

ACTUALIZATION OF ISLAMIC LAW IN THE SHARIA BUSINESS UNIT (UUS) OF THE MAKASSAR BRANCH STATE SAVINGS BANK

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Abstract: This research was conducted at the Sharia Business Unit of the State Savings Bank (BTN), Makassar Branch. The sample was selected purposively as many as 75 respondents. Data were analyzed descriptively using tables. The results of the study show that the low actualization of Islam in the Sharia Business Unit of the Makassar Branch of the State Savings Bank (BTN) has not gone well based on sharia principles. The position of employees in the Sharia Business Unit of the Makassar Branch of the State Savings Bank is experiencing a dilemma where in one position the Bank's employees are instructed to work based on Islamic Sharia in attracting customers while on the other hand they are given targets by management. State Savings Bank Sharia Business Unit (BTN), Makassar Branch.

Keywords: Islamic Law, State Savings Bank (BTN) Sharia Business Unit, Sharia Business Management

I. INTRODUCTION

The existence of financial institutions, especially the banking sector, occupies a very strategic position in bridging the needs for working capital and investment in the real sector with the owners of funds (agents of economic development). Thus the main function of the banking sector in macroeconomic policy infrastructure is indeed directed in the context of how to make money effectively and efficiently to increase economic value.¹

The birth of Bank Indonesia, which was the result of the nationalization process of the Dutch-owned De Javasche Bank in 1951, was based on Law Number 24 of 1951, followed by Law Number 11 of 1953 concerning the principle of Bank Indonesia. In addition, in the 1950s, there were a number of regulations that eased the requirements for establishing a bank. However, none of these existing laws and regulations accommodate the desire of Muslims to establish Islamic banks, but only for the benefit of banking with an interest system. Even banks founded by the Islamic organization Nahdatul Ulama (NU) themselves in 1950 in Jakarta and in 1960 in Semarang also implemented an interest system in their operations.²

Thus, as long as the banking system in force in Indonesia is still based on this law, it seems very difficult for Muslims to establish Islamic banks in Indonesia. Therefore, the desire of Muslims to establish Islamic Banks in Indonesia could only be realized in the 1990s, after the birth of several other provisions that changed the provisions of Law Number 14 of 1967 concerning Banking. This confirms that the absence of a legal basis is one of the factors causing delays in the establishment of Islamic banks in Indonesia.

To answer the public's need for the realization of Sharia banking and Sharia Business Units (UUS) that comply with Sharia, the Government has included this possibility in Law Number 7 of 1992 concerning banking which has implicitly opened up opportunities for banking business activities that have an operational basis for profit sharing. in detail described in government regulation No. 72 of 1992 concerning Banks based on the principle of profit sharing. These statutory provisions have been used as the legal basis for the operation of Sharia Banks and Sharia Business Units and Sharia Business Units in Indonesia which are sufficient to start the era of the dual banking system (dual banking system) in Indonesia.³

Furthermore, in 1998 the enactment of Law Number 10 of 1998 concerning amendments to Law Number 7 of 1992 hereinafter abbreviated as UUP, there were several changes which not only emphasized the existence and legitimacy of Islamic Banks and UUS, but also provided greater opportunities for Banking Development Sharia in Indonesia.

As for among the changes contained in the Banking Law (UUP), apart from explicitly mentioning the term "Bank Based on Sharia Principles" as stated in Article 1 paragraph (3) and (4) of the UUP, it has also clearly specified the legal basis as well as types of business that can be operated and implemented by Islamic Banks as described in article 1 paragraph (13) and article 6 and article 7, as well as providing directions for conventional banks to open Islamic bank branches or even convert themselves totally into sharia bank as stated in the elucidation of Article 6 letter (m) and Article 13 letter (c) of the UUP.⁴

The birth of the UUP, which contained the operational basis for Islamic banking in such a way, marked a new era for the growth and development of Islamic banking in Indonesia. Since the enactment of the UUP, the growth and development of Islamic banks and UUS in

¹Muhammad Sayfi Antonio, et al, *Islamic Bank. Analysis of Strengths, Weaknesses, Opportunities and Threats*, Second Edition, Ekonisia Yogyakarta, 2006. page 65

²Cik Basir, *Settlement of Sharia Banking disputes in the Religious Courts & Sharia Courts*, Prenada Media Group Jakarta, 2009. p. 27

³Adrian Sutedi, *Sharia Banking. Review and Some Legal Aspects*, Ghalia Indonesia Bogor, 2009. page 5

⁴*Ibid.*, pp. 34-35

Indonesia has increased very significantly from year to year, both in terms of the number of institutions and in terms of assets.⁵

One form of extracting the potential and the form of community contribution to the national economy is the development of an economic system based on Islamic values (Sharia) by elevating its principles into the national legal system. Sharia principles are based on the values of justice, benefit, balance and universality (*rahmatan lil alamin*). These values are applied to banking arrangements based on sharia principles called sharia banking and UUS. The principles of Islamic banking and UUS are part of Islamic teachings related to the economy. One of the principles in Islamic economics is the prohibition of usury in its various forms, and using a system including the principle of profit sharing.

The habit of the people who have been using banking services with the interest system for a long time, for example, is clearly one of the obstacles to the establishment of Islamic banks in Indonesia. This is because since the existence of De Javache Bank, which was the first bank established in Indonesia in 1872, it has instilled the values of the conventional banking system which applies the interest system in its operations. As a result, people including Muslims are more familiar with conventional banking than Islamic banking.⁶

Among the people, it is as if there are no more worries about the bad consequences of the interest system, they have become accustomed to the interest system and have accepted it as part of the running economic system, so that Islamic banks without implementing an interest system in their operations are less interested in the community. , so it takes time to provide understanding, build trust and change people's preferences for Islamic banks.

The development of Islamic banking and UUS in Indonesia has become a benchmark for the success of Islamic economic existence. Bank Muamalat Indonesia, which was founded in 1991 and has been operating since 1992 as the first Islamic bank and a pioneer for other Islamic banks, has already implemented a profit-sharing system amid the proliferation of conventional banks that operate using an interest system.

II. METHODS

This method is optional for original research articles. This method is written descriptively and must provide a statement about the research methodology. This method as much as possible to give ideas to the reader through the method used. This method is optional, only for original research articles.

III. RESEARCH RESULT

Actualization of Islamic Law in Sharia Business Units

Among jurists, in general, it is understood that law has three main objectives, namely: (i) justice, (ii) certainty (certainly or *zekerheid*) and (iii) utility. Justice is commensurate with balance (balance) and propriety (equity) and fairness (proportionality). While legal certainty is related to order (order) and regularity related to security and peace. Meanwhile, usefulness or usefulness is expected to guarantee that all of these values will create happiness and peace in life.⁷

In connection with the above, John Rawls said that justice is the main policy in social institutions, as is truth in systems of thought. A theory, however elegant and economical, must be rejected or revised if it is not correct. Likewise, laws and institutions, no matter how efficient and neat, must be reformed or abolished if they are unfair.

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⁶Heri Sudarsono, *Islamic Banks and Financial Institutions, Description and Illustration*, 3rd edition first printing, Ekonosia Yogyakarta, 2008, page 24

⁷Jimly Asshiddiqie, *Regarding Law*. PT. Raja Grafindo Persada Jakarta, 2010, page 9

Furthermore, Philippe Nonet and Philip Selznick said that if there is a paradigmatic function of responsive law, that function is a function of regulation, not adjudication. Widely understood, regulation is the process of elaborating and correcting the policies required for a rule of law, regulation is thus understood as a mechanism for clarifying public interests.

The laws of Allah SWT are laws that are recognized by reason and nadhar about their goodness and the occurrence of these laws in a better way. This is because in Islam the law of rationality (ma'quli) is known which indicates that in Islam reason is given a very high place to produce a legal product. Furthermore, in relation to business, a producer must think far ahead whether the product he produces can survive and be justified by sharia, because whoever produces goods that are forbidden to use, he is considered a user.⁸

In principle, Islamic Shari'a (Islamic Law) is derived for the benefit. Therefore, the scholars agree that Islamic law is enforced in this world to uphold justice and create happiness for humans, both in this world and in the hereafter. Al Ghazali and Asy Syaib divide the benefits into three, namely primary, secondary and complementary. Furthermore, Asy Syatibi said that the imposition (taklif) of sharia benefits returns to the maintenance of goals for creatures and these goals are dharuriya (primary), hajiya (secondary) and tahsiniyat (complementary) goals. This means that students of Islamic law function to perfect the instruments of human life, fulfill human needs,

According to the author, students of Islamic law in life can be captured by religious attitudes, namely in the context of something that is forbidden. Islam does not frontally state that it is not permissible (haram), but there is still another alternative, namely makruh, meaning that an action should be abandoned, likewise in the context of something that is recommended, Islam provides an alternative between sunnah and obligatory, while its implementation will be rewarded.

For example, in Islamic law students, namely in carrying out business activities in a sharia business unit, amukaliaf (perpetrator) is expected to prioritize good (halal) over evil (haram/forbidden). Nevertheless, to distinguish between the two as the role of reason is very significant. In addition to the role of intention (motivation) which encourages and reminds the perpetrators that business activity can be worth worship (ta'abbudiyah) if the intention is because of Allah SWT (transcendent divine).

Before the Banking Act was passed, the position of Islamic banking and Sharia Business Units was quite fluid, because it was supported by the constitution, but was not regulated in the laws and regulations that were under it. In the end, Islamic banking runs according to the creativity of Islamic banking supporters and warriors, with all kinds of trial and error.⁹

Furthermore, according to Sutan Remy Sjahdeini, indeed in Indonesia there is Law Number 7 of 1992 concerning banking as amended by Law Number 10 of 1998. However, in this law the provisions regarding Islamic banking are very minimal so that it cannot be the answer to the uniqueness and specificity of sharia banking. The law only gives a vague indication regarding the possibility of a bank providing banking facilities based on profit sharing.

With the enactment of Law Number 21 of 2008 concerning Sharia Banking, it regulates sharia compliance, the authority of which lies with the Indonesian Ulema Council (MUI), which is presented through the Sharia Supervisory Board (DPS), which must be formed in each Islamic bank. and sharia business units. To follow up on the implementation of the fatwa issued by the MUI into Bank Indonesia Regulations (PBI). Within Bank Indonesia, an Islamic banking

⁸Muhammad Djakar, Business Law, Building Discourse on the Integration of National Legislation with Sharia, UIN Malang Press, 2009, page 56

⁹Zubairi Hasan, Sharia Banking Act, Meeting Point of Islamic Law and National Law, PT. Raja Grafindo Persada Jakarta, 2009. page 17

committee was formed whose membership consisted of representatives from Bank Indonesia, the Ministry of Religion, and members of the public.¹⁰

In Article 1 number (1) of Law No. 21 of 2008 concerning sharia banking, the legal substance of sharia banking is everything related to sharia banks and sharia business units, including institutions, business activities, and methods and processes of carrying out their business activities.

Furthermore Article 1 point (7) of the Islamic Banking Law, that Islamic Banks are Banks that carry out their business activities based on sharia principles and according to their type consist of Islamic Commercial Banks (BUS) and Islamic People's Financing Banks (BPRS), thus meaning Islamic Banks only covers BUS and BPRS, while the Sharia Business Unit (UUS) is not included.

As a law that specifically regulates Islamic banking, Law Number 21 of 2008 also regulates sharia banking products and services which are sharia banking business activities. Sharia banking business activities here can be carried out by:

a. Islamic Bank

Banks that carry out their business activities based on sharia principles. By type, Islamic banks consist of:

1. Islamic Commercial Banks (BUS), namely, Islamic Banks which in their activities provide services in payment traffic.
2. Islamic People's Financing Bank (BPRS) is a Sharia Bank which in its activities does not provide interest on its lending system.

b. Sharia Business Unit (UUS)

A work unit from a conventional commercial bank head office that functions as an office or a unit that carries out business activities based on sharia principles or a work unit in a branch office of a bank domiciled abroad that carries out conventional business activities that functions as a main office or sharia sub-branch office and/or sharia business units.

The economic development of a country as a whole is inseparable from the development of banking in the country concerned, because an advanced banking industry is a stable source of long-term development funding. Banking supports economic activities through financing business activities by providing opportunities for the public to obtain capital to participate in national economic development. Therefore banking is an element that plays a very important role in the financial system in a country's economy.

As a financial institution that operates based on sharia principles, the activities of Islamic banks are bound by strict rules so that they really have to implement policies and actions according to Islamic teachings and be careful in terms of financing (credit to the public).

According to Sahrir, UUS Marketing of bank BTN Makassar said that, the actualization of Islamic law in Islamic banking through banking products and contracts applied to UUS BTN Makassar Branch before being marketed to consumers, first obtain fatwa approval from the National Sharia Council (DSN-MUI) and Bank Indonesia.¹¹The products available at UUS Bank BTN Makassar Branch consist of fundraising products, namely: (savings, deposits, current accounts). And product distribution of funds in the form of housing loans (KPR), bailouts for haj/alqard, Al ura bahah). The products most in demand by customers are savings (share), financing (KPR), and Qard haji. While the contracts implemented at UUS BTN Makassar are Mudharabah contracts for savers, Musyarakah contracts for (KPR) and urabah contracts for buying and selling.

Furthermore, according to Sahrir, there is no difference in the contracts applied at UUS Bank BTN Makassar Branch to Muslim and Non-Muslim customers, but what is considered

¹⁰Ibid., p. 19

¹¹Results of interviews with UUS Bank BTN Makassar marketing staff on September 20, 2022.

here is the benefits/uses of financing for what, is it halal or haram. UUS Bank BTN Makassar Branch is very selective in terms of the financing that is distributed must be strictly in accordance with Islamic principles (halal). Distribution of credit at Bank UUS BTN uses a profit-sharing system, Ijarah (lease) and murabahah.

To find out the opinions of respondents about the actualization of Islamic law in UUS, it can be seen in the following table:

Table 1: Respondents' Opinions about the Actualization of Islamic Law in the Sharia Business Unit of Bank BTN Makassar.

No	Answer	Frequency	Percentage (%)	Evaluati on
1.	Very good	54	77.14 %	85-100
2.	Good	14	20.00 %	70-84
3.	Not good	2	2.86 %	50-69
4.	Not good	-	-	0-49
	Amount	70	100%	

Source: Primary data processed, 2022

Based on the table above it appears that from the answers of the respondents it was very good 54 (77.14%) and the respondents answered well 14 (20%) while the respondents who answered not well 2 (2.86%).

Regarding the assessment of the respondents above, according to Halide, he stated that in general Islamic banking and UUS in Indonesia have not actualized Islamic sharia values into the operationalization of Islamic banking. Sharia banks and UUS are still mixing the conventional system into the sharia system, but the community/customers, especially those who are Muslim, are only focused on seeing the term sharia and connecting it with their beliefs/aqidah. We need Islamic banks that open UUS that truly apply Islamic laws to the operationalization of Islamic banking and UUS in Indonesia. This is something that is still difficult for us to find in Indonesia because Islamic banking is still hesitant to apply Islamic law consistently, they are afraid of not getting customers,

IV. CONCLUSION

In substance, the laws and regulations relating to the development of the conventional banking business within the sharia framework (UUS) are quite representative, but in the actualization of the Sharia Business Unit (UUS) of the State Savings Bank (BTN) Makassar Branch there are still obstacles due to a lack of understanding of the UUS leadership and employees of the State Savings Bank which operates based on Islamic law. If this is not immediately addressed by the management of the Makassar Branch BTN Sharia Business Unit, it is feared that it will have a negative impact on the business development of the Makassar Branch BTN Tire Sharia Business Unit.

It is suggested to the leadership of the Sharia Business Unit (UUS) of the State Savings Bank (BTN) Makassar Branch, that in hiring employees with Islamic Economics graduates, to support the actualization of Islamic law at (UUS) the Makassar Branch State Savings Bank. This aims to dispel the notion of some people that the (UUS) State Savings Bank (BTN) Makassar Branch only uses sharia labels in its operations but actually does not apply Islamic law consistently in running conventional banking business within a sharia frame.

REFERENCES

Adrian Sutedi, 2009, *Perbankan Syariah. Tinjauan dan Beberapa Segi Hukum*, Ghalia Indonesia Bogor.

- Cik Basir, 2009, *Penyelesaian sengketa Perbankan Syariah Di Pengadilan Agama & Mahkamah Syariah*, Prenada Media Group Jakarta.
- Fajarianto, O., Harimurti, E. R., & Harsono, Y. (2023). Character Education Learning Model for Elementary School. *EDUCATIO: Journal of Education*, 7(4), 203-213.
- Heri Sudarsono, 2008, *Bank dan Lembaga Keuangan Syariah, Deskripsi dan Ilustrasi*, edisi 3 cetakan pertama, Ekonosia Yogyakarta.
- Jimly Asshiddiqie, 2010, *Perihal Undang-Undang*. PT. Raja Grafindo Persada Jakarta.
- Muhammad Djakar, 2009, *Hukum Bisnis, Membangun Wacana Integrasi Perundangan Nasional Dengan Syariah*, UIN Malang Press.
- Muhammad Sayfi'I Antonio, dkk, 2006, *Bank Syariah. Analisis Kekuatan, Kelemahan, Peluang dan Ancaman, Edisi Kedua*, Ekonisia Yogyakarta.
- Muslim, S., Arum, A. P., & Fajarianto, O. (2022). Development of Information and Communication Technology Learning Media. *JTP-Jurnal Teknologi Pendidikan*, 24(3), 381-388.
- Harsono, Y., & Fajarianto, O. (2021, November). Strategy for Improving the Quality of Human Resources to Improve the Performance of Small and Medium Enterprises in Kepulauan Seribu, North Jakarta. In *The 1st International Conference on Research in Social Sciences and Humanities (ICoRSH 2020)* (pp. 382-392). Atlantis Press.
- Zubairi Hasan, 2009, *Undang-Undang Perbankan Syariah, Titik Temu Hukum Islam dan Hukum Nasional*, PT. Raja Grafindo Persada Jakarta.