

**Contemporary Issues
in**

Islamic Law

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The Contract of Ja'alah and The Modern Banking Business: Juristic Analysis

Hafiz Ali Ismail

The Meaning and Nature of Ja'alah

In its literal meaning, *ja'alah* (rewarding) is the term for the consideration offered to a person in return for a performance¹. In the contract of *ja'alah*, the party, who undertakes to pay a reward, is called *ja'ail* or rewarder; whereas, the party, who is required to perform, is called *majaul lahu* or rewardee².

According to the Maliki school of thought, *ja'alah* is the undertaking to pay a reward in return for a utility or *Manfa'ah*. However, to Ibn Arafah, who is a Maliki jurist, *ju'al* or reward is a contract of exchange in which the reward is given in return for a certain performance, provided that the reward does not accrue from the subject-matter of the contract of *ja'alah*. Moreover, the reward will only be earned upon complete performance, whereas the partial performance gets nothing³.

The Maliki definition emphasizes the essence of *Ja'alah* the utility which may or may not occur, as the contract of *ja'alah* involves the element of uncertainty or *Gharar*. Although the definition is consistent with that of Ibn Arafah, he gives great emphasis to separation of reward from the subject-matter. As such, the consideration in *Ja'alah* shall not be given out of the subject-matter of *Ja'alah*, in the sense that it must be a separate