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The Effectiveness of The Principles and Legal Basis of Islamic Banking In Providing Services to Customers

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Abstrak

Penelitian ini bertujuan untuk menjelaskan bagaimana efektivitas prinsip dan dasar hukum perbankan syariah dalam memberikan pelayanan terhadap nasabah. Penelitian ini termasuk studi pustaka, dengan menggunakan metode pengumpulan data yakni menelusuri file, website internet, dokumen-dokumen serta informasi yang berkaitan dengan objek penelitian meliputi buku-buku yang relevan. Adapun hasil dari penelitian ini adalah masih belum meratanya pemahaman dan atau pengetahuan masyarakat Indonesia tentang layanan dan produk perbankan syariah disebabkan karena Rendahnya literasi keuangan syariah di masyarakat menyebabkan kurangnya pemahaman tentang produk dan layanan syariah, juga belum ditunjang dengan teknologi digital untuk meningkatkan efisiensi dan memenuhi ekspektasi nasabah yang menginginkan layanan cepat dan aman. Perbankan syariah sudah mengalami pertumbuhan yang signifikan, masih ada tantangan dalam menciptakan beragam produk dan layanan yang harus selalu ditingkatkan sesuai dengan prinsip-prinsip syariah serta dapat memenuhi kebutuhan masyarakat sebagai nasabah.

Kata Kunci: Prinsip, Dasar Hukum, Layanan, Perbankan Syariah

Abstract

This research examines the effectiveness of the principles and legal basis of Islamic banking in providing services to customers. The study conducted a literature review and collected data through various methods such as browsing files, internet websites, and relevant documents. The research findings show that there is a lack of understanding and knowledge among the Indonesian people regarding Islamic banking services and products. This is mainly due to the low level of Islamic financial literacy in the community. Furthermore, the lack of support from digital technology hinders the efficiency and fulfillment of customer expectations for fast and secure services. Although Islamic banking has shown significant growth, there are still challenges in developing a diverse range of products and services that adhere to sharia principles and can meet the needs of the community. Overall, this research highlights the importance of increasing awareness and improving technological infrastructure to enhance the effectiveness of Islamic banking in serving customers.

Keywords: Principle, Legal Basis, Service, Islamic Banking

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INTRODUCTION

The concept of Islamic banking is based on Islamic economics based on the Qur'an and Hadith. Islam is very careful about transactions in the economic sector, because it contains elements that lead to falsehood (Darma, 2021: 111). This needs to be socialized to business people and the public to provide confidence to people who still doubt the understanding of Islamic banking operations..

Compliance with sharia principles is one of the elements in assessing the health level of an Islamic bank. The maintenance of the bank's health level will be directly proportional to the maintenance of public trust, so that if the bank is negligent in maintaining its health level because it does not apply sharia principles, then the Islamic bank will lose trust (Supriadi & Ismawati, 2020: 42). The position of the contract is very important in the application of sharia principles, because it is the foundation in the application of Islamic economics.

Islamic banks provide financing based on the principles of profit sharing (Mudharabah), equity participation (Musyarakah), sale and purchase of goods with profit (Murabahah), pure lease without options (ijarah), or with the option of transferring ownership of goods leased from the bank by other parties (ijarah wa iqtina), salam contracts, istithna contracts, leases that end with ownership (ijarah al-muntahiya bi al-tamlik), and other principles (Triska & Kamaliah, 2023: 329).

Islamic banks are Islamic financial institutions that are able to meet the demands of people who want banking services in accordance with the principles of Islamic Sharia that they adhere to, especially those related to the prohibition of riba practices, non-productive speculative activities similar to gambling, uncertainty, and violations of the principle of fairness in transactions, as well as the obligation to channel financing and investment in ethical and halal business activities in sharia (Rachman et al., 2022: 48).

Service is defined as an activity that occurs through direct interaction between individuals physically. Service quality is measured through the overall level of customer satisfaction. A product is considered to provide satisfactory quality when it is able to meet consumer needs and expectations. Adequate services at Islamic banks can attract people or consumers to carry out saving activities. From the results of field surveys, it appears that the services provided by Islamic banks are not as advanced and modern as conventional bank services. As a result, public interest in using Islamic banking services is still relatively low. The lack of public interest in saving at Islamic banks is most likely caused by the quality of services that are still unsatisfactory and have not reached the expected standards (Ryasid et al., 2023: 5).

At the time of the Prophet, there is a verse of the Qur'an that was revealed to explain the prohibition of transactions of any kind containing usury, this is associated in accordance with the period of the revelation of the Qur'anic verse until the verse was revealed which expressly prohibits the act of any transaction containing usury. These activities are explicitly and clearly forbidden by Allah. Even the prohibition of usury has become a prohibition in the teachings of Islam. Usury is a transaction activity in any form that can damage human morals and morality because it is considered a transaction that has an element of exploitation (Fitriani et al., 2024). In this context, Islamic banking law gets a clear and measurable legal framework to carry out banking activities in line with Islamic religious principles.

The importance of law and legal certainty, especially in the context of Islamic banking, is a crucial foundation in maintaining stability and trust in a financial system based on Islamic principles. In the Islamic banking industry, the law acts as a guide that ensures that banking operations are conducted in accordance with the teachings of sharia, including the prohibition of riba, maysir, and gharar. The existence of clear laws provides certainty for consumers and other involved parties, that the products and services they use are in accordance with the law, as well as providing the necessary legal protection in the event of disputes or disagreements (Adawiyah et al., 2024: 37).

Normatively, legal certainty is when a regulation is made and promulgated with certainty because it regulates clearly and logically. Clear in the sense that it does not cause doubts (multi-interpretation) and logical in the sense that it becomes a system of norms with other norms so that it does not clash or cause norm conflicts. Norm conflicts arising from rule uncertainty can take the form of norm contestation, norm reduction or norm distortion. Legal certainty refers to clear, fixed, consistent and consequent law enforcement whose implementation cannot be influenced by subjective circumstances (Nabela et al., 2023: 109). Knowledge of law (including Islamic law) is very important because at this time economic activities based on Islamic law, especially in the field of Islamic banking, are becoming increasingly important (Wahid & Putra, 2023: 498).

RESEARCH METHODS

This research is library research or also known as library research. According to Sugiyono (2017), library research is a type of research based on secondary data collected from certain sources. This research aims to collect and analyze data related to the topic being discussed. Library research is conducted by collecting data from various sources related to the topic being discussed, then analyzing and concluding the data. The data used in this research is in the form of scientific literature such as books, journals, articles, reports, and other documents related to the concept of the effectiveness of the principles and legal basis of Islamic banking in providing product services to customers. The data sources used in this research come from the literature studied are not limited to books but can also be

in the form of documentation materials, magazines, journals, and newspapers. The data analysis technique used in this research is descriptive-qualitative method, namely by conducting in-depth description and analysis of the concept, development, and challenges in its development.

RESULTS AND DISCUSSION

Effectiveness of Basic Principles of Islamic Banking Law

Islamic banks must adhere to Shariah principles in all aspects of their operations. This includes ensuring that the products and services they offer do not contain elements of usury or practices that are considered haram in Islam. The level of compliance of Islamic banks with sharia principles is often measured through sharia audits conducted by an independent sharia board. These audits check whether banks have complied with sharia principles in their products, investments, and profit distribution (Pramesti et al., 2023).

Based on Bank Indonesia Regulation No. 9/19/PB1/2007 Article 2 with the amendment of Bank Indonesia Regulation No. 10/16/PB1/2008 that in conducting banking services through financial accumulation activities, distribution and bank services, must comply with Sharia Principles sourced from Farwa issued by DSN. This can be done by fulfilling the basic provisions of Islamic law, including:

- a. The principle of justice, which is to position something based on its place, and give something only to those who are entitled to receive and do something in accordance with their position;
- b. The principle of benefit, which is a form of goodness in this world and the hereafter, material and non-material, as well as individuals and groups that must fulfill 3 (three) elements, namely usefulness, sharia compliance, and bringing goodness that does not trigger harm;
- c. The principle of balance, including material and non-material aspects, social and business, public and private aspects, real sector and financial sector, and the balance of sustainability and utilization aspects;
- d. The principle of universalism, which means that it can be done and accepted by related parties regardless of ethnicity, race, religion, and class.

And do not contain the following elements:

- a. Dzalim, which is a transaction that creates an imbalance for other people;
- b. Gharar, which is an agreement whose purpose is not owned, lacks clarity, is unknown or cannot be delivered at the time of the transaction unless otherwise regulated in sharia;
- c. Maysir, which is a deal that is linked to conditions that are abstract and uncertain;
- d. Haram objects, which are goods or services prohibited by Sharia;
- e. Riba, This means ensuring an unauthorized or unlawful increase in income in the case of a modification agreement for similar goods that do not have the same quantity, quality, or delivery limit, or in the case of a credit agreement in which the consumer who obtains the accommodation repatriates the acquired property beyond the time of the loan.

Because unlike Law Number 10 of 1998, the inherent rules are more centered on the word based on Sharia Principles. This is in accordance with the characteristics of Islamic banking. In terms of carrying out its business activities, Islamic banking is not only based on Sharia Principles, but also based on economic democracy and the principle of prudence. This is stated in the provisions in Article 2 of Law Number 21 of 2008 (Hasanah et al., 2024: 7103).

Legal Certainty in Running Islamic Banking

Legal certainty provides assurance that the law will be applied consistently and fairly. The principle of legal certainty is one of the fundamental principles in law that refers to the principle that the law must be clear, understandable, and predictable by individuals and parties involved in the legal system. This principle has an important role in maintaining stability, justice, and efficiency in a society. Here is a further explanation of the principle of legal certainty (Rozy et al., 2024: 293).

- a. Legal Certainty: The principle of legal certainty emphasizes the importance of legal regulations that are clear, firm, and easily accessible to the public. This means that the law must be written in language that is easy to understand, unambiguous, and not vague.

- b. Consistent Enforcement of the Law: Laws must be applied consistently and fairly. This means that law enforcement must be impartial and without discrimination. Uncertainty in the application of the law can create injustice.
- c. Protection of Rights and Obligations: The principle of legal certainty involves protecting the rights of individuals and parties involved in the legal system. This means that individuals should know exactly what the law prohibits and allows, so that they can go about their daily lives and businesses without fear of legal uncertainty.
- d. Investment and Economic Development: The principle of legal certainty is very important in an economic context. Entrepreneurs, investors and companies should be able to plan their investments and businesses with confidence that the rule of law will not change abruptly, which could impact economic stability.
- e. Conflict Prevention with clear and understandable laws, legal conflicts can be prevented or minimized. Parties involved in a dispute can refer to the law as a guideline to resolve their issues.
- f. Planned Development and Change of Law: Although the principle of legal certainty emphasizes legal stability, this does not mean that the law should not change. Laws can develop and change, but such changes must be made through a planned and transparent process so that the public can prepare themselves.
- g. Transparency and Accountability: The government and legal institutions should be transparent in the process of formulating laws and policies. This includes transparency in relation to the drafting of laws, regulations and other key decisions, as well as accountability in the implementation of laws.

De jure, the Islamic banking system began to run after the enactment of Law. No. 7 of 1992 concerning Banking, namely with the implementation of the profit-sharing system in banking business activities. The presence of the Islamic banking industry as a banking system that can be one of the options in addition to the conventional banking system in Indonesia in this decade, has received full legal force as national law with the enactment of Law Number 21 of 2008 concerning Islamic Banking. In general, it can be said that the position of the Law in the hierarchy of legislation ranks third highest after the 1945 Constitution and the MPR Decree. Thus, the position of the Islamic Banking Law in national law has a stronger legal force and further emphasizes the existence of Islamic banking institutions in the national economic stage (Alamudi, 2023: 34). At the constitutional level, the legitimacy of Islamic banking in Indonesia is contained in Article 29 of the 1945 Constitution, namely that the state is based on One God and the state guarantees the freedom of each resident to embrace their respective religions and to worship according to their religion and beliefs.

It can be seen from economic practices that use contracts in their operations in accordance with sharia principles. In production activities, consumption and the application of fiscal policy must prioritize aspects of *mashlahah*, then in economic practices in processing money or property based on Islamic rules and avoiding all prohibitions. This is an effort to realize *maqashid sharia* and achieve *mashlahah* (Anisa et al., 2024: 131).

In addition, Islamic banks need to improve transparency and accountability in decision-making, especially those related to the distribution of funds and investments as well as potential social, environmental and moral impacts. Furthermore, Islamic banks need to improve external supervision mechanisms through sharia audits conducted by independent parties. Sharia audits aim to evaluate the bank's compliance with sharia economic principles and applicable legal provisions, and provide recommendations for improvement if violations or deficiencies are found. By involving independent parties, banks can ensure that supervision is carried out objectively and professionally (Haikal & Efendi, 2024: 36).

The main role of the ulama in the Sharia Supervisory Board is to oversee the day-to-day operations of the bank so that it is always in accordance with the provisions of sharia (Rasyid Rizani et al., 2024: 114). The authorities of DPS include:

- a. Provide outline guidelines on the sharia aspects of Islamic Bank operations, both the transfer of funds, distribution of funds and other Bank activities.
- b. Making improvements to an Islamic bank product that has been or is currently running. However, it is considered that its implementation is contrary to sharia provisions. In terms of the application of the prudential principle, it is regulated in Article 35 paragraph 1 that

Sharia Banks and UUS in carrying out their business activities must apply the prudential principle.

The rules regarding this are regulated in Article 50, namely the guidance and supervision of Islamic Banks and UUS carried out by Bank Indonesia. Also Article 52 paragraph 1: Sharia Banks and UUS are obliged to submit all information and explanations regarding their business to Bank Indonesia according to the procedures stipulated by Bank Indonesia Regulations.

Islamic Banking Services

Service quality is a measure / standard of a series of actions of bank officers in accepting attendance or communicating with customers directly or indirectly (Amri et al., 2023: 222). Basically, the products offered by Islamic banking are divided into three major parts, namely (Karim, 2007, hal. 97)

- a. Fund Raising Products (funding);
- b. Fund Disbursement Products (financing);
- c. Service Products (service).

Islamic bank products arise because they are based on the operationalization of Islamic bank functions. In carrying out its operations, Islamic banks have four functions as follows (Ascarya, 2007, hal. 112):

- a. As a trustee to invest funds entrusted by investment account holders/depositors on the basis of profit sharing principles in accordance with the bank's investment policy;
- b. As an investment manager of the funds owned by the fund owner/shahibul mal in accordance with the investment direction desired by the fund owner;
- c. As a provider of payment traffic services and other services as long as they are not contrary to sharia principles;
- d. And as a manager of social functions.

In one of his hadiths, the Prophet ordered us to strive to be human beings who are beneficial to others, even he made "benefitting others" as a parameter of whether the quality of one's faith is good or not. This he conveyed in a hadith narrated by the friend of Jabir bin Abdillah "The best of mankind is the most useful for others". The ethical standards of sharia business behavior educate business people in running their business accompanied by piety, aqshid (humble), khidmad (serving well), and trustworthiness continuously (Hotdiana et al., 2023: 2443).

The phenomenon of product and service innovation of Islamic banks in Indonesia can be drawn from the development of the Islamic finance industry globally and local factors that drive change. At the global level, the growth of the sharia-based economy has created a demand for financial products and services that comply with sharia principles. In Indonesia, this development has been followed by increasing public awareness of Islamic finance. Religious factors are the main driver, with Muslim-majority Indonesians increasingly understanding the importance of using financial products and services that comply with Islamic values (Khaerunnisa et al., 2024: 202).

By offering a variety of products and services, Islamic banking has become a reliable alternative banking system that can be used by all Indonesian people without exception. In this article, the author will explore more about how Islamic banks formulate value-based financial innovations through Islamic bank savings and investment services (Dewi, 2024: 5927).

Broadly speaking, product innovation is influenced by changes in market tastes (market driven), technological advances (technology driven) and economic conditions (economic driven). The market, in this case customers, has tastes that are constantly changing according to trends, life style, socio-cultural values and globalization. Technology will make product bundling/appearance more modern, practical and simplified. For example, the application of electronic banking. While economic conditions affect banking business strategies, for example in a recession, banks focus on the Micro, Small and Medium Enterprises (UMKM) sector (Pasrizal Himyar, 2013: 105).

The development of Islamic banking can also be seen from the increasing use of digital banking in Indonesia, this is characterized by changes in the lifestyle of banking customers who are becoming more modern. According to Shaikh & Karjaluo (2015), mobile banking (m-banking) technology is one of the self-service facilities. This technological change allows banks to please customers with easy solutions for customers through m-banking facilities. Superior service is provided to customers so as to increase customer satisfaction, to achieve this it is very important to

understand customer needs and find customer desires for a product or service that exceeds customer expectations (Rahmawati & Fianto, 2020: 1119).

Customers evaluate the quality of banking services based on their interactions with the bank. Good services influence their perceptions and decisions in choosing banking services. Positive experiences enhance customers' perceptions of service quality, leading to higher levels of customer satisfaction, whereas negative experiences can result in customer dissatisfaction with the services provided by the bank. Banking services face significant challenges in understanding customers' psychometric behavioral intentions. Experts recommend using theoretical approaches to gain a better understanding of key constructs in service marketing, such as service quality, perceived value, customer satisfaction, corporate image, and behavioral intentions, which are critical for banks to effectively engage with customers (Lauza et al., 2024:118)

CONCLUSIONS

From the analysis of the discussion above, the researcher can conclude that Islamic banking has experienced rapid development along with the growth of an increasingly complex and dynamic Islamic economy. One of the latest issues being discussed in Islamic banking is the development of innovative Islamic products and services. In addition, increasing public education and awareness about Islamic banking is also an important issue. Although the number of customers and participation in Islamic banking continues to increase, further efforts are needed to educate the public on the benefits and potential advantages of Islamic products and services. The need for consistent clarity of rules and regulations will help create a stable and attractive climate for the public to become part of Islamic banking customers.

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