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THE APPLICATION OF FIQH PRINCIPLES IN CONTEMPORARY SHARIA TRANSACTIONS IN THE DEVELOPMENT OF INNOVATIVE PRODUCTS OF ISLAMIC FINANCIAL INSTITUTIONS IN INDONESIA

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THE APPLICATION OF FIQH PRINCIPLES IN CONTEMPORARY SHARIA TRANSACTIONS IN THE DEVELOPMENT OF INNOVATIVE PRODUCTS OF ISLAMIC FINANCIAL INSTITUTIONS IN INDONESIA

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Abstract

The innovation product in Islamic financial institutions is one of the strategies that has an important role in the midst of a competitive market. Increasing institutional capacity and the availability of diverse and efficient Islamic financial industry products is one of the missions in optimizing the development of Islamic finance. The program to increase the availability and diversity of Islamic financial types available in various products, in Islamic banking institutions and non-Islamic bank financial institutions, including the Islamic capital market, shows that the market share of Islamic financial industry products is still limited when compared to conventional financial products. In Indonesia, all stakeholders of the Islamic financial industry must always synergize and harmonize between sharia economic law and applicable laws and regulations.

The Qur'an, Al-Hadith and Ijma' gave birth to the rules of fiqh. The rules of fiqh aim to establish Islamic law in various issues that are new and continue to develop along with the times, especially developments in sharia financial institutions in various kinds of economic transactions or muamalah maliyah. The rules of fiqh are a form of ijtihad. The rule of fiqh is an ease of knowing contemporary laws, especially various kinds of economic problems that do not have much nash sharih (definite postulates) in the Qur'an and al-Hadith. In economic problems that develop in Islamic financial institutions, the rules of fiqh are used to facilitate mastering the problems of furu'iyah (branches) which are many (countless) and continue to grow.

INTRODUCTION

The innovation of Islamic financial institution products makes people's needs more competitive and experiencing rapid development. The presentation of products that are attractive, competitive and provide ease of transactions in accordance with the needs of the community will make the development of Islamic financial institutions successful. Facing the integrity of an increasingly complex modern society will increase the dynamism of Islamic financial institutions.

Sharia **Financial Institutions** (LKS) in Indonesia **are** currently experiencing rapid growth and development of activities, such as sharia insurance, sharia banking, sukuk, sharia financing and others. Practitioners, regulators and even academics in the field of Islamic finance are required to always be active in responding to these developments. Practitioners, regulators and academics must do a lot of product creation, create regulations that regulate and supervise the products created, of course, they are also required to provide guidance and insight so that existing products and regulations are in accordance and there are no deviations from existing sharia principles.

The underlying transaction scheme and/or underlying asset is a differentiator between the Islamic financial system and the conventional financial system which is the basis for transactions in Islamic Financial Institutions, which is a guarantee of halal transactions or often called sharia products can be accounted for in the future.

The transaction in question often has implications for the terms and concepts and even the substance used in Islamic Financial Institutions, starting from an understanding of what the term contract in sharia is exactly the same as the term agreement or not. Not to mention that technical terms in muamalah jurisprudence are often considered completely different from what is the term in the Civil Code and the Commercial Law Code (KUHD). A further implication is the emergence of problems relating to the format of contracts made by notaries in Islamic financing. Even in disputes in court, the term and substance of sharia often become a prolonged debate.

In the end, everything related to activities in the financial field is inseparable from the role of financial institutions. In accordance with the existing financial system, in its operational activities, financial institutions can be in the form of conventional **financial institutions** and **Islamic financial institutions**. Islamic **financial institutions** will operate in accordance with

sharia principles and conventional banks will operate not in accordance with sharia principles. As Muslims, of course, they are commanded to carry out every activity including economic activities, in accordance with sharia principles, and fulfill their sharia maqashid, so that they will get blessings in the side of Allah SWT. Conversely, those who do not comply with sharia principles will bring mudharat to their lives. ² The existence of contracts in Islamic financial institutions is one of the distinguishing components with conventional financial institutions. However, there needs to be a study on whether these contracts are guaranteed in accordance with sharia principles.

Islamic Financial Institution Innovation

³ The basic law in muamalah fiqh is a principle that can be said to be a theory that shapes laws in the economic field. Dr. Abbas Arfan in his book 99 rules of fiqh muamalah kulliyah wrote five principles:

- ³ 1. The first principle is Taba'dul al-Mana'fi that all forms of muamalah activities must provide benefits and benefits to the parties involved.
- ³ 2. The second principle is the principle of equity and justice, which is a principle in the form of the principle of justice in the field of muamalah which requires that property is not only controlled by a few people so that it must be distributed equally among people, both rich and poor.
- ³ 3. The third principle is willingness and willingness, this principle states that every form of muamalat between Muslims or between parties must be based on their own willingness.
- ³ 4. The fourth principle is the absence of fraud or it can be said to be the principle of honesty in transactions.

5. The fifth principle is the principle of goodness and devotion which in this case the Muslim must do everything for the good and increase his devotion to Allah SWT.

If we review the product innovation of Islamic financial institutions, we can see from the history of the development of Islamic financial growth itself, both in bank and non-bank institutions, because it is undeniable that there is a strong relationship between product innovation and the development of Islamic finance. In the roadmap for the development of Islamic finance in Indonesia 2017-2020, it is stated that Islamic finance has developed in Indonesia for more than 2 (two) decades. The development of sharia finance in Indonesia began with the development of the sharia banking industry in the 90s, followed by sharia insurance, and the sharia capital market. Over time, Islamic finance continues to grow to this day. This is marked by, among others, an increase in financial assets, a greater variety of products, increasing awareness and understanding of Islamic finance among actors and the public, as well as an increasingly comprehensive regulatory framework.

RESEARCH METHODS

The method used in this study is a qualitative method using a descriptive analysis approach that aims to provide an overview of the rules of fiqh with the practice of economic transactions in Islamic financial institutions. The data collection technique is by collecting the rules of fiqh and dhawabith fiqhiyyah related to muamalah maliyah to be applied in economic transactions in Islamic financial institutions.

DISCUSSION

Development Of Islamic Financial Products And Transactions Within The Ijtihad Frame

In the context of developing Islamic financial products associated with the national legal system, Islam as one of the legal systems that is the source of raw material for the preparation of national laws, contains quite a lot of universal principles. Studies in the sociology of law have argued a lot about the mutual influence of socio-economic changes and Islamic law. The spirit of Islamic teachings in the development of economic activities and practices of Muslims in the field of economics and business has become a history that has long been done and became a reality for a long time.

In order to remain in line with sharia principles, theoretically, product innovation of Islamic financial institutions cannot be separated from sharia theories and methods. Attention in Islam focuses on the discussion of the concept of innovation and renewal, as stated in the Qur'an Surah Al-Anfal verse 53 "... for verily Allah shall never change any favour which he has bestowed upon a people, until that people change what is in themselves, and verily Allah hears again all-knowing".

Zuhal in his book Knowledge and Innovation Platform The Power of Competitiveness states that creativity starts from innovation that has new useful ideas. A person is called doing creative work if he produces something that is not a continuation of a solution that once existed. The value of creativity is weighed by how far something is different from previous experiences or solutions (Zuhal, 2010). Sidik also explained in his book Imitation Dulu Baru Innovation, mentioning that inventions aimed at creating something relatively new with higher added value are innovations (Sidik, 2010).

As a form of faith commitment by prioritizing Islamic banks and financial institutions, it is actually part of the awareness to implement Islam as a whole and totally. In QS. Al Baqarah ; 85 God affirms: "Do you believe in some of the Bible (Torah) and disobey others? There is no recompense for those who do so from you, but inevitability in the life of the world, and on

the Day of Judgment they are returned to the most severe torments. God is not careless of what you do."

In the same surah verse 208: "O believers, enter Islam in its entirety, and do not follow the steps of Satan. Verily Satan is your real enemy." Both verses emphatically by partially applying Islam, we will experience worldly deterioration and ukhrawi losses.

As long as Islam is shown only by rituals of worship, while being marginalized from banking and other financial institutions, Muslims have buried Islam deeply with their own hands. As a result Muslims do not have any concept of business and finance. Even if there is limited to zakat, inheritance, waqaf, sadaqah, or buying and selling and renting simple rent.

The word bank is taken from the French word banque, and from banco in Italian, which means chest/cabinet or bench. The word chest implies a function as a place to store valuable objects (Heri Sudarsono, 2003: 27). The word sharia comes from Arabic, literally meaning the path taken or the line to be walked. In terminology, sharia is the rules and laws that have been outlined by Allah, or have outlined the principles and imposed on Muslims to obey them, so that this sharia is taken by Muslims as a link between them with Allah and among them with humans.

The bank as is known is an institution that performs three main functions, namely receiving money deposits, lending money and providing money transfer services. In Islamic Fiqh (the rules of Islamic laws) there is no word Bank, but historical evidence states that banking functions have been practiced by Muslims since the time of Prophet Muhammad. These banking practices certainly develop slowly and gradually, even experiencing progress and setbacks at certain times in accordance with the ups and downs of human civilization (Adiwarman Karim, 2004).

The Islamic bank referred to in this case is an Islamic bank that carries out its business activities based on Islamic principles, namely the rules of agreement (contract) between the bank and other parties (customers) based on Islamic law. So that the difference between Islamic banks (sharia) and conventional banks lies in the basic principle of operation which does not use interest, but uses the principles of profit sharing, buying and selling and other principles in accordance with Islamic law (Veithzal Rivai, 2007).

As explained above, Islamic bank business activities can be grouped into 3 (three) types of activities, namely raising funds, distributing funds, and providing services. Based on the provisions of Article 19, Article 20 and Article 21 of the Sharia Banking Law, one of the business activities of Sharia Banks is to channel financing based on sharia principles.

One of the financing products carried out by Islamic banks is to provide Home Ownership Financing facilities hereinafter referred to as KPR iB. KPR iB is the provision of financing to customers in the context of home ownership using a contract based on sharia principles. Thus, sharia principles are the type of contract that underlies productive financing from banks to customers.

Of the many Islamic bank financing products, the three main financing products that dominate the Islamic bank financing portfolio are working capital financing, investment financing, and financing various goods and property. The contracts used in the application vary greatly from profit-sharing patterns (mudharabah, musharakah, musharakah mutanaqishah), buying and selling patterns (murabahah, salam, and istishna), or rental patterns (ijarah and ijarah muntahiya bittamlik).

In Islamic banks, based on Bank Indonesia data, KPR iB financing products offered by Islamic banks are quite diverse, namely KPR iB sale and purchase, KPR iB rent, KPR iB lease purchase and KPR iB gradual ownership. Of these products, the contract that underlies the

transaction for the buying and selling scheme uses a murabahah contract, For lease schemes using ijarah vomitiya bittamlik contract and for phased ownership schemes using musyarakah mutanaqishah contract. While globally, the contracts used to finance home ownership are not only these 3 contracts, but also used ⁵ Akad comodity murabahah, wakalah, istishna, ijarah ⁵ maushufa fi al-dhimmah, and a combination of ijarah masuhufah fi al-dhimmah and istisna.

Fiqh Rules in Islamic Financial Institutions

The process of forming fiqh rules occurs, among others, driven by the need to understand so many legal provisions (Fiqh). With the existence of this fiqh rule, it is hoped that problems that arise in the community, can get answers quickly and precisely in accordance with the provisions of Islamic law in the Qur'an and Sunnah, as well as with an accurate methodology (ushul fiqh). In summary, the use of fiqh rules among others is as follows.

1. To know the general principles of fiqh
2. To more easily establish the problems faced
3. To be more prudent in establishing fiqh according to different times, places, circumstances and customs
4. To provide a way out of various disagreements among scholars
5. Knowing the secrets and spirit of Islamic law is summed up in the rules

The rules of fiqh that can be used as a basis in determining laws relating to sharia economic problems, especially sharia finance include the following “It is not permissible for someone to distribute someone else's property without the authority of the owner”

The above rules can be used as a basis or argument in determining the law of various issues related to Islamic finance such as current accounts, savings, deposits, murabahah, buying and selling greetings, buying and selling istishna', mudharabah financing etc. Based on the

rules mentioned above, because there is no evidence that prohibits it, deposits in the form of giro are allowed based on the principles of mudharabah and wadiah. Similarly, the law of savings, deposits and others can use this rule, as long as there is no element of gharar or obscurity of a profit nature such as gambling, or does not contain usury, because the law of riba is clearly haram according to the Qur'an and Sunnah.

An example of an ascetic is like someone cannot pay his debt directly. To eliminate the danger/burden of his debt, he may transfer his collection to another party, which in Islamic law is called hawalah or hiwalah, which is a contract to transfer debt from one party who owes it to the party who is obliged to pay it. Another example is in murabahah financing transactions. To show the customer's sincerity in murabahah financing, so that there is no mudharat or danger in the future, when the customer applies for financing, Islamic banks may ask for a down payment in the murabahah financing.

Sharia Financial Institution (LKS) is a financial service unit that serves financial transaction traffic. Transactions both cash, installments, and Letters of Credit (LC), as well as electronic transactions will receive legal services if carried out by persons or legal entities who have legal competence to act legally or transact lawfully and will refuse transaction services to parties who do not have the right or are not capable of acting legally or transacting. For example, the Islamic financial institution will not tasharruf-kan (use) the ownership of others without the permission of the owner.

Funding products in Islamic banks are usually categorized into savings or savings that can be withdrawn at any time by the depositor and time deposits that are subject to maturity conditions. Looking at this funding description, muamalah jurisprudence offers two different contract schemes. First, the wadiah contract scheme which is classified as a tabarru contract

scheme (non-commercial) and the second mudharabah contract scheme which is classified as a tijarah contract scheme (commercial).

Of course, these two schemes have their own characteristics and conditions. The wadiah contract scheme in jurisprudence is more widely used for custody schemes, while in banking products the "goods" deposited are money. In the custody of goods, generally the deposit is not fully guaranteed, while in the deposit of money, a category of collateral appears from the loss of the money. That is what is commonly referred to as wadiah yad al dliamanah. The consequences of this second type of entrustment are related to the utilization of the funds deposited and also related to the possibility of giving gifts ('athaya) for the money saved. Of course, because the object of ijti had is money, jurists often associate it with the addition to the money he saves. This is where contemporary muamalah jurists place limits, gifts are not agreed upon when the contract takes place, for fear that it will fall into the category of riba prohibited in sharia. Among jurists, it has been discussed the change of wadiah contract in this savings product with qardh contract. If this discourse is accepted as a savings product scheme, it will be clearer the relationship between savers and the money they save.

In terms of term savings products, the scheme used is mudharabah which is categorized as profit oriented or tijarah. Contemporary jurisprudence issues related to savings with profit-sharing schemes (mudharabah) are increasingly varied. Among other things, whether the profit sharing return to savers can be set is relatively more certain or not. Of course this problem arises, because in the tradition of conventional banks fixed interest has become habit. No wonder there are government institutions that want to put their funds in Islamic banking asking Islamic banks to strive for certainty, especially not to be less than expected.

Some even dare to state that the profit share is more than expected, not given to savers. The expected innovation is to create what some experts call income smooting or a kind of profit

equalization reserve / PER. To make a decision whether it is permissible or not, a collective ijthad consisting of accounting, business and of course jurisprudence experts is needed. “An order to make use of someone else's property (without the owner's permission) is void” Sharia Financial Institution (LKS) transactions can be said to be legal and legal if carried out by parties who legally have the ability to transact and have full rights to the object of the banking transaction. If there is a transaction instruction to a particular party or with a particular transaction object that does not belong to him or is not under his control, then the banking transaction is null and void.

One of the products of Islamic financial institutions is Mudhārabah (trust financing / trust investment) which has two interrelated nodes between obtaining profits with a partnership system (between capital owners and business actors) and bearing the risk of loss if the business fails. The failure of an attempt in the Mudhārabah system is divided into two categories; First, if business failure or loss is caused by pure business competition, then the loss is borne by the capital owner. Second, if the loss of a business is due to intentional factors by business actors, then the value of compensation for business losses is borne by business actors.

“It is not permissible for a person to take another's property without a shari'i cause”

This rule emphasizes its meaning on the existence of a sharia legal basis or the absence of sharia law in collecting, taking, repaying debts and the like. If there is no legal basis for shari'a, then any party is not allowed to take, collect, collect or forcibly take the property or property of another person.

“The rotation of exchange for ownership is equal to the rotation of the exchange of the object itself”

For example, a buyer dies, then the object of purchase/goods purchased, is bought back by another party through his heirs. If the price value is cheaper than the initial price because it

is said to be a defect in ownership, then it is not valid to buy and sell because the ownership of the item is clear.

Sharia Financial Institution (LKS) products often provide rewards to customers in the form of certain points which in turn can be exchanged for certain prizes to attract customers to invest in these Islamic financial institutions, provided that customers always increase their savings balances. The provision of rewards is an obligation of the institution if the customer has carried out the conditions by adding a savings balance in a certain amount and time as a requirement.

“The party encumbered by the condition is obliged to fulfill it when something required is met”

In a lease purchase transaction, the tenant buys after completing administrative documents to the institution by paying a DP (down payment) given the right to occupy the object of the transaction in the form of a residential house. The tenant must pay the installments of the house until it is paid off, as a logical consequence of the dictum of the lease purchase transaction between himself and an institution.

“Basically everything that is beneficial can be done and everything that brings illegal harm is carried out”

An example of an insurance product is the wakalah bi al-ujrah product, which is a form of delegation of an affair to a person or business entity or financial institution to do as desired by the person who submits the business, where the person, business entity or financial institution that manages the affairs gets wages (benefits).

A transaction in an Islamic financial institution is always based on the scope clause of the contract, both binding on the parties to the transaction and the consequences arising from the transaction. In the context of wadi'ah (savings), it was originally a contract that was helpful

between human beings without any reward and could not be used. But since this wadi'ah contract follows the principle of qardh by transferring the contract to tahawul al-'aqd, the legal implications are the same as those of qardh. The improvisation of shari'ah financial institution products legitimizes its management in Islamic financial institutions. The institution is also allowed to manage customer entrustment funds (wadi'ah), then the profits can be given as bonuses to wadi'ah customers by the institution that was not promised from the beginning.

Supervision of Financial Institutions.

Every management of a financial institution requires supervision. With the supervisory function, financial institutions will always be careful in every step of their activities. This will certainly minimize the risks that have the potential to occur in the institution. Supervision in the management of financial institutions is described in the following:

- a. The position of the MUI DSN fatwa is one of the prerequisites in determining the provisions of a product in Islamic financial institutions. (Nurjaman & Ayu, 2021)
- b. The regulation of Islamic banks' minimum statutory demand deposits as an instrument of monetary policy in the view of maqashid sharia is still contradictory so that its efficacy is greater than its benefits in the long run. (Gunawan & Barlinti, 2022)
- c. Sharia Supervisory Board plays a role in fulfilling sharia compliance in sharia financial institutions (Munthe et al., 2021)
- d. Risk management that has been implemented by the Sunan Gunung Jati Ba'alawy Sharia Microfinance Institution is still weak because the Islamic microfinance institution does not apply guarantees in financing (Wijayanti & Adityawarman, 2022)
- e. The role of KPJKS in interpreting and harmonizing DSN-MUI fatwas for the establishment of POJK in the field of Islamic finance, namely providing recommendations for OJK (Umam & Kimberly, 2021)
- f. In Islamic economics, profits

on financial transactions are based on profit-sharing aspects in contrast to conventional interest-based economics (Sopian, 2021)

Financial institutions are intermediary institutions between parties who have funds and parties who lack funds. There are financial institutions that are conventional-based, some are sharia-based. There is a difference between the two. One of the most obvious differences is in financial institutions Sharia has a contract in its operational activities. In theory, contracts in Islamic financial institutions are considered so perfect in accordance with sharia principles. Although in terms of implementation it is still often questioned.

Activities of Islamic Banks and Financial Institutions in the Quran and Hadith

In the Quran and Hadith ¹ there is no nash that mentions banking, but in practice it has been done since the time of the Prophet Muhammad SAW. Here are bank activities based on verses of the Quran and Hadith. Categorized into three categories, namely), funding products, financing products and service products.

1. Funding

a. Wadiah

Wadi'ah is a deposit of goods or funds to another party who is not the owner, for security purposes. QS. Al-Baqarah: 283 which means: "If some of you believe in others, then let the believer fulfill his commission (debt) and let him fear Allah his Lord. "" and Hadith HR. Abu Daud and At-Tirmidhi which means "Pay the commission to those who give you the commission and do not betray those who betray you"

b. Mudharabah

Mudharabah has 2 types, namely savings and deposits, so with this mudharabah contract there are two types of collecting funds, namely mudharabah savings and mudharabah

deposits. Mudharabah savings is a savings deposit system and withdrawals are made in accordance with a previously agreed agreement. In this deposit is not given interest as a form of profit for Islamic banks but given profit sharing. This Mudharabah Savings has various forms: Eid al-Fitr Savings, Eid al-Qurban Savings, Hajj Savings, Education Savings, Health Savings, etc. Mudharabah deposits are deposits of the owner of funds that can only be taken within a certain time. This product includes mudharabah deposits of 1,3,6,9,12,24 months.

2. Financing

2.1. Principles of Buying and Selling

a. Murabahah

In terms (jurisprudence), murabahah is the buying and selling of goods that belong to him which are bought and sold with exaggeration. Buying and selling is buying and selling merchandise at an additional price (profit) known to the buyer (Nazih hammad, 1993: 243). So that the definition of murabahah becomes a contract to buy and sell an item where the seller mentions the selling price consisting of the cost of goods and a certain level of profit on the goods, where the selling price is agreed by the buyer (IBI, 2001: 76). In QS. Al-Baqarah: 275 which means: "... Allah has legalized buying and selling and forbade usury...". and QS. An-Nisa': 29 which means: "O believers, do not eat one another's property in a vanity way, except by the way of consensual business among you...".

b. Salam

Salam is a contract to buy and sell ordered goods (muslam fih) with delivery at a later date by the seller (muslam ilaih) and repayment is made by the buyer when the contract is agreed in accordance with certain conditions (Dwi Suwiknyo, 2010: 45).

In *mu'jam al-Wasith* it is stated: *as-Salaf* is interpreted as *bai' as-salam* which means buying and selling Salam.

Understanding *salaf* or *istalafa*: *iqtaradha* which means debt (Ibrahim Anis, 1992: 44). While in terms, greeting is a contract for goods mentioned in nature in the agreement with the delivery of tempo at the price submitted at the contract assembly¹ (Ahmad Wardi, 2010: 242). In QS. Al-Baqarah: 282

c. *Istishna'*

*Istishna'*² is a sale and purchase agreement in the form of ordering the manufacture of certain goods with certain criteria and requirements agreed between the buyer (buyer / *mustashni'*) and the maker (seller / *shani'*). Hadith HR. Tirmidhi Amr ibn Auf said: "Peace can be made among the Muslims except for the peace that forbids which is lawful and lawful is haram, and the Muslims are bound by their conditions except those that forbid the halal and the lawful that are haram".

2.2 Profit Sharing Principle

a. *Musharakah*

Linguistically it means *al-ikhtilath* (mixing) or fellowship of two or more people. In terms, *shirkah* is an agreement of two or more people who associate regarding the subject matter of their property and finances¹ (Sayyid Sabiq, 1985: 354). In QS. An-Nisa': 12 which means: "... if the brethren are more than one, Then they fellowship in that that third...", QS. Shaad: 24 which means: "... and Verily most of the people who are associated with some of them do cruelty to others, except those who believe and do righteous deeds..."

b. *Mudharabah*

Mudharabah comes from the word *adh-dharbu fi al-ardh*, which means to hit or travel, this means to travel or beat his legs to trade or run a business. It is also called *qiradh* which comes from the word *al-qardhu* which means piece, because the owner cuts off part of his property to trade and obtain part of the profit (Al-Fiqh al-Islam 'ala Madzahib al-Arba'ah). Mudharabah is a business cooperation agreement between the fund owner (shahibul mal) and the fund manager (mudharib) to carry out business activities, profits are divided on the basis of profit sharing ratio according to the agreement of both parties, while if there is a loss borne by the fund owner unless caused by misconduct, negligence, or violation by the fund manager (Sri Nurhayati & Wasilah, 2008: 112).

According to *ijma'* ulama, mudharabah is *jaiz* (permissible). This is taken from the story of the Prophet Muhammad SAW who once practiced mudharabah with Siti Khadija. Siti Khadija acts as the owner of the fund and Prophet Muhammad SAW as the manager of the fund. Then Prophet Muhammad (peace be upon him) brought his merchandise to the land of Sham. From this story it is clear that the practice of mudharabah actually existed when the Prophet Muhammad (PBUH) had not been appointed as an Apostle. Even before Islam came, the practice of mudharabah was already practiced by the Companions because of this economic practice very useful. This is reinforced in the teachings of Islam as embodied in the Qur'an and Hadith.

3. Services

a. Ijarah

Ijarah is defined as a contract to transfer the right to use (benefit) of a good or service, within a certain time with the payment of rent wages (*ujrah*), without being followed by the transfer of ownership of the goods themselves. Ijarah is meant to

benefit from goods or services (employing someone) by way of reimbursement (paying rent or wages of a certain amount). In Q.S. AzZukhruf: 3 which means: "What are they who distribute the mercy of your Lord? We have determined among them their livelihood in the life of the world, and We have exalted some of them above others by some degree, that some of them may make use of others. and the mercy of your Lord is better than what they gather". And QS. Al-Baqarah: 233 which means: "... and if you want your child to be breastfed by others, then there is no sin for you if you give payment according to what is due. be fearful of Allah and know that Allah sees what you do."

CONCLUSION

Many rules of jurisprudence relate to matters of mahdhah worship, muamalah or economic transactions. All of these rules are intended to make it easier for humans to make a decision about new things.

Given the development of science, technology and human mindset that leads to new problems, especially in economic practice, solutions must be found that are in accordance with the rules of jurisprudence and do not contradict Islamic teachings.

The rules of fiqh are built on the basis of awareness and scientific research with an inductive approach, which is simply in formulating a rule based on branch problems in a certain term with various fuqaha opinions, then generalized from things that are similar or even the same and formulated with short sentences and dense meaning. This construction of ijtihad which in turn becomes its acceptability in finding solutions to furu'iyah problems, especially the field of maliyah which will always emerge new models along with the times.

² Islamic banking and financial institutions at the time of the Prophet (peace be upon him), ² it is clear that the vocabulary "Bank" is not found in the classical books (Fiqh), nor in the

Qur'an does anything directly explain ² the bank that is developing today. However, in its activities it has existed and developed based on Islamic sharia based on the Quran and Hadith. Islamic banks and financial institutions referred to in this case are Islamic banks that carry out their business activities based on Islamic principles, namely the rules of agreement (contract) between banks and other parties (customers) based on Islamic law. Sharia Bank in running its business has at least five operational principles consisting of a loan system, profit sharing, profit margin, rent and services.

There are different backgrounds and frameworks of different approaches in the application of law, "harmonization efforts" are needed so that the system of laws and regulations that apply in the community is consistent, harmonious and integrated. With harmonization, it is hoped that equality of perception will be obtained between business people in LKS, Customers and other related parties, so that the possibility of misunderstanding will be reduced or even avoided.

Islamic law as one of the legal systems that is the source of raw material for the preparation of national law, in relation to Islamic financial activities as part of the discussion of mu'amalah maliyyah experiences dynamism and contextualization with the development of Islamic financial needs through collective ijihad from various backgrounds of scientific expertise / expertise.

Substantively between contracts and contracts in sharia agreements in Islamic financial institutions have similarities, only certain parts of which there are differences according to different backgrounds and frameworks of ⁵ legal approaches, for example in terms of buying and selling and binding guarantees. Therefore, in order to avoid disharmony, in the development and innovation of Islamic financial products and transactions in Islamic financial institutions,

⁵ all stakeholders must always strive to synergize and harmonize between sharia economic law and the provisions of existing laws and regulations.

⁶ The rules of fiqh in the economic field are tasked with justifying and legitimizing all economic activities of Muslims in various fields of economic transactions, both those related to mono-contract and multi-contract transactions. Mono-contract transactions or single contracts such as jaul-buy, lease, lien, accounts receivable in turn according to the needs of economic activity of contemporary society, require multi-contract transactions. For example, the rise of people carrying out lease and purchase transactions for motor vehicles, housing, electronic goods and others. So the rules of fiqh that justify are those related to the transaction of al-ijarah muntahiyah bi al-tamlik or better known as IMBT. ⁶ And so on other economic issues in Islamic financial institutions become legitimate by using qawaidh fiqhiyyah (rules of fiqh) or dhawabith fiqhiyyah.

BIBLIOGRAPHY

⁴ Abbas, Arfan. 99 Kaidah Fiqh Muamalah Kulliyah, (Malang : UIN Maliki Press, 2013)

⁴ Abd. Rahman Dahlan, Ushul Fiqih. (Jakarta: Amzah, 2005)

⁷ Agustianto. "Inovasi Produk Perbankan Syariah dari Aspek Pengembangan Fikih Muamalah".
Jurnal Ikatan Ahli Ekonomi Islam.

⁴ Ali al-Sayid, Muhammad. Tafsir Ayat al-Ahkam, Juz. 2, (Bayrut: Dâr al-Fikr, 1996).

⁴ Antonio, M.S. (2001). Bank Syariah dari Teori ke Praktek, Jakarta: Gema Insani.

Arfan, A. (2013). 99 Kaidah Fiqh Muamalah Kulliyah, Malang: UIN Maliki Press.

Dahlan, A.R. (2011). Ushul Fiqih. Jakarta: Amzah.

⁵ Deti Akhtar Aziz (edt), *Islamic Finance and Global Financial Stability*, IFSB-IDB-IRTI, 2010

Direktorat Perbankan Syariah Bank Indonesia, Kajian Model Bisnis Perbankan Syariah, 2012

Djamil, Fathurrahman, Penerapan Hukum Perjanjian dalam Transaksi di Lembaga Keuangan Syariah, Sinar Grafika, Jakarta, 2012.

Frank E. Vogel & Samuel L Hayes, *Islamic Law and Finance, Religion, Risk, and return (The Hage, Kluwer Law Interntional*, 1998). Keputusan Menteri Keuangan No.1169/KMK.01/1991 tentang Kegiatan Sewa Guna Usaha (Leasing).

⁴ Djazuli, A. (2006). Kaidah-Kaidah Fikih : Kaidah-Kaidah Hukum Islam Dalam Menyelesaikan Masalah-Masalah Yang Praktis, Jakarta : Kencana. Dewan Syariah Nasional (DSN)-Majelis Ulama Indonesia (MUI), 2006.

⁷ Fatinah, Lina. ⁷ Pascasarjana Universitas Islam Negeri Sunan Gunung Djati Bandung. ⁷ Tinjauan Historis Dan Teoritis Tentang Inovasi Produk Lembaga Keuangan Syariah.

¹ Hammad, N. (1993). Mu'jam al-Mustalahat al-Iqtisadiyah fi Lughah al-Fuqaha'. Haron, S. (1997). Islamic banking: Rules & regulations. Pelanduk publications.

Karim, A. (2004). Bank Islam Analisis Fiqih dan Keuangan, PT. Raja Grafindo Persada,

⁴ Jakarta. Ismail. (2011). Perbankan Syari'ah, Jakarta : Kencana Media Group. Muhamad. (2000). Sistem dan Prosedur Operasional Bank Syariah, Yogyakarta: UII Pres.

¹ Khusairi, H. (2015). Hukum Perbankan Syariah. Al-Qisthu: Jurnal Kajian Ilmu-Ilmu Hukum. <https://doi.org/10.32694/010120>

Manan, M. A. (1997). Teori dan Praktek Ekonomi Islam terjemah dari "Islamic Economics, Theory and Practice", PT. Dana Bhakti Prima Yasa, Yogyakarta.

⁷ Mulyadi, D., & Athoillah, M. A. (2017). PRODUCT INNOVATION OF SHARIA FINANCIAL INSTITUTION: THEORY REVIEW. Journal of Economicate Studies, 1(1), 1-8. <https://doi.org/10.32506/joes.v1i1.3>

⁴ Mujib, M.A. (1994). Kamus Istilah Fikih, Jakarta: Pustaka Firdaus Wiroso, 2005, Jual Beli Murabahah, Yogyakarta: UII Press.

Inayah, Nurul dkk. Fiqih Muamalah Uang dan Lembaga Keuangan: Studi Literatur. Jurnal Ilmiah Ekonomi Islam, 8(03), 2022.

Permana, Iman. Fakultas Syariah Universitas Islam Bandung. ⁴TAHKIM, Jurnal Peradaban dan Hukum Islam. Vol.3 No.1 (Maret, 2020).

⁴ Rahman, A.A. (1976). Qa'idah-Qa'idah Fiqih (Qawa'idul Fiqhiyyah), Jakarta: Bulan Bintang.

¹ Shandy Utama, A. (2020). PERKEMBANGAN PERBANKAN SYARIAH DI INDONESIA. UNES Law Review. <https://doi.org/10.31933/unesrev.v2i3.121>

⁷ Sidik. 2010. Imitasi dulu Baru Inovasi. Jakarta: Prasetya Mulia Publishing.

¹ Siringoringo, R. (2012). Perbankan Di Indonesia. Buletin Ekonomi Moneter Dan Perbankan.

Sudarsono, H. (2003). Bank & Lembaga Keuangan Syariah: Deskripsi Dan Ilustrasi.

Suparyanto, D. (2018). Prospek Perbankan Syariah Di Indonesia. Al-Insiyroh: Jurnal Studi Keislaman. <https://doi.org/10.35309/alinsiyroh.v2i2.3328>

Syukron, A. (2013). Dinamika Perkembangan Perbankan Syariah Di Indonesia. Jurnal Ekonomi Dan Hukum Islam. WijayaDenda. (2001). Manajemen Perbankan. Edisi Revisi Sembilan. <https://doi.org/200>

⁴ Usman, M. (1993) Kaidah-Kaidah Ushuliyah dan Fiqhiyyah, Jakarta : Rajawali Pers.

¹ Zainul, Arifin. (2012). Dasar-dasar Manajemen Bank Syariah. In Pustaka Alvabet.

⁷ Zuhul. 2010. Knowledge and Innovation Platform Kekuatan Daya Saing. Jakarta: PT. Gramedia Pustaka Utama. Jimmy Joses Sembiring, Cara Menyelesaikan Sengketa di Luar Pengadilan, (Jakarta: Visimedia, 2011) hlm. 1

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