

Alternative Interest-Free Financial Institutional Systems for Fair Economy: A Constructive Overview

Sistem Kelembagaan Keuangan Bebas Bunga Alternatif bagi Perekonomian yang Berkeadilan: Tinjauan Konstruktif

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ABSTRACT

The Islamic economic system can be an option during the current world economic system with its market mechanism that can no longer be controlled by anyone and any system. The Islamic economic system is present as an alternative to the alignment of the economic system in a market order that is just and beneficial for human welfare. Islamic sharia principles in asset management emphasize the balance between individual and community interests, where assets must be used for productive things, especially investment activities which are the basis of economic activity in society. Interest-free financial institutions (Islamic financial institutions) as the implementation of the Islamic economic system include two institutions, namely bank financial institutions and non-bank financial institutions. In carrying out their financial activities, the two types of institutions carry out the main principles in transactions, namely: the prohibition of usury (interest) in various forms of transactions, conducting business, and trading activities based on obtaining legal profits according to sharia, and giving zakat. So that the financial institution must have a financial management strategy, properly and following *muamalah fiqh*.

Keywords: interest-free financial institutions, fair economy

ABSTRAK

Sistem ekonomi Islam dapat menjadi pilihan di tengah sistem ekonomi dunia saat ini dengan mekanisme pasarnya yang tidak lagi dapat terkendalikan oleh siapa pun dan sistem mana pun. Sistem ekonomi Islam hadir sebagai alternatif keberpihakan sistem ekonomi pada tatanan pasar yang berkeadilan dan bermanfaat menyejahterakan manusia. Prinsip syariah Islam dalam pengelolaan harta menekankan pada keseimbangan antara kepentingan individu dan masyarakat, di mana harta harus dimanfaatkan untuk hal-hal produktif terutama kegiatan investasi yang merupakan landasan aktivitas ekonomi dalam masyarakat. Kelembagaan keuangan bebas bunga (lembaga keuangan syariah) sebagai implementasi dari sistem ekonomi Islam meliputi dua lembaga, yaitu lembaga keuangan bank dan lembaga keuangan bukan bank. Dalam melaksanakan kegiatan keuangannya kedua macam lembaga tersebut menjalankan prinsip utama dalam bertransaksi, yaitu: adanya larangan riba (bunga) dalam berbagai bentuk transaksi, menjalankan bisnis dan aktivitas perdagangan yang berbasis pada perolehan keuntungan yang sah menurut syariah, dan memberikan zakat. Sehingga lembaga keuangan tersebut harus



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memiliki strategi manajemen keuangan, secara baik dan sesuai dengan fiqh muamalah.

Kata Kunci: kelembagaan keuangan bebas bunga, perekonomian yang berkeadilan

1. Introduction

In the perspective of Islamic economics, there is a view concerning the definition and function of money as a vital component of driving the economy. Islam views that there is a serious problem regarding the misuse of the function and role of money in economic activity, namely the issue of usury. The practice of usury causes distortions in the economy, both micro and macro. The Qur'an and Sunnah expressly prohibit the practice of usury in all its forms. Islam views money only as a medium of exchange, not as a traded commodity as it is today. This provision has been widely discussed by scholars such as Ibn Taymiyah, Al-Ghazali, Al-Maqrizi, Ibn Khaldun, and others. Choudhury again emphasized this in his book "Money in Islam: A Study in Islamic Political Economy", that the concept of money is not allowed to be applied to commodities, because it can damage the monetary stability of a country (Muhaimin, 2010).

Riba means *ziyadah* (additional), while in another sense usury means to grow and enlarge. Technically, usury means taking additional from the principal property or capital in vanity. In the Qur'an, Allah SWT confirms how Islam forbids all transactions that are detrimental to each other, including the practice of usury, namely: "*O you who believe, do not eat each other's property with vanity ...*" (Qur'an An-Nisa' [4]:29).

The presence of Sharia Banks, Sharia BPRs, BMTs, Sharia Insurance, and other Sharia Financial Institutions is the implementation or manifestation of enthusiasm for the Islamic economic system which has an interest-free operational mechanism system through investment financing with a profit-sharing system, providing broad opportunities to do business, to grow new business fields and empower the community's economy.

2. Financial Institutions

Interest-free financial institutions in this case are Islamic Financial Institutions (LKS) are financial institutions that work (operate) according to the principles of modern financial institutions based on the sharia concept with the principle of profit-loss sharing as the main method and completely forbid speculative motives (interest/usury/and other speculative properties). The fundamental differences in the operations of Islamic financial institutions with conventional financial institutions (interest-based) are; First, in the mission and goals. Because Islam is the foundation of LKS, moral principles and goals (motivation) play the most important role in the operations of financial institutions. Second, the product. All sharia LKS products and services are interest-free products (no interest-bearing products or services). Third, in the organizational structure and management of the company, LKS has a Sharia Board which will ensure that LKS will run following sharia provisions.

In general, Islamic financial institutions include two institutions, namely bank financial institutions and non-bank financial institutions. In carrying out their financial activities, the two types of institutions must be able to balance between the position of money income and the position of spending money in addition to having to carry out the main principles in transactions, namely: the prohibition of usury (interest) in various forms of transactions, conducting business and trading activities based on income, legitimate profits according to sharia, and give zakat. So that the financial institution must have a financial management strategy, properly and following *fiqh muamalah*.

3. Bank Financial Institutions

Islamic banking is a bank based on the principles of partnership, fairness, transparency, and universality and conducts banking business activities based on sharia principles. The activities of Islamic banks are the implementation of Islamic economic principles with the following characteristics: prohibition of usury in its various forms, does not recognize the concept of the time value of money (time value of money), the concept of money as a medium of exchange not as a commodity, is not allowed to carry out activities speculative in nature, it is not allowed to use two prices for one item, it is not allowed to use two transactions in one contract.

Legally, Law Number 21 of 2008 concerning Islamic banking which is an improvement to Law Number 10 of 1998, and Law Number 7 of 1992, and its supporting regulations have further confirmed the existence of Islamic banking in Indonesia, and at the same time provide opportunities which are getting bigger for the development of Islamic banks. Commercial banks under this new law are allowed to run a dual banking system, namely to operate conventionally and sharia at the same time, as long as the operations are carried out separately by establishing branches and sharia business units at their head office.

Management of Islamic banks is not much different from the management of banks in general (Conventional Banks). However, with the existence of a sharia basis and by Government Regulations concerning Sharia Banks, among others, Law no. 10 of 1998 as a revision of Law no. 7 of 1992, of course, both the Organization and the Operational System of Islamic Banks are different from banks in general, especially the existence of the Sharia Supervisory Board in the organizational structure and the prohibition of usury (interest) for Islamic banking. For Islam, usury is prohibited, while buying and selling (*al bai'*) is permissible.

Unlike conventional banks, the relationship between Islamic banks and their customers is not a relationship between debtors and creditors, but a partnership relationship between funders (*Shahibul maal*) and fund managers (*mudharib*). Therefore, the profit of Islamic banks does not only affect the level of profit-sharing for shareholders or owners but also affects the profit-sharing that can be given to customers who deposit funds. So that the ability of management to carry out its function as a professional investment manager will greatly determine the quality of its business as an intermediary institution and its ability to generate profits. Banks as financial intermediaries or financial intermediary institutions must carry out a mechanism for collecting and distributing funds in a balanced manner, by applicable regulations. To achieve this, there must be clarity in the banking operational system (Antonio, 2001).

Based on this description, the fund management system as described above can be described as follows: First, the Bank is a financial intermediary institution from parties with surplus funds

to parties with minus funds. The surplus funds are the parties who entrust or save their money to the bank. The parties to the surplus of funds include three parties, namely: first-party funds, second-party funds, and third-party funds. First-party funds are funds that come from investors, shareholders. The contract agreement between the first party and the bank is a sharia contract. Second-party funds are funds originating from loans from other financial institutions (banks or other non-banks), loans from Bank Indonesia. Third-party funds are funds originating from savings, savings, or time deposits.

Second, after the funds can be collected, the funds are distributed to those in need in the form of credit or financing. In general, the financing provided or issued by Islamic banks includes three major financing frameworks (*aqad*), namely: financing with *aqad tijarah* (sales and purchases); financing with *sharia aqad* (cooperation/share); and financing with *hasan aqad* (policy). Financing with *aqad tijarah* (sales and purchases) can be classified as investment financing, the types of financing products issued include *al-Bai'u Bitsaman Ajil* (selling and buying by installments) and *al-murabahah* (selling and buying by way of maturity).), and *ijarah* products (lease); *aqad syarikah* financing (cooperation/partnership), classified as working capital financing, types of sharia financing products, including *al-Musyarakah* financing, *al-Mudharabah* (financing with 100% funds from the bank); and financing with *aqad hasan* is policy-oriented financing, namely the bank will provide financing to parties belonging to the eight *asnaf*.

4. Non-Bank Financial Institutions

Non-bank financial institutions are financial institutions other than banking. In carrying out its financial activities, the institution must carry out the main principles in sharia transactions, namely: the prohibition of usury (interest) in various forms of transactions, conducting business, and trading activities based on obtaining legal profits according to sharia, and giving zakat. Non-bank Islamic financial institutions, including contractual financial institutions, namely insurance and pension funds, investment financial institutions, namely the money market and capital market, and other financial institutions such as venture capital, pawning, leasing.

4.1 Sharia Insurance

Judging from the legal aspect, the existence of insurance institutions in Indonesia is regulated by the Ministry of Finance, especially the Directorate of Insurance (Article 1 of Law No. 2 of 1992 concerning the insurance business). Considering that Sharia insurance in Indonesia is operated based on Islamic sharia, a Sharia Council is formed in this institution. The Sharia Council is a board that issues decisions on products issued by insurance institutions whether by Islamic sharia or not, especially from the aspect of *al-ghoror*, *al-maisir*, *al-riba*.

The protection program according to sharia is known to be based on the concepts *wa ta'awanu alal birri wa taqwa* (please help in goodness and piety) and *at-ta'min* (feeling of security) which makes all insurance participants a big family that guarantees each other and bears each other's risks. other.

In sharia insurance what happens is mutual responsibility, helping and protecting the participants themselves. The insurance company is given the trust (*amanah*) by the participants to manage the premiums of the participants, develop it lawfully, provide compensation to those

who experience disaster according to the contents of the agreement deed. In this regard, insurance can offer two types of coverage, namely:

1. Family Sharia Insurance (Life Insurance)
2. General Islamic Insurance (General Insurance)

Family sharia insurance is a form of sharia insurance that protects against death and accidents for sharia insurance participants. In the event of a death, those who will receive compensation by the agreement are the family/heirs, or the person appointed, if there are no heirs. In the event of an accident that does not result in death, compensation will be received by the participant who experienced the accident. Types of family sharia insurance include:

- a. Sharia insurance with savings elements, including:
- b. Sharia Insurance Planning/Investment Fund, Sharia Insurance Hajj Fund, Sharia Insurance Education/Student Fund.
- c. Sharia insurance without a savings element includes:
- d. Futures sharia insurance, Majlis Ta'lim sharia insurance, Khairat Family sharia insurance, Financing sharia insurance. Sharia Personal Accident Insurance, Travel and Travel Sharia Insurance, Student Accident Sharia Insurance, Hajj, and Umrah Travel Sharia Insurance.

General sharia insurance is a form that protects the face of disaster or accident on the property of sharia insurance participants, such as houses, motor vehicles, factory buildings, and so on. Types of General Sharia Insurance Include: Fire Sharia Insurance, Motor Vehicle Sharia Insurance, Development Risk Sharia Insurance, Goods Transportation Sharia Insurance, Machinery Risk Sharia Insurance, etc.

In accordance to establish sharia insurance, the operational framework of takaful insurance is based on the following principles:

1. The Principle of Mutual Responsibility. There are many hadiths of the Prophet. which teaches that the relationship of the faithful in love for one another, is like a body in which if one of its limbs is disturbed or in pain, the whole body will feel it, cannot sleep, and feel hot. Islam teaches that humans purify the soul and reduce as much as possible the feeling of selfishness. God's sustenance in the form of property should be grateful for, not only enjoyed by themselves but also used to fulfill the interests of the community, ease the burden of suffering and improve their standard of living.
2. The principle of cooperation or mutual assistance. Allah commands that in social life the value of mutual help in virtue and piety is upheld.
3. The Principle of Protecting One Another's Suffering. Islam teaches that safety and security are natural demands in human life, just as seeking fortune is a natural demand in human life.

The three principles of insurance cannot be translated into real-life if they are not based on solid faith and *taqwa* to Allah. A sincere intention to help others who are suffering because of a disaster, or to relieve or share risks with people who are experiencing a disaster, is the initial foundation in insurance. Premiums paid to Islamic insurance companies must be based on *tabarru'* (sadaqah), to get the pleasure of Allah.

4.2 Sharia Money Market

The rapid development of Islamic banking today has increased the mobility of public funds in the Islamic banking industry. This encourages the improvement of liquidity management by Islamic banking so that it is necessary to operate an interbank money market based on sharia principles that are more liquid and efficient. To improve liquidity and efficiency of interbank money market operations based on sharia principles (PUAS), it is necessary to develop PUAS instruments with contracts other than *mudharabah*. Thus, the PUAS instruments used in sharia banking liquidity management have become more diverse. Interbank Money Market Based on Sharia Principles, hereinafter referred to as PUAS, is a short-term interbank financial transaction activity based on sharia principles both in rupiah and foreign currency. PUAS instruments are financial instruments based on sharia principles issued by Islamic banks or UUS which are used as a means of transactions in PUAS. The PUAS instrument currently issued before the enactment of this Bank Indonesia Regulation is the Interbank *Mudharabah* Investment Certificate (IMA)

Contracts that can be used in the interbank money market based on sharia principles are: *Mudharabah (Muqaradhadh)/ Qiradh, Musyarakah, Qardh. Wadi'ah, Al-Sharf*. Transfer of ownership of money market instruments using sharia contracts that are used and may only be transferred once (Fatwa of the National Sharia Council of the Indonesian Council of Ulama No: 37/DSN-MUI/X/2002, concerning the Interbank Money Market Based on Sharia Principles)

Interest-based interbank investment certificates are not justified according to sharia, while investment certificates based on a *Mudharabah* contract, called Interbank *Mudharabah* investment certificates (IMA), are justified according to sharia. The IMA certificate is transferable only once after the first purchase. The perpetrators of IMA Certificate transactions are Islamic banks as owners or recipients of funds, conventional banks only as owners of funds (Fatwa of the National Sharia Council of the Indonesian Council of Ulama No: 38/DSN-MUI/X/2002, concerning Interbank *Mudharabah* Investment Certificates/Certificates of IMA).

4.3 Islamic Bonds (*Sukuk*)

Referring to the Fatwa of the National Sharia Council No: 32/DSN-MUI/IX/2002, "Sharia bonds are long-term securities based on sharia principles issued by Issuers to Sharia Bondholders which require the Issuer to pay income to Sharia Bondholders in the form of profit sharing. /margin/fees, as well as repaying bond funds at maturity". Bonds were originally known as fixed income instruments because they provided coupons with fixed interest throughout their tenor. Then bonds with floating coupons were also developed so that the interest received by bondholders was no longer fixed. In the case of Islamic bonds, the coupons given are no longer based on interest, but profit sharing or margin/fee (Achsien, 2000)

From the capital market perspective, the issuance of sharia bonds emerged in connection with the development of sharia financial institutions, such as sharia insurance, sharia pension funds, and sharia mutual funds that require alternative investment placements. Interestingly, Islamic bond investors do not only come from Islamic institutions, but also conventional investors. Sharia products can be enjoyed and used by anyone, according to the sharia philosophy which is supposed to provide benefits (*maslahat*) to the entire universe. Conventional investors will still be able to participate in Islamic bonds, if they are considered to be able to provide competitive advantages, according to their risk profile, and are also liquid. For issuers, issuing

Islamic bonds also means taking advantage of certain opportunities. Issuers can obtain wider funding sources, both conventional and Islamic investors.

4.4 Islamic Mutual Funds

The definition of Mutual Fund (mutual fund/ investment fund) in accordance with Article 1, Law no. 8 of 1995 can be interpreted as a forum used to collect funds from the investor community and subsequently invested in securities portfolios by investment managers. What is meant by a securities portfolio is a collection of securities such as shares, bonds, debt acknowledgments, commercial securities, proof of debt owned by the investor. Mutual Funds are a way out for small investors who want to participate in the capital market with a relatively small minimum capital and the ability to bear the little risk (Achsien, 2000).

Mutual funds are investment units issued by fund managers. This investment unit is a combination of shares or other investment instruments owned by the fund manager, which are purchased from the proceeds of funds collected from hundreds, or thousands of investors. In this way, the value and return of this combined investment will increase. In a simple definition, sharia mutual funds are mutual funds in the above forms with several additional conditions, especially the absence of usury in their portfolio. The securities purchased and held by the sharia fund manager must also meet certain requirements regulated by sharia, where the implementation will be supervised by the sharia supervisory body.

The interesting thing about Islamic mutual funds is the involvement of many world financial institutions in their marketing and use. According to some circles, in Europe alone, there are now more than 50 managers of Islamic mutual funds. One of them is the Al-Sukoor European Equity Fund which is managed by Commerzbank AG, Germany (Tamanni, 2003).

Actually, there are two general mechanisms that can be used to make mutual funds the spearhead of people's welfare. First, mutual funds are investment instruments that can channel the savings of small people and provide relatively high profits. In addition, mutual funds are also a means of long-term investment, where people are accustomed to thinking far ahead, for the sake of sustainable welfare. Second, the other side of the collected funds is the investment side. From the investment aspect of the distribution of the absorbed funds, the fund manager will play the role of an investor who is not only looking for a lot of profit but still has to be careful in managing the funds from the thousands of customers. Many things can be achieved with mutual funds, for example as preparation for old age, hajj trips, school fees, and so on. However, mutual funds also have the flexibility of withdrawing or selling their units at any time, just like other types of savings.

The most widely issued Mutual Funds today are open-ended Mutual Funds in the form of Collective Investment Contracts. Mutual funds owned by investment managers and custodian banks rely on contracts according to the capital market law, known as Collective Investment Contracts (KIK). In the KIK contract, the investment manager and custodian bank bind themselves to the interests of the investor community in order to open a forum where the investor community can place their funds in Mutual Funds and obtain participation units. The funds will be placed in the portfolio by the investment manager in accordance with the mandate stated in the contract. Funds (and securities portfolios) which are joint assets belonging to Mutual Fund investors, or commonly referred to as participation unitholders, will be deposited by the custodian bank. In the operation of mutual funds, the custodian bank will receive

instructions from the investment manager to complete the investment activities decided by the investment manager.

4.5 Islamic Pawnshop

Islamic pawnshop (*Ar-Rahn*) is holding one of the assets of the borrower as collateral for the loan he received. The seized goods have economic value. Thus, the holding party obtains a guarantee of money to be able to take back all or part of the receivables. In simple terms, it can be explained that *Rahn* is a kind of guarantee for debt or pawn.

In the development of the world of pawnshops today, the forms of transactions in general pawnshops are: appraisal services are provided to those who want to know the quality of jewelry such as gold, silver, and diamonds. And deposit services are goods/securities (motorcycle certificates, land, diplomas, etc.) that are deposited at the pawnshop. According to the Hanafi school, *Rahn's* acceptance may use goods as collateral for debt with the permission of the owner, because the owner of the goods may allow anyone he wishes to use his property, including to take the benefits of the goods. According to them, this is not usury, because the use of the goods is allowed through a permit.

The duration of the agreement is determined by the subject and object of the pledge agreement. The subjects of the pawn agreement are *rahin* (who pawns the goods) and *murtahin* (who holds the pawned goods). The objects are *marhun* (pawned goods) and debts received by *rahin*. The mechanism of this pawn agreement or *rahn* can be formulated by knowing several things related to it, namely: *rahin* and *murtahin* terms, *marhun* and debt terms, *marhun* position, risk of damage to *marhun's* transfer of *marhun's* property, treatment of interest, and usury in the pawn agreement, collection of *marhun* proceeds, repayment of debts from *marhun*, *murtahin* rights to inheritance.

Based on the above aspects, the contract agreement can be carried out in two ways: (1) The *AL-Qardul Hasan* contract is carried out for customers who want to pawn their goods for consumptive purposes. Thus, *rahin* will provide wages to the *murtahin*, because the *murtahin* has taken care of the *marhun*; (2) *Al-Mudharabah* contract, stipulated for customers who want to pledge their collateral to increase business capital (investment financing or working capital). Thus, *rahin* will provide profit sharing based on the business profits obtained to the *murtahin* in accordance with the agreement until the borrowed capital is paid off.

5. Fair Economy

The basis of every application of sharia is the principles of justice, equality, and solidarity. So for a Muslim, any business that is contrary to these principles is not based on sharia. This principle also provides a corridor for business to be run with honesty. Solidarity is a characteristic of the Islamic economic system by placing zakat (in addition to *infaq*, *sadaqah* and cash waqf) as the main instrument for retribution of assets and equity and providing opportunities (Aziz in Muttaqien, 2001). Which is a form of social protection as the actualization of social capital in the Islamic economic system (Muttaqien, 2001).

The Economist in his survey quoted by Ihsan Ali Fauzi (in Ash-Shadr, 2008) shows that the economic institutions contained in the Islamic economic system are very beneficial for the

realization of human civilization as a whole. The Islamic economic system can be an option in the midst of the current world economic system with its market mechanism that can no longer be controlled by anyone and any system. The Islamic economic system is present as an alternative to the alignment of the economic system in a market order that is just and beneficial for human welfare. Sayid Hussein Nasr (in Ash-Shadr, 2008) sees that equitable economic instruments can be found in the Islamic economic system through the management of *zakat*, *infaq*, *sadaqah*, and *waqf* which aims to improve the welfare of all levels of society. The Islamic economic system is a middle ground for humanity – an economic system that departs from an awareness of the importance of ethics.

6. Conclusion

In the context of implementing justice in business conduct, the Qur'an has provided definite instructions for believers that are useful as a means of protection as regulated in Surah Al Baqarah verses 282-283.

The protection tool in question is making a contract when the business is carried out, especially for buying and selling that is not carried out by cash. The writing of the contract must be accompanied by witnesses, at least 2 (two) men or 1 (one) man and 2 (two) women. Another protection, for business transactions that are not carried out in cash, is a guarantee of goods belonging to the debtor to the party giving the receivables until all the last payment transactions are completed.

Interest-free financial institutions in this case are Islamic Financial Institutions (LKS) are financial institutions that work (operate) according to the principles of modern financial institutions based on the sharia concept with the principle of profit-loss sharing as the main method and completely forbid speculative motives (interest/usury/and other speculative properties). This is in accordance with Islamic economic principles which do not recognize the concept of the time value of money (which is popularly known as time is money), but Islam recognizes the concept of the economic value of time, which means that what is valuable is time itself. Islam allows the income of the deferred price to be paid higher than the cash payment, not because of the time value of money, but simply because the sale of goods is held back. For this reason, namely the withholding of the rights of the seller who has fulfilled the obligation (delivery of goods), Islam allows the respite price to be higher than the cash price. The motive for the demand for money—in Islam—is to meet the needs of transactions (money demand for transactions).

The presence of Sharia Banks, Sharia BPRs, BMTs, Sharia Insurance, and other Sharia Financial Institutions is a manifestation of the enthusiasm for the Islamic economic system which has an interest-free operational mechanism system through investment financing with a profit-sharing system, providing broad opportunities to do business. , thus growing new business fields and empowering the economy of the people. In Islam, money is like flowing water. Water that does not flow will cause disease. For this reason, money must always continue to rotate naturally in the economy, the faster money rotates in the economy, the higher the income of the community, the better the economy (Muhaimin, 2010). For those who cannot activate their assets, Islam strongly recommends investing with the principle of *mudharabah* or *musharaka*. In this case, the Prophet said, Know, Whoever among you looks after the property of an orphan, while the orphan has money (dinar-dirham), then do business, don't let it idle, so that later the money will be eaten by *sadaqah/zakat*.

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