

## Heart Half Implementation Sharia Banking In Indonesia

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### ABSTRACT

*Islamic banking in Indonesia has been regulated in the law, namely Law number 10 of 1998 concerning amendments to Law number 7 of 1992 concerning banking. As time goes by, the existing Islamic banking practices are starting to be questioned, questioned, and criticized, because there are those considered deviant even out of the sharia corridor itself. Against various problems that exist in Islamic banking, it needs to be addressed appropriately. By understanding the nature of the principle of *tadrij fii tasyri*, we are required to better understand and focus on the processes and stages in the implementation of syariah banking. So that with all the problems of Islamic banking faced now, it must be understood that this is still the stages, not the end and purpose of the application of Islamic banking it self. However, the main problem in the implementation of Islamic banking is the commitment. Islamic banking is in a comfortable zone with its current format. Efforts to implement Islamic banking are still half-hearted, even less serious. Even though there is a lot of criticism embedded in Islamic banking, starting from the practice of improper contracting, Human Resources (HR) who are not competent with the sharia itself, and banking products that are less adaptive and responsive.*

**Keywords:** *Implementation, Commitment, HR, Product and Agreement, Tadrij fii Tasyri '*

### A. INTRODUCTION

Islam is a perfect religion, because it has a very special Shari'a, which is universal and comprehensive. Universal means that Islam is a religion that is appropriate and can be applied at all times and places. While comprehensive means

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that Islam encompasses all aspects of life both worship and bermuamalah. Whereas what is meant in the field of muamalah itself has a quite broad meaning, one of which is in the economic and banking fields (Karim, 2010: 5).

One of the facilities that has a strategic role in economic activities is banking. The strategic role is mainly due to the main function of banking as a financial intermediary, namely as an institution that can collect and channel public funds effectively and efficiently. Islamic banking is basically a development of the concept of Islamic economics, especially in the financial sector. Islamic banking in international terminology is known as Islamic Banking (Rivai, et al., 2007: 4).

Islamic banks were originally developed as a response from a group of economists and Muslim banking practitioners who sought to accommodate the insistence of various parties who wanted the availability of financial transaction services carried out in line with Islamic sharia principles. Especially related to the prohibition of usury practices, the activities of maysir (gambling), gharar (obscurity) and violations of the principle of fairness in transactions and the necessity of channeling investment funds in ethical and halal business activities in sharia (Sutedi, 2009: 3).

Islamic banking in Indonesia has been regulated in the law, namely Law number 10 of 1998 concerning amendments to Law number 7 of 1992 concerning banking. Until now there are many Islamic banking institutions in Indonesia. The existence of Islamic banking in Islam is vital because business activities and the economic wheel of the people will not work without it. The main objective of the establishment of Islamic banking is nothing but an effort of the Muslims to base all aspects of their economic life based on the Qur'an and al-Sunnah (Hirsanuddin, 2008: II).

In its development, the implementation of Islamic banking in Indonesia still leaves some issues that are quite fundamental, including banking products that are not in accordance with sharia, disorientation of efforts to implement Islamic economics in banking, and the discovery of practices containing elements of usury, maysir and gharar. For example, the practice of the murabahah contract, Islamic banks determine the margins completely unilaterally against customers. This unilateral determination is not allowed because in the contract there must be transparency from the bank. In addition, in mudharabah financing, the distribution of financing returns was not based on the profit sharing and loss system but using the system for revenue (revenue sharing). This system was chosen because Islamic banks have not fully dared to share the risk or loss and risk sharing in full.

The above matters, whether acknowledged or not, are the weak points of Islamic banking which are the priority of our shared minds. Because of that, the authors see that the application of Islamic banking in Indonesia tends to be still half-hearted and less serious. This paper tries to make an evaluation or evaluation of the implementation of Islamic banking in Indonesia through a critical review of

the development of Islamic banks while at the same time trying to provide recommendations and solutions in order to implement a better Islamic banking.

## **B. THEORITICAL**

### **I. Islamic Banks and Conventional Banks**

Islamic banking is a banking system developed based on Islamic sharia. The effort to establish this system is based on the prohibition in Islam to collect or borrow with interest or what is referred to as usury and the prohibition on investment for businesses which are categorized as haram (for example, businesses related to the production of food/drinks, etc.), where this cannot be guaranteed by the conventional banking system.

The development of the Islamic banking system in Indonesia is carried out in the framework of a dual-banking system or dual banking system within the framework of the Indonesian Banking Architecture (API), to present an increasingly complete alternative banking service to the Indonesian people. Taken together, the Islamic banking system and conventional banking synergistically support the mobilization of public funds more broadly to increase the ability of financing for the sectors of the national economy (Santi, 2012: 222-243).

Conventional banks and Islamic banks, in some ways have similarities, especially in the technical side of money receipts, transfer mechanisms, computer technology used, general terms of financing and so on. However, there are many fundamental differences between the two, concerning legal aspects, organizational structure, financed businesses and work environment (Antonio, 2001: 30-34).

In general, Islamic banks have the same structure as conventional banks and Islamic banks. The distinguishing element is the necessity of the Sharia Supervisory Board in charge of supervising the operations of the bank and its products in accordance with the provisions of sharia. This is because the transactions that apply in Islamic banks are very different from conventional banks.

In addition, businesses and businesses run by Islamic banks must not be separated from the sharia corridor. Islamic banks may not finance businesses that contain illicit elements in them; projects that cause disaster; businesses that contain elements of maysir and gharar; and projects that harm Muslims.

Islamic banks should also have a work environment that is in line with Islamic values. For example, how to dress and the behavior of its employees must reflect Islamic morals. In terms of ethics, the nature of trust and shiddiq must be the basis for work. Employees must have adequate and professional skills (fathanah), as well as being able to perform tasks in a team-work manner with good communication/tabligh (Antonio: 2001: 30-34).

### **2. Problem of Implementing Islamic Banks**

The attempt to give birth to an Islamic bank system is not as easy as turning the palm of the hand. In Indonesia, the birth of Islamic banking was

motivated by the issuance of fatwas by ulamas who forbid the law of bank interest in conventional banking, as well as the desire of Muslims to establish banks with profit sharing systems that operate in accordance with Islamic sharia principles (Rahmanti, 2013: 62). The road for the operation of Islamic banks is wide open with the issuance of Government Regulation No. 72 of 1992, Article 6 concerning profit sharing banks whose business activities are based on the principle of profit sharing. The stronger with the enactment of Law No. 10 of 1992 which opened opportunities to establish Islamic banks or convert conventional banks into Islamic banks (Muhammad, 2006: 21). Even though it has long been born, in practice, Islamic banking in Indonesia still leaves some fundamental problems.

As time goes by, the existing Islamic banking practices are starting to be questioned, questioned, and criticized, because there are those considered deviant even out of the sharia corridor itself. Starting from those who question about the implementation of Islamic bank products, transactions that are often dealt with, insensitivity of Islamic banks to social problems, to the assumption that Islamic banking is just a change of clothes, what is behind it is actually a capitalist group that capitalizes on Islamic banking . Such criticisms are of course very necessary for the better progress of Islamic banking, as long as the criticism is constructive and scientific, not because of hate factors (phobias), let alone just based on non-fundamental assumptions.

According to Muhammad ArifinBadri, there are many problems in the practice of Islamic banking contracts in Indonesia. First, the dual role of banking. In the mudharabah agreement, the bank acts as a business actor when dealing with customers as capital owners, but acts as a financier when banks are dealing with business actors who need funds to develop their business. This dual status played by banking proves that the actual contract that is carried out by the banking system is a loan agreement, and not a mudharabah contract. In the mudharabah agreement, if banks play this kind of dual role and do not participate in carrying out the business carried out, then the bank is not entitled to get a share of the profits, because its status is only as an intermediary.

Secondly, the unpreparedness of banks to bear the risk of loss to the profit sharing system. So that until now the principle of profit sharing in the practice of mudharabah financing cannot be realized. Even tend to be with a debt-based debt-based bank system. The profit sharing method tends to be convoluted. The existing Shariah banking is just a big name without its essence. Even what happens is actually an attempt to play the shari'ah terms (<https://almanhaj.or.id/2599-mencari-solusi-bank-syariah.html>).

When viewed, mudaraba practices in the field tend to be collaborated with musyarakah contracts because their capital comes from two parties, Islamic banks and customers. In terms of the distribution of financing returns is also not based on the results (profit and loss sharing) but uses the system for revenue

(revenue sharing). Apparently, this system tends to be chosen because Islamic banks have not fully dared to share risks or losses (loss/risk sharing) from capital in full (Muslich, 2013: 342-371).

In addition, it is undeniable that Islamic banks are profit oriented businesses. Therefore the greater the proportion of profitable financing is implemented, for example the murabahah contract (Rivai, et al., 2012: 355). This is because the profit of murabahah is certain, because murabahah is a natural certainty contract, which is different from a business with profit and loss sharing system that adheres to natural uncertainty transactions ([https://www.kompasiana.com/hamkahuseinhs/kritik-terhadap-banksyariah\\_589ca52820afbd5e1690b000](https://www.kompasiana.com/hamkahuseinhs/kritik-terhadap-banksyariah_589ca52820afbd5e1690b000))

On savings through wadi akad, we tend to force ourselves to use deposit funds to be used for productive activities that the bank wants. In principle, in the use of a deposit in any form of law is prohibited, because if there is any element of use by the party that has been deprived (the bank) to be utilized then the contract is changed to qard} (the debts). The wording of the Shari'ah banking is not a wage law which is described in the books of Jurisprudence. Wadi'ah applied in sharia banking today, is more relevant to qard contract} (debts). What is practiced by the sharia banking actually is the qard contract which is then referred to as the wadiakad, which precisely refers to the wadi'ahyad al-d} or so (Hulwati, 2006: 106).

This is where inconsistencies and shifts from Islamic banks as banks with profit sharing systems become profit-oriented banks. Naturally, if later there are certain parties who say that the Syariah bank is trapped in capitalism for a long time. Whereas in the initial concept of rolling, Islamic banks were not only oriented to profit (profit oriented), but participated in building economic growth, stability and justice.

Even sharper, according to Zaim Saidi's the author of the book Sharia Bank, Islamic banking is a new heresy that appears among Muslims. Islamic banking was born and developed not as part of the enforcement of sharia pillars, but instead as a part that undermined the sharia pillar, because it had Islamized capitalism (the usury of usury) in the practice of applying the Islamic economic system.

As a system, if it is likened to a tree, there are three different levels, namely roots, stems, and branches in the banking system. Root is the practice of usury, the stem is the position of banknotes, and the branch is the practice of Islamic banking. By examining the analogy, from the roots, stems, and branches, we can arrive at a complete understanding, that the practice of sharia banking is only a matter of branches, not a more important main issue, namely clarifying the meaning of usury and the position of banknotes (<https://zaimsaidi.com/memahami-tidak-syariahnya-bank-syariah>).

Zaim Saidi's view can be regarded as a quite radical ideological perspective. The current banking practices, in any form, remain a product and part of the capitalist system, so that the Islamization process will never be able to be carried out. Thus, the Islamic banks that now exist are none other than a new form of capitalism with a different name, and it is natural that in the sharia banking that is now developing, there are many problems that actually violate the provisions of sharia itself.

### **C. METHODOLOGY**

This study used data obtained from the study of literature and primary data from interviews (depth interview) with a number of regulators and practitioners who understand the problems in the study of a slowdown in growth that occurred in Islamic banking. Interviews were conducted during the period Januari until this interview was conducted in Juli 2015. This study uses qualitative methods to see the implementation of Islamic banking in implementing sharia principles themselves.

### **D. RESULTS AND DISCUSSION**

#### **I. Islamization of the Sharia System in Banking**

The awareness of Muslims to implement Islamic teachings in the economic field, has brought Islamic economic institutions such as banking, to extraordinary growth. This implies that Islamic economics and finance have very bright prospects and futures. It is not impossible, the Islamic economic system that is being built at this time, can replace the dominance of the conventional economic system in the future. Our task in the future is how to transform the existing economic system into an economic system in accordance with the guidance of Islamic teachings. In this context, the effort of banking Islamization is one of the most challenging homeworks. For this reason, a number of agendas must get our attention so that the Islamization process is going well.

There are two methodological approaches that have been used in building the Islamic banking system. First is the all or nothing approach, namely the substantive approach that adheres to the total sharia principle or not at all. In this approach, all conventional banking theories and concepts are negated and demolished, then sharia banking is built with its own definition and conceptualization (Beik, 2016: 183-204).

This approach is similar to what Zaim Saidi expected, which means it must be changed from its roots. However, according to the authors the substantive approach is not relevant to be applied in the Indonesian context, which ideologically is not an Islamic state. The substantive approach is more appropriate if a country has implemented the Islamic system in full in all aspects and fields. In Indonesia, this approach is not applicable and difficult to realize.

The second approach is step by step approach, which is a partial / gradual approach, step by step. In this approach, there is a process of filtering conventional banking by eliminating components that are contrary to Islamic teachings. In the Indonesian context, the second approach is more relevant to be applied when compared to the first approach. So the most rational and applicable choice today is to Islamize banks through an integrative approach, namely by making conventional banking a benchmark, and then making modifications and insertions (infiltration) of Islamic values so that the birth of sharia banking has differences with banking conventional, both from a philosophical and practical standpoint. Of course, the gradual process of Islamization of Islamic banking is not easy. Because on the way, this approach cannot be separated from problems and criticism (Beik, 2016: 183-204).

The efforts to Islamize Islamic banking today still do not lead to professionalism. The tendency emerged that Islamization was still focused on institutional instruments in the form of substituting banking technical terms with terms derived from mu'amalahfiqh, cleaning up business activities from various illegitimate forms of business, and distributing zakat. A number of basic concepts of shari'ah banking taken from the fikihmu'amalah also seem rather forced to be applied in the bank's operational system. These terms are modified in such a way that they meet the demands of the existing banking application. On the other hand, in reality, the concept of Islamic banking is still difficult to release from flowering instruments. So, with banking practices that are still close to interest, it can be said that Islamic banks are now experiencing self-confusion.

## **2. TadrijfiTasyri 'in Implementation of Sharia Bank**

Islamic Shari'a has basic principles to be accepted by all humanity in all ages. There are legal norms set by God in the form of just the basics or principles, then other legal norms are born through the ijtihad of the mujtahids in different formats according to the needs of the community. These norms are then named after fiqh. Of course, these norms are not fixed, but can change according to the demands of space and time. In establishing a new legal format to address growing problems, the mujtahid must always adhere to the principles of the law (Khalaf, 2002: 1).

Among the principles in the application of Islamic law is tadrijfiitasyri ', which is gradually/gradually in the application of Islamic law. Tadrijfiitasyri 'is a phased approach taken by the Qur'an to convey his messages in building society. The Qur'an chooses a gradual way in delivering its message for easy execution by the people. tadrijfiitasyri 'is seen as the principle of persuasion, which makes Islamic law more flexible and always in keeping with the times and circumstances. Most important is its implementation and the application of Islamic law. tadrijfiitasyri 'implies a method of application of da'wah that is a stage in the development of the society. The principle of legal determination is gradually

evident in the process of revelations of the laws of syara 'which lasts almost 23 years. In the history of Islam, the field of Islamic law that is gradually formed is the prohibition of riba and khamar (Khatimah, 2007: 93).

Thus, in an effort to implement Islamic banks, it also requires stages before arriving at a change in the concept of banking in total. Against various problems that exist in Islamic banking, it needs to be addressed appropriately. Our mindset does not need to be too fixated on the banking model and system that has been known and practiced so far. However, the focus is on the efforts and processes pursued together, and remains focused on the vision of achieving and creating substantive and comprehensive Islamic banking in the future.

### **3. Half-hearted Implementation of Islamic Banks.**

By understanding the nature of the principle of *tadrijifitasyri* ', we are required to better understand and focus on the processes and stages in the implementation of syariah banking. So that with all the problems of Islamic banking faced now, it must be understood that this is still the stages, not the end and purpose of the application of Islamic banking itself.

However, according to the author, the main problem in the implementation of Islamic banking is the commitment. Islamic banking seems to have stopped at several stages and lost its vision to become a fully Islamic banking. Islamic banking is in a comfortable zone with the current format, which has successfully entered fiqh terms in banking. Efforts to implement Islamic banking are still half-hearted, even less serious. Even though there is a lot of criticism embedded in Islamic banking, starting from the practice of improper contracting, Human Resources (HR) who are not competent with the sharia itself, and banking products that are less adaptive and responsive.

The more the existence of Islamic banking is supported by the law, it turns out that up to now the behavior of Islamic banking in Indonesia is still similar to that shown by conventional banking, namely the behavior of bank interest in *mudharabah* dress. Islamic banks such as religious mirages that make their existence today actually become a criticism of Muslims themselves. This was allegedly the result of the low commitment of sharia banking players to the implementation of sharia principles. In fact, we often hear that most Islamic banking in Indonesia actually takes a much bigger flowering advantage compared to conventional banking.

Next is the problem of less competent and professional human resources. For the purpose of accelerating the development of Islamic banking, improving the quality of Indonesian human resources is a major prerequisite. In practice, there are still many of us that employees of Islamic banking do not understand the concept of contract and sharia principles in banking. What is understood is only the terms of Islamic banking in terms of practice. Even though the current banking format is not final. So that it will be difficult to expect with the existing human resources, to

join in the struggle to implement Islamic banking perfectly in the future. His affairs are professional work, get a salary at the end of the month and finish. Thus, the vision of building Islamic banking has been lost.

Thus, both in quantity and quality, HR must be improved and developed in the framework of the development of the actual Islamic banking civilization. The HR development and development process includes planning, development and management. Efforts to improve the quality of human resources can be through trainings conducted simultaneously by Islamic banks along with all related parties, so that a strong human resource is formed in the development of Islamic banking (Arifin, 2000: 47).

The last problem is aspects of banking products that are less adaptive and responsive. The development of Indonesian Islamic banking cannot be done partially, but on the contrary, the development must be discussed in a comprehensive and integrated manner. Among the aspects that are important enough to pay attention to are banking products. The rapid growth of Islamic banking must be accompanied by product innovations offered to the public. Without improving the quality of services coupled with the increasingly diverse Islamic banking products, it will be difficult to compete with conventional banking. Islamic banking in the current global era faces many challenges, one of which is product development and improving service quality to meet the demands of the global business community. However, it must still be noted that Islamic banking products must contain three things: first, compliance with sharia principles; second, good quality of service; third, continuous product innovation (Antonio: 2006: 131).

As mentioned above, higher education institution must create climate that supports lecturers to plan, implement, and evaluate innovative and participative learning program that can improve learning outcomes through inquiry process (Irwanto, et al. 2018).

## E. CONCLUSION

Islamic banking in Indonesia has been regulated in the law, namely Law number 10 of 1998 concerning amendments to Law number 7 of 1992 concerning banking. The existence of Islamic banking in Islam is vital because business activities and the economic wheel of the people will not work without it. The main objective of the establishment of Islamic banking is nothing but an effort of the Muslims to base all aspects of their economic life based on the Qur'an and al-Sunnah.

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insensitivity of Islamic banks to social problems, to the assumption that Islamic banking is just a change of clothes, what is behind it is actually a capitalist group that capitalizes on Islamic banking.

In an effort to implement Islamic banks, it also requires stages before arriving at a change in the concept of banking in total. Against various problems that exist in Islamic banking, it needs to be addressed appropriately. Our mindset does not need to be too fixated on the banking model and system that has been known and practiced so far. However, the focus is on the efforts and processes pursued together, and remains focused on the vision of achieving and creating substantive and comprehensive Islamic banking in the future.

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