

PROBLEMS OF AL-SHARF IMPLEMENTATION IN SHARIA BANKING (STUDY LITERATURE)

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Abstract

This study aims to analyze the problems that occur in the implementation of the Sharf contract in Indonesian Islamic banking, this research method is a descriptive qualitative research design with Literature Review or literature review. The results of this study are currency exchange is allowed when if it can be proven that there are no elements of gharar, maisir, usury and juhala, Al-sarf which is allowed in Islamic Sharia is only Spot Transactions while Forward Transactions and Swap Transactions are unlawful, There are problems in the implementation of Al -Sharf such as there should be no delay in payment, it is difficult to identify the customer's purpose for exchanging currency, while it is known that the Al-sarf transaction should not be carried out for the purpose of speculation (chance) or because there is a need for a transaction or as a precaution (savings). And the lack of customer literacy in knowing how to calculate or determine the exchange rate, how to calculate the currency exchange rate itself, so that in Al-Sharf transactions it can cause gharar because it is not understood by both parties to the transaction.

Keywords: *Al-Sharf, Implementation, Challenges, Islamic Bank.*

1. INTRODUCTION

Islamic banking as a foreign exchange bank must serve the needs of customer transactions related to foreign exchange, but in the FATWA OF THE NASIONAL SHARIA BOARD Number: 28/DSN-MUI/III/2002 Regarding CURRENCY SELLING (AL-SHARF), there are types of currency transactions DSN-MUI has issued a fatwa against foreigners, such as Forward Transactions and Swap Transactions, while it is known that today's customer needs for foreign currencies cannot be avoided.

Al-Sharf itself According to the term fiqh is a sale and purchase between similar goods or between dissimilar goods in cash. Such as buying and selling gold for gold or gold for silver, either in the form of jewelry with jewelry or currency with currency. While the exchange rate is the price of a country's currency expressed in the currency of another country and the exchange rate of a country's currency is a measure of macroeconomic stability.

M. Rizky Kurnia Sah & La Ilman in their research entitled "Al-Sharf in an Islamic View" in 2018, one of the conclusions of their research stated that the element of gharâr or ambiguity, the element of maysîr or gambling, and the element of ribâ, and the element of juhala or quality ambiguity and the quantity of goods traded is very vulnerable to occur in the current Al-Sharf transaction.

This is in line with the research conducted by Suhartono, Nurwahida, Fitriana Matong, Ismayuni who analyzed Foreign Currency Transactions (Al-Sharf) in an Islamic Perspective at Bank Syariah Mandiri Makassar Branch which stated that there was ambiguity in the Al-Sharf transactions conducted at the Bank. Syariah Mandiri Makassar Branch, where from interviews with customers, it was found that the exchange rate had been determined by the bank, while the customer did not fully know about the determination of the exchange rate and how to calculate the

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exchange rate this contained gharar because the transaction was not understood by both parties. party.

So what exactly is the challenge or obstacle in implementing Al-Sharf or currency exchange applied in Islamic banking today? the author feels the need to identify this to find out the problems that occur related to the implementation of Al-Sharf so that financial institutions and the public avoid gharar, maysir, usury or juhala transactions that occur in Al-Sharf transactions.

2. IMPLEMENTATION METHOD

The method used in this study is a literature review or literature review. This study uses a qualitative research approach. To obtain maximum income, the author tries to find articles related to Al-Sharf manually on Google Shooler and also uses applications such as "dimension" and "publish or perish". The period of the article is limited to the period of the last 5 (five) years with a search technique using Boolean Logic, namely by entering several keywords that according to the author are relevant.

3. RESULTS AND DISCUSSION

From the results of a literature review related to Al-Sarf, it was found that there are several things that are a challenge in the application of AL-Sarf in Islamic banking, although foreign exchange buying and selling transactions, namely facilities managed by institutions for currency exchange, are allowed when it is not proven that there are gambling element. However, in its implementation there are also challenges or limitations that must be considered.

The first challenge is because the exchange of currencies in Islam has principles that must be obeyed as stated in the FATWA OF THE NASIONAL SHARIA BOARD Number: 28/DSN-MUI/III/2002, the first of which is not for speculation (chance). secondly there is a need for a transaction or just in case (savings), the third If the transaction is made against a similar currency then the value must be the same and in cash (at-taqabudh). Fourth, if they are of different types, they must be carried out at the exchange rate (exchange rate) prevailing at the time the transaction is made and in cash.

This principle is motivated by the Hadith of the Prophet narrated by Muslim from Abu Sa'id al-Khudri, the Prophet said: "Do not sell gold for gold unless it is the same (value) and do not add some of it to another; do not sell silver for silver unless it is equal (in value) and do not add one part to another; and do not sell the gold and silver that is not cash for cash."

From the above principles, it gave birth to several obstacles in the implementation of Al-Syarf, including the difficulty of identifying whether the customer's desire to conduct Al-Syarf transactions is carried out on the basis of speculation (chance) or not? whether the transaction is made for savings or not, in this case it is difficult to identify the purpose of the customer doing the actual Al-Syarf transaction, this is because it cannot be proven mathematically. The only thing that the bank can do is briefly ask the purpose of making a currency exchange transaction, but the bank cannot prove the truth of the customer's statement. while it is known that the al-sharf contract may not be carried out with the aim of speculation or seeking profit.

The second challenge in the implementation of Al-Sarf is because Al-Sarf which is allowed in Islamic Sharia is only Spot Transactions, namely buying and selling foreign exchange (foreign exchange) transactions for delivery or transactions must be done at that time (over the counter) or the settlement is at the latest. slow in a period of two days, so that it is sometimes difficult in practice implementation. So that the time that occurs exceeds the specified time; Although in this

case there are different interpretations or interpretations of the scholars regarding the time in question, the majority of scholars such as Hambali, Syafi'i, Hanafi scholars agree that the word *iftirak* (separation before handover) is when both parties have left the place of transaction. If both parties have not left or moved from the place where the transaction was made, it is not said *iftirak* even for a long time, but Maliki scholars are of the opinion that *iftirak* is not a valid measure of whether or not a transaction is valid, because what determines is the time for the delivery of the *Ijab* and *Qabul* for goods must have been completed. available. While it is known that this is the main issue in the problem of *Al-sarf* transactions because sometimes it takes time for transactions. The prohibition of *Al-Sarf* transactions using Forward transactions and Swap transactions apart from being mentioned in the DSN-MUI Fatwa, it is also contained in the Elucidation of Sharia Standards The Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI).

Another obstacle is that payments must be made in cash and are considered legally invalid if in conducting a money exchange transaction there is a delay in payment, whether the delay comes from one of the parties or the delay has been agreed upon by both parties. This condition of no delay in payment also applies to currency exchange transactions of the same type or different currencies. In the sale and purchase of *al-sharf*, there are two special conditions that must be met, namely it is not allowed to delay payments, which indicates the transaction must be carried out immediately and secondly, there must be no excess in this case means having a balance. This is of course a contradiction with the definition of *Al-Sharf* in terms of *fiqh* which is a sale and purchase between similar goods or between dissimilar goods in cash. Meanwhile, according to Yusuf Qardhawi, profits in a trade may be taken, in a way that is in accordance with the *Shari'a*, even though the profits are taken. exceeds the standard of profit, or more than 100% it is considered *halal*. but the profits that are obtained from trading in a bad way and from selling goods that cause harm are unlawful profits, no matter how small the amount. , then this is what causes the statement that *Al-sahrf* cannot be said to be buying and selling currencies but exchanging currencies so that there is no speculation or profit in this transaction, in contrast to the research conducted by Abdurohman in 2020, which states that the type of spot transaction can be carried out through *Sharf*, *Salam*, and *Isthisna* contracts, the author assumes that currency exchange transactions carried out by greeting (orders) actually cause more uncertainty due to delays. the payment even though in the *salam* contract the payment is made according to the initial contract. especially if it is done with an *isthisna* contract where payments can be made either at the beginning, through installments or even payments are made at the end at maturity, this will certainly present its own problems.

Another problem regarding the implementation of *Al-syarf* is that in its implementation for *zimmah* goods (items that can be counted or measured), the quality and quantity levels must be known by the contracting party. As for goods that cannot be presented in the assembly, the transaction is required for the seller to explain everything that explains or can explain about the goods until the shape and size of the goods and their nature and quality are clear. This is sometimes difficult to practice in Islamic banks. because sometimes the stock of the money being exchanged is not yet at the bank's location, so it can't be explained physically the money, good or bad at the time of the contract.

4. CONCLUSION

From the research conducted, the following results were found: 1) Currency exchange is allowed when it is not proven that there are elements of *gharar*, *maisir*, *usury* and *juhala*. 2) *Al-sarf*

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which is allowed in Islamic Sharia is only Spot Transactions, while Forward Transactions and Swap Transactions are unlawful. 3) There are problems in the implementation of Al-Sharf such as not being allowed to delay payments, the difficulty of identifying the customer's purpose of exchanging currency while it is known that in Al-Sharf transactions it is not permissible for speculation (chance), there is a need for transactions or just in case (savings). And the lack of customer literacy in knowing how to calculate or about determining the exchange rate and how to calculate the exchange rate itself.

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