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CONTEMPORARY DYNAMICS IN ISLAMIC BANKING TRANSACTIONS

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ABSTRACT

Transactions in Islamic banking are currently the choice of the community because its products are based on Sharia with elements of maslahat. Now is the momentum for Islamic banking to fix the problems in its transactions to gain public trust and develop the potential possessed by Islamic banking. This research aims to examine transactions in Islamic banking and their problems using qualitative research methods and types of literature study research. This research explains that transactions in Islamic banking have five rules: benefit, fairness, pleasure, honesty, and piety. This research also found that in Islamic banking transactions, there are several internal problems in the form of inadequate human resources, Islamic economic regulations, unsupportive facilities, and infrastructure. Externally, not all people know about Islamic banking and its products.

Keyword: Transaction Problems, Islamic Banking, Islamic Economics

A. Introduction

Transaction is the process of exchanging goods and money, goods and services, and goods with goods, or even lending and borrowing, involving two or more people with complete agreement and awareness, by applicable regulations both in terms of law and religion. Mursyidi explains transactions as business activities that include buying and selling goods, profits, losses, management, and other aspects that have a value that can be measured in money (Saefuddin, 2019).

Meanwhile, transactions in Islamic banking are economic activities based on Islamic principles that prioritize the element of *maslahat* (Putra & Thamrin, 2022). The essence of Islam is tawhid, so the implications of Islamic economics are very transcendental, where Allah plays an absolute role as the determinant of rules. This is because the nature of Islamic economics is Rabbani, which is based on divine and human values and aims to improve humanity's welfare (Rauf et al., 2022; Sulaiman et al., 2022). This distinguishes the principles of Islamic and Western economics and is considered a solution to the injustice of the capitalist economic system that only benefits some humans.

The rules in the transaction protect the provider of goods and the buyer to avoid deviations that may occur. Islam has sharia rules based on the Qur'an and hadith, which are studied in Fiqh muamalat (Arfaizar, 2022). Mohammad Ma'sum Billah technically explains that the definition of fiqh muamalat is a form of agreement that is profitable and does not violate the rules of Islamic law with the aim of meeting the daily needs of humans, especially those related to trade and commerce (IAIN Parepare, n.d.).

يٰٓاَيُّهَا الَّذِيْنَ اٰمَنُوْا لَا تَأْكُلُوْٓا اَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ اِلَّآ اَنْ تَكُوْنَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ ۗ وَلَا
تَقْتُلُوْٓا اَنْفُسَكُمْ ۗ اِنَّ اللّٰهَ كَانَ بِكُمْ رَحِيْمًا .

Meaning:

> "O believers! Do not devour one another's wealth illegally, but rather trade by mutual consent. And do not kill ⌜each other or⌝ yourselves. Surely Allah is ever Merciful to you". (QS. an-Nisa [4]: 29) (Kementerian Agama RI, 2005).

Every transaction must be carried out properly and correctly without deviating and on a consensual basis as explained in Surah an-Nisa verse 29, even in the verse reaffirmed that do not kill yourself, which means that if wealth is obtained by false, then it is a very detrimental way both for yourself and others. Allah has shown how to get wealth in a good way, one of which is by trading and making transactions by Sharia; the goods traded are apparent, not prohibited, and there is an agreement between the seller and the buyer. The scholars also conduct ijtihad on Islamic law in muamalat fiqh, which aims to produce implementable Islamic law for all Muslims (Saat, 2020).

Transactions in Islamic banking are currently one of the community's choices in banking activities. This is due to the emergence of public awareness of Sharia products that contain elements of maslahat. So, it is time for Islamic banking to examine the problems that hinder and examine them.

The academic problems in this research are as follows: First, what are the transaction rules in Islamic banking? Second, what are the prohibitions in Islamic banking transactions? Third, what are the problems in Islamic banking transactions?

This paper uses a literature study method that adopts the thoughts and opinions of experts in Islamic economics and is continued by reviewing literature in the form of research, books, articles, and writings related to transactions in Islamic banking. This research ends with an analysis or interpretation of various sources that have gone through a process of exploration, identification, and classification using descriptive methods (Sayono, 2021).

B. Transaction Rules in Islamic Economics

In the Quran, economics is the focus in Surah Al-Baqarah verse 282, the most extended verse. There are five principles in the verse, namely the importance of evidence in transactions, the trust required in transactions, the importance of witnesses in transactions, that transactions must be carried out with full awareness of devotion, and the importance of integrity in transactions (Arfaizar et al., 2023). This is because in Islamic economic transactions, buying and selling, saving and borrowing, and debt and credit transactions are not only for the sake of material gain but also based on Sharia rules.

The Sharia rules refer to the principles found in the Quran, Hadith, and the reasoning of Islamic scholars that form the basis for conducting transactions. These principles are part of fiqh muamalat, a branch of Islamic science that studies economic issues (Madjid, 2018). According to Dr. Abbas Arfan, there are five main rules in fiqh muamalat:

1. Profit and benefit means any activity that provides benefits and advantages to the parties involved.
2. Fair and equitable means that the transaction should contain justice controlled by a few parties and evenly distributed to everyone.
3. Keridhaan and willingness mean that every transaction should contain a sense of pleasure and willingness; there is no coercion from any party.
4. Honest, there should be no deception or dishonesty when transacting. Tell the actual condition of the item without covering up its shortcomings.
5. Piety makes piety the basis for transactions so that transactions become a way for the perpetrators to achieve piety to Allah SWT.

Based on these rules, Allah explains that some transactions are allowed, and some are prohibited. Departing from the following rules:

والأصل في العقود والمعاملات الصحة حتى يقوم دليل على البطلان والتحريم .

Meaning:

> "The basic principle in all agreements and transactions is that they are valid until there is evidence to show that they are invalid or forbidden." (Suyuti, 1998).

Based on this rule, every transaction is legal unless there is evidence that shows the prohibition of the transaction. This clearly explains that every rule returns to the Qur'an, hadith, and ijtihad of scholars in punishing a transaction. In addition, transactions are also influenced by customs and habits in an area, so they have visible differences (Ibrahim & et al, 2021). However, as long as the uniqueness of the transaction is still by Sharia, it can still be applied.

Fiqh muamalat provides practical guidance in transactions based on Islamic economic principles; these guidelines are the essence of the Koran, hadiths, and scientific renewal from scholars, which are very easy to understand and apply in society (Arfaizar, 2022). Its application is undoubtedly the personal responsibility of each economic actor, so this is where the role of Muslims in preserving the rules of muamalat fiqh in every transaction.

C. Prohibitions in Islamic Economic Transactions

1. Usury

In language, usury means additional, while according to etymological, usury means additional, determined by the debt giver to the debtor in return for the length of the debt. Usury is synonymous with transactions involving compensation based on lending and borrowing both in and outside an institution that Allah Swt prohibits (Yusuf, 2020).

The Quran, in explaining usury, has similarities when explaining the law of khamr (liquor); there are even similarities in terms of the application of law (sin), and it is an act that Allah SWT curses. There are four stages in the Quran explaining the law of usury, namely (Damayanti et al., n.d.):

a. The negative impact of usury is explained

وَمَآ اٰتَيْتُمْ مِّنْ رِّبًا لِّيَرْبُوَاۡ فِيْٓ اَمْوَالِ النَّاسِ فَلَا يَرْبُوْا عِنْدَ اللّٰهِ ۚوَمَآ اٰتَيْتُمْ مِّنْ زَكٰوةٍ تُرِيْدُوْنَ وَجْهَ اللّٰهِ فَاُولٰۤىِٕكَ هُمُ الْمُضْعِفُوْنَ .

Meaning:

> "Whatever loans you give, ˹only˺ seeking interest at the expense of people's wealth1 will not increase with Allah. But whatever charity you give, ˹only˺ seeking the pleasure of Allah—it is they whose reward will be multiplied." (Q.S. ar-Rum [30]: 39) (Kementerian Agama RI, 2005).

Based on the above verse, it is explained that Allah disapproves of usury as a form of help based on taqarub to Allah. Usury is not a form of help or assistance but rather burdensome. The existence of additional excess on debt payments provides a burden, whereas the essence of assisting is to alleviate the burden.

b. Allah shows the condemnation of the usurer

مَنْ يُّطِعِ الرَّسُوْلَ فَقَدْ اَطَاعَ اللّٰهَ ۚ وَمَنْ تَوَلّٰى فَمَآ اَرْسَلْنٰكَ عَلَيْهِمْ حَفِيْظًا .

Meaning:

> "Whoever obeys the Messenger has truly obeyed Allah. But whoever turns away, then ˹know that˺ We have not sent you ˹O Prophet˺ as a keeper over them (Q.S. an-Nisa [4]: 80) (Kementerian Agama RI, 2005).

The above verse explains that Allah threatens to curse the perpetrators of usury and all those involved in it. Usury money eaters are not only borrowers and lenders but also those who witness, record, and facilitate usury.

c. *Haram* for multiplying the extra

يٰٓاَيُّهَا الَّذِيْنَ اٰمَنُوْا لَا تَأْكُلُوا الرِّبٰوٓا اَضْعَافًا مُّضٰعَفَةً ۖ وَّاتَّقُوا اللّٰهَ لَعَلَّكُمْ تُفْلِحُوْنَ .

Meaning:

> "O believers! Do not consume interest, multiplying it many times over. And be mindful of Allah, so you may prosper." (Q.S. Ali Imran [3]: 130) (Kementerian Agama RI, 2005).

The lenders ask for more than the loan amount, making the loan very burdensome. The purpose of borrowing money may vary, but it is based on fulfilling a need. However, if the additional amount is set multiple times, it is impossible for the borrower to repay it and may even cause the borrower to lose his property.

The Quran explicitly explains the prohibition of usury with the limitation of *adh'afan mudha'afan*.

اَلَّذِيْنَ يَأْكُلُوْنَ الرِّبٰوا لَا يَقُوْمُوْنَ اِلَّا كَمَا يَقُوْمُ الَّذِيْ يَتَخَبَّطُهُ الشَّيْطٰنُ مِنَ الْمَسِّۗ ذٰلِكَ بِاَنَّهُمْ
قَالُوْٓا اِنَّمَا الْبَيْعُ مِثْلُ الرِّبٰواۘ وَاَحَلَّ اللّٰهُ الْبَيْعَ وَحَرَّمَ الرِّبٰواۗ فَمَنْ جَاۤءَهٗ مَوْعِظَةٌ مِّنْ رَّبِّهٖ فَانْتَهٰى
فَلَهٗ مَا سَلَفَۗ وَاَمْرُهٗٓ اِلَى اللّٰهِۗ وَمَنْ عَادَ فَاُولٰۤىِٕكَ اَصْحٰبُ النَّارِۚ هُمْ فِيْهَا خٰلِدُوْنَ .

Meaning:

> “Those who consume interest will stand ⌜on Judgment Day⌝ like those driven to madness by Satan’s touch. That is because they say, “Trade is no different than interest.” But Allah has permitted trading and forbidden interest. Whoever refrains—after having received warning from their Lord—may keep their previous gains, and their case is left to Allah. As for those who persist, it is they who will be the residents of the Fire. They will be there forever.” (Q.S. al-Baqarah [2]: 275) (Kementerian Agama, 2005).

The verse above explicitly punishes usury with haram; anything made additional in loans is included usury. This also explains the phenomenon when the verse revealed that the borrower charged interest on a very high loan.

A loan should be a form of assistance to resolve a person's financial difficulties. By stipulating an add-on to the loan, it can be interpreted that the add-on is burdensome for the borrower, contrary to its purpose (Persson & Henrikson, n.d.). Usury can be especially heinous because the amount set is so large, far from what was borrowed. So that more mudharatnya than good, then Allah punishes usury with haram.

2. *Gharar*

Gharar in Arabic means gamble, unclear, or deception that aims to harm others. Imam al Qarafi defines gharar as a contract that needs to be clarified so that it allows non-compliance with the Shari'ah (Muamalat, n.d.). Meanwhile, according to Ghufron, gharar is a sale and purchase that contains deception because the goods being traded are not known for their clarity, shape, and condition, so they have the potential to harm others (Mas’adi, 2002).

The fuqaha define gharar as an unclear transaction, especially unclear on the outcome and its consequences (Jurjani, 2000). Based on its meaning, gharar is divided into two, namely gharar in the transaction, for example, selling a cat in a sack, and gharar as a form of fraud, for example, mixing pork with beef, then selling it by saying that the meat is beef.

The leading cause of gharar is the need for more information about the product being sold and the product being sold not existing. Gharar is also very close to gambling, where there is no clarity in it. However, gharar is very different from gharm or uncertainty in the risk of doing business (Yulianti et al., n.d.). This is because gharm is constructive while gharar is destructive (Arfaizar, 2020).

Some criteria are included in the category of gharar transactions, namely (Buang, 2000):

a. *Gharar* by contract
   1) *al-jahalah fi ta'yin al-ma'qud 'alaih*, namely, the product needs to be known for its price clarity.
   2) *al-jahalah fi al-sifat* is a product of an unknown type.
   3) *al-jahalah fi al-qadr*, namely, it is not known what size the product is.
   4) *Adam alqudrah 'ala al-taslim* is that the product cannot be physically shown.
   5) *ma'dum* is where the product does not exist or is made up by the seller.

b. *Gharar* based on conditions

Applying conditions in buying and selling is permissible, but if the proposed conditions are unclear, it can be categorized as gharar. Unclear conditions can be breaking the law, deviating from the Sharia, the existence of elements of usury, and other conditions that cannot be accepted logically. Buying and selling with such conditions cannot be justified (Gustanto, 2020).

3. *Maysir*

Maysir (gambling) is a game commonly played by Arabs in the Jahiliyah era that uses bets on arrows and has no certainty (Nawawi, 2012). Not only that, maysir is also identified with cockfighting, soccer, animal speed fighting, cards, and other games that risk something and make the perpetrators addicted (Ali, 2007). Gambling means getting something easily without hard work and receiving benefits without work. So that it only relies on luck, whether it will receive a lot or a little share, and has the potential for dishonesty (Rahman, 1979).

Meanwhile, according to Qardawi, gambling is any activity that uses bets. So, it can be concluded that the definition of maysir (gambling) is any form of luck game practice that uses bets (Hosen, 1987). This differs from the element of risk in doing business because there are no losses and wins in business risks.

The Quran forbids gambling just like it forbids *khamr* (alcoholic beverages). This is found in Q.S. al Baqarah: 219:

يَسْـَٔلُوْنَكَ عَنِ الْخَمْرِ وَالْمَيْسِرِۗ قُلْ فِيْهِمَآ اِثْمٌ كَبِيْرٌ وَّمَنَافِعُ لِلنَّاسِۖ وَاِثْمُهُمَآ اَكْبَرُ مِنْ نَّفْعِهِمَاۗ
وَيَسْـَٔلُوْنَكَ مَاذَا يُنْفِقُوْنَ ەۗ قُلِ الْعَفْوَۗ كَذٰلِكَ يُبَيِّنُ اللّٰهُ لَكُمُ الْاٰيٰتِ لَعَلَّكُمْ تَتَفَكَّرُوْنَ .

Meaning:

> "They ask you ⌜O Prophet⌝ about intoxicants and gambling. Say, "There is great evil in both, as well as some benefit for people—but the evil outweighs the benefit."1 They ⌜also⌝ ask you ⌜O Prophet⌝ what they should donate. Say, "Whatever you can spare." This is how Allah makes His revelations clear to you ⌜believers⌝, so perhaps you may reflect." (Q.S. al-Baqarah [2]: 219) (Kementerian Agama, 2005).

Based on the verse above, gambling is a significant sin, an act of shaitan, parallel to shirk, instills hostility, makes people lazy to try, and keeps away from Allah SWT. 3 elements make a game categorized as gambling, namely:

a. Race

The race here is explained as a leisure activity by playing a game in which the perpetrator does not participate in the race. So only as a spectator and the race is considered a spectacle only for fun.

b. Bet

Bets can be in the form of goods, money, and even living beings; the existence of bets identifies that there are parties who benefit and lose in a race being watched.

c. Luck

Spectators use luck in their bets; this is considered luck, and no scientific calculations are used (Ambary, 2003). Games and competitions can, of course, be conducted without the presence of maysir; this aims to test intelligence, agility, and speed, not to win bets. Maysir is haram, so be careful in choosing a game.

4. *Ihtikar*

Ihtikar is hoarding goods; this activity aims to seek as much profit as possible. Hoarding is done so that goods are scarce in the market, increasing the price (Sabiq, 1981). Fathi ad Duraini defines ihtikar as collecting goods and storing them for a certain period to increase prices and create scarcity (Hilyatin et al., 2023).

Islam allows freedom in determining prices or what is commonly called a free market, but Islam prohibits the behavior of exploiting circumstances by manipulating products. This behavior is usually based on greed, self-benefit, and greed for the world, so as not to want others to benefit (Azizah, 2012).

The law of ihtikar is haram, here are some verses of the Quran that are the basis for the law of ihtikar:

مَآ اَفَاۤءَ اللّٰهُ عَلٰى رَسُوْلِهٖ مِنْ اَهْلِ الْقُرٰى فَلِلّٰهِ وَلِلرَّسُوْلِ وَلِذِى الْقُرْبٰى وَالْيَتٰمٰى وَالْمَسٰكِيْنِ
وَابْنِ السَّبِيْلِۙ كَيْ لَا يَكُوْنَ دُوْلَةً ۢ بَيْنَ الْاَغْنِيَاۤءِ مِنْكُمْۗ وَمَآ اٰتٰىكُمُ الرَّسُوْلُ فَخُذُوْهُ وَمَا نَهٰىكُمْ
عَنْهُ فَانْتَهُوْاۚ وَاتَّقُوا اللّٰهَ ۗاِنَّ اللّٰهَ شَدِيْدُ الْعِقَابِ .

Meaning:

> "As for gains granted by Allah to His Messenger from the people of ⸢other⸣ lands, they are for Allah and the Messenger, his close relatives, orphans, the poor, and ⸢needy⸣ travellers so that wealth may not merely circulate among your rich. Whatever the Messenger gives you, take it. And whatever he forbids you from, leave it. And fear Allah. Surely Allah is severe in punishment." (Q.S. al-Hashr [59]: 7) (Kementerian Agama, 2005).

The above verse explains the recommendation to help each other as human beings and the prohibition of mistreating and hurting each other in commerce. Hoarding behavior harms various parties and only benefits one person. By hoarding goods, they will be scarce in the market, resulting in panic buying and soaring prices. So, this behavior is considered to hurt fellow humans in commerce (Sappeami, 2020). The elements categorized as *ihtikar* are:

a. Hoarding for resale
b. Deliberate hoarding makes prices soar
c. Goods that are hoarded are goods that are urgently needed
d. Goods obtained by purchasing
e. Some scholars categorize the hoarding of goods as a staple food.

The price spikes caused by hoarding behavior are often unreasonable and very burdensome. Sharia law and the applicable law in Indonesia also state that hoarding goods to enrich themselves to cause chaos and price spikes are included in the category of illegal actions (Ariska & Aziz, 2016). The punishment is five years in prison or a fine of 50 billion (Pasal 107, UU Perdagangan).

D. Problematics of Islamic Economic Transactions

The development of Islamic economics shows rapid progress between the collapse of capitalist economics, which has experienced several crises (Huda, 2016). The Islamic economic system is considered an alternative because Islamic economic principles are different from capitalist economic principles. The development in Indonesia was more pronounced when the amendment of UU No. 7/1997 into UU No. 8/1998 clarified the operation of Islamic banks.

The potential of Indonesia itself is huge for the development of Islamic economics, especially since the majority of the population is Muslim. Unfortunately, transactions in the Islamic economy still have problems that must be of concern to the drivers of Islamic banking in Indonesia, including (Hartini, 2015).

1. Limited human resources

Most individuals working in the banking sector today are dominated by those with background and experience in the conventional banking system. Hence, their understanding of Islamic banking principles and practices must still be fully formed. This signifies the need for more in-depth dissemination of knowledge on Islamic banking among the banking workforce, including an understanding of the basic principles, financial instruments, operational procedures, and the ethical and legal implications of this business model. By improving their understanding and knowledge in this regard, it is hoped that they can play a more effective role in promoting and providing Islamic banking services that conform to the principles of Islamic finance.

2. Regulation of Islamic economy

Some Islamic financial institutions, such as *Baitul Mal wa Tamwil*, Islamic insurance, and other entities, still face challenges related to the need for a specific legal basis (Sulistyowati & Putri, 2021). Research on the interplay between law and regulation is essential for successful economic growth. However, in the institutional context, the Islamic financial sector still needs institutions such as the Islamic Financial Services Authority and non-bank Islamic Financial Institutions responsible for the regulatory oversight of Islamic finance. Further efforts are needed to strengthen the legal and institutional framework that supports the development of the Islamic financial sector in order for it to reach its full potential in advancing an economy based on Islamic principles.

3. Islamic economic supervision

The growth target of 20% market share of the Islamic economy has yet to be achieved due to the low number of transactions carried out in the Islamic banking sector. The main factor that causes this is the need for more customer participation in using Islamic financial products, which still needs to be improved (Siswanti, 2020). Islamic banks must focus on the potential funds from waqf, hajj, and other Islamic financial institutions to achieve this target. This will open up new opportunities to increase customer participation and expand the market for Islamic financial products.

4. Lack of supporting facilities and infrastructure

Infrastructure and facilities in the Islamic banking sector are currently limited and still rely on the same infrastructure as conventional banking. Some examples include standardized Islamic accounting software, a limited number of ATMs, suboptimal reporting and auditing processes, and a need for more innovation in service provision (Abdul et al., 2022). Significant improvements are needed in developing specialized infrastructure and facilities that support the unique needs of Islamic banking to ensure better service to customers and sustainable growth in the industry.

5. Lack of socialization

The socialization of Islamic banking is hampered by differences of opinion among scholars regarding the definition of usury. Although usury has been forbidden in general, scholars still argue that conventional bank interest is not considered usury. As a result, the community is divided and still switches to using conventional banking services (Qardawi, 2021).

The lack of interest in literacy in Indonesia also impacts the greater understanding of Islamic banking. In addition, there is a perception that Islamic banking services are more expensive than conventional ones (Azmi & Mahardika, 2020). Therefore, more awareness is needed from Muslims to advance the Sharia-based economy to overcome the negative stigma that has been widespread and to prioritize the use of Islamic banking.

Problems that arise are not only internal, so there needs to be extra work from Islamic economic actors to continue to advance it (Fadilla, 2017). References are also widely available, one of which is the management of the Islamic economy in Malaysia, which implements a policy of institutions and institutions placing 50% of their funds in Islamic banks. For the sake of the welfare of the community, it should be active in making improvements and advancing the Islamic economy in Indonesia to the attention of all Muslims (Arfaizar, 2023).

E. Conclusion

Transactions are agreements between sellers and buyers exchanging goods, services, or those with value. There are special guidelines in Islam for conducting transactions by Sharia, namely fiqh muamalat, which is the essence of the fundamental Islamic religious law (Al-Quran and Hadith) as well as the ijtihad of scholars in updating Islamic law in the field of muamalah. The goal is that Muslims can make transactions by Sharia and avoid falsehood.

There are five rules of transactions in Islamic economics: beneficial, fair, pleasure, honesty and piety. In addition, there are prohibitions on transactions in Islamic economics, namely usury, gharar, maysir, and ihtikar. The essence of Islamic economics is tawhid; this distinguishes Islamic economics from capitalism, that all people are entitled to prosperity through Allah's law.

However, in the real sector, some problems hinder the development of Islamic economics, especially in Indonesia, namely inadequate human resources, lack of facilities and infrastructure, supervision and regulation of Islamic economics, lack of socialization, and lack of public understanding of Islamic banking. Therefore, there is a need for cooperation between Islamic banking actors and Islamic non-banks, government, and society in implementing Islamic economics so that the discourse on the community's welfare with the people's resources can be implemented soon.

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