils the criteria necessary to preserve rights and facilitate exchange. Since it performs a monetary function and is commonly accepted as a medium of payment in commercial dealings, there is no legal or Shariah objection to its delivery in such transactions.

This position is supported by the resolution of the Islamic Fiqh Academy of the Muslim World League, which recognises the receipt of a cheque as possession of its value, provided that the cheque is backed by sufficient funds in the issuing bank. The resolution states that one form of constructive possession (*qabd hukmi*) recognised by Shariah and custom is the delivery of a cheque with sufficient funds that can be credited in the stated currency once it is presented and

retained by the bank (*Qararat wa Tawsiyyat Majma' al-Fiqh al-Islami*, compiled by 'Abd al-Sattar Abu Ghuddah, Dar al-Qalam, Damascus, Resolution no. 52, p. 114).

Second, the correct understanding of contemporary commercial reality indicates that gold and silver jewellery are no longer treated by people as money or price, although both continue to retain their value and prestige. In modern practice, gold and silver are generally treated as trade commodities, not as direct media of exchange.

The use of gold dinars and silver dirhams has disappeared, and the function of gold and silver is now largely confined to jewellery, adornment, and valuable commodities. They are no longer the primary medium for exchanging goods and services. Paper currency has replaced gold and silver as the recognised medium of exchange. Therefore, the sale of crafted gold and silver using paper currency may be viewed as the sale of currency for a commodity, rather than a pure exchange transaction (*al-sarf*) requiring immediate reciprocal possession in the same manner as gold-for-gold or silver-for-silver exchange.

However, if paper dinars are backed by gold and represent a direct substitute for gold, then disparity and deferment would not be permissible. In such a case, immediate delivery is required because the paper instrument functions as a branch of gold-backed currency, and the transaction resembles the sale of gold for gold. Similarly, if gold and silver are exchanged in the form of gold dinars and silver dirhams, then the transaction is treated as a currency exchange and must fulfil the Shariah conditions of *al-sarf*.

A relevant question may arise: why is the sale of minted gold dinars with paper currency treated as *al-sarf*, while the sale of gold jewellery such as bracelets, rings, and necklaces is not necessarily treated in the same way?

The answer lies in purpose and function. When gold is minted in the form of dinars, its intended function is to serve as money, price, and a medium for acquiring goods and services. However, when gold is crafted into jewellery, its primary purpose is adornment and use, not monetary exchange. This corresponds with the view of Shaykh al-Islam Ibn Taymiyyah, who held that crafted gold may be sold for gold of the same type without requiring strict equality, provided that the additional amount is in consideration of craftsmanship.

This view is particularly relevant when gold jewellery is sold for paper currency, because the recognised price in today's custom and law is paper currency, not gold or silver. Nevertheless, if gold is exchanged for gold, silver for silver, or either of them for the other, the transaction remains subject to the rules of ribawi exchange. It is therefore not permissible unless the requirements of equality (*al-tamathul*) and immediate possession (*al-taqabud fi al-hal*) are fulfilled where applicable. Although gold and silver no longer circulate as currency as they once did, they remain ribawi items explicitly mentioned in the hadith. Therefore, deferment in their exchange remains prohibited as a form of *riba al-nasi'ah*.

Third

The sale of gold and silver through cheques may also be analogised (*qiyas*) to the sale of gold using paper currency. The key issue is whether the established rules of currency exchange (*qawa'id al-sarf*) apply to such transactions.

In discussing this matter, a distinction must be made between two situations: first, where gold and silver are minted as dinars and dirhams and sold using paper currency; and second, where

gold and silver are crafted into jewellery and ornaments, as commonly occurs today, and sold using paper currency.

The first situation concerns the sale of gold and silver minted as dinars and dirhams with paper currency. Although paper currency has replaced gold dinars and silver dirhams in modern usage, the legal ruling relating to minted gold and silver remains unchanged because both retain the status of price (*al-thaman*) by their nature and function. Therefore, when either is sold for paper currency, the rulings of *al-sarf* apply. Immediate possession (*al-taqabud al-hali*) in the contract session is required, although equality in amount is not required due to difference in genus. Paper currency is an independent form of money and is no longer directly tied to gold or silver.

This position is supported by the resolution of the Islamic Fiqh Academy in its third session, which permits the exchange of different paper currencies on the condition that the exchange occurs hand-to-hand (*yadan bi yadin*). The resolution explains that exchanging different currencies is permissible with disparity, provided that it is conducted immediately, because it constitutes exchange between different monetary types (*Qararat Majma' al-Fiqh al-Islami*, Third Session, vol. 3, p. 1894).

The second situation concerns the sale of gold and silver jewellery with paper currency. The Islamic Banking Conference held in Dubai resolved that it is not permissible to sell or purchase gold with paper currency except on a hand-to-hand basis (*yadan bi yadin*) (*al-Fatawa al-Shar'iyah* issued by Jordan Islamic Bank, 2/62).

Therefore, the conclusion drawn from Islamic financial resolutions is that the sale of gold or silver with paper currency is treated as *al-sarf* and must fulfil the Shariah requirements of exchange, whether the gold or silver is in the form of dinars and dirhams or in the form of jewellery. The discussion is general and does not provide a distinction between minted gold currency and crafted gold ornaments.

Conclusion

Since cheques closely resemble paper currency in that both derive their value primarily from legal recognition and nominal worth rather than intrinsic material value, the concept of possession (*al-qabd*) applicable to each must be assessed according to their respective legal and commercial characteristics. Accordingly, the stronger and preferable opinion (*al-rajih*) maintains that the sale and purchase of gold through paper currency is permissible. By extension, transactions conducted through cheques are likewise permissible based on *qiyas* (analogical reasoning), as both instruments share the same underlying effective cause (*'illah*) previously discussed.

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