

Bank Interest Legality Analysis Between the Perspectives of Darul Ifta' Almishriyyah and Fatwa Authorities in the Islamic World

Muchammad Fathoni Fanani^{1*}, Muh. Nashirudin²

Universitas Islam Negeri Raden Mas Said Surakarta, Indonesia

Email: muchammadfaton3@gmail.com¹, muh.nashirudin@gmail.com²

Correspondence: muchammadfaton3@gmail.com*

KEYWORDS	ABSTRACT
Fatwa; Interest and Usury	Muslims in every activity must be based on Islamic values in order to achieve happiness in the world and the hereafter, one of which is economic activity. The essence of the prohibition of usury in Islam is to eliminate injustice and remove injustice in every economic transaction. Meanwhile, usury or interest is a form of exploitation of the upper class to the lower class by extracting maximum profit. The purpose of this research is to analyze the legality of bank interest from two authoritative perspectives in the contemporary Islamic world, namely darul ifta' almishriyyah and Fatwa Institutions in the world. These two research objects have different views on the legal status of bank interest. This study uses a qualitative-descriptive method with a normative approach and document analysis of the fatwas of these institutions. The results of the study prove that the majority of the World Fatwa Institutions tend to prohibit the practice of interest in modern banking. According to them, bank interest is not in accordance with the principle of mudhorobah and is included in the category of riba nasiah which is prohibited by Islam. The concept of usury is very far from the principle of justice and prioritizes economic exploitation of weak groups. In contrast, Egyptian fatwa institutions tend to allow lending, especially in the context of modern banking that has been regulated by the state. They have the perspective that the practice of interest that is applied by modern banking today is not included in the category of usury which is absolutely forbidden in Nash.

Attribution-ShareAlike 4.0 International (CC BY-SA 4.0)



Introduction

Muslims in every activity must be based on Islamic values in order to achieve happiness in the world and the hereafter, one of which is economic activity. Among the forms of economic activity is the emergence of financial institutions such as banking at this time. With the banking system, new issues arise in fiqh mu'amalah when discussing the issue of usury or bank interest.

The essence of the prohibition of usury in Islam is to eliminate injustice and remove injustice in every economic transaction. Whereas usury or interest is a form of exploitation of the upper class to the lower class by extracting the maximum profit. Such behavior is contrary to Islamic values that uphold justice, reject injustice and care for the weak. The fatwa on the prohibition of interest was also issued by the Organization of Islamic Cooperation (OIC), based in Jeddah, Saudi Arabia. Then *Majma' Alfiqh Rabithoh Al'aalam Alislami*, *Majma' albuhest lil Azhar assyarif*. Even the *lajnah daimah lil buhest wal ifta* of the kingdom of Saudi Arabia is more assertive by issuing a fatwa on the prohibition of transactions in conventional banking.

However, according to Law No.10 of 1998 concerning the definition of a bank, a bank is a business entity that collects funds from the public in the form of deposits and distributes them to the public in the form of credit or other forms to improve the lives of many people. Through savings and loan transactions between banks and customers, banks make profits.

The concept of contemporary banking and interest was not yet known in the Islamic world in the period *Attasyri'*, so that when facing these problems there were differences in findings legal. The difference in fatwas issued by MUI and the Egyptian Fatwa Council no.5111 of 2020 regarding the halalness of bank interest and its utilization has raised a new polemic among Islamic thinkers and society *istinbath*.

Therefore, the author is interested in analyzing the interpretations of both parties by mentioning the comparative fatwas of the Fatwa Authority of Islamic countries in the world regarding the legality of bank interest.

Materials and Method

This type of research uses *library research*. A type of research that limits activities to library collection materials and document studies only without requiring *field research* (Rahardjo, 2017). The data source in this research is secondary data. Secondary data is data obtained in a finished form, which has been collected and processed by other parties (Suryabrata, 1998). The data is in the form of literature, fatwas, books and journals written by scholars and fuqoha who provide explanations about bank interest and usury. Then the author analyzes the data related to the topic, describes the differences in interpretation and draws conclusions from the research results.

Results and Discussion

Foundation and Interpretation of Darul Ifta and MUI on Bank Interest

Etymologically, Riba according to ibnul mandhur (Ibnul Mandhur, 1994), Faris Ibn Ibn faris alqozwini (1979) and alfayyumi (alfayyumi, 1977) is *Azziyadah wa Annamaa'*, which means addition and growth. terminologically, the additional interest charged by the creditor to the debtor in compensation for the deferral of payment time (Ashobuni, 1980).

Bank or *interest interest* in the study of Islamic economics, is a new problem that raises 3 different opinions regarding its legal. First, bank interest is included in usury so its legal status is haram; Second, legalizing bank interest because the concept of bank interest is not the same as the

concept of usury; Third, forbidding bank interest but it is permissible to use it because no solution has been found to avoid it based on the rule of *istinbath'Umumul Balwa*.

The difference in legal *istinbath* is based on two paradigms, textualist and contextualist. textual paradigm understands the The *'illat* of the prohibition of usury lies in the presence of addition, as the meaning of the word usury itself and based on the confirmation of *textthe*, that only the principal capital can be taken, so if the *illat* is found in bank interest, then the bank interest is usury, and the law is haram (Hasyim, 2008)

The contextual paradigm group understands the *nash* of the prohibition of usury in context, namely the element of *azzulmu* or exploitation that occurred at the time of the prohibition of usury. So that if this condition is found in the implementation of bank interest, then the bank interest is categorized as usury whose legal status is clear, namely haram. This group sees that what happens in bank interest there is no element of *azzulmu* or exploitation, so they determine that bank interest is not included in usury. The law is permissible (Hasyim, 2008 pp. 56-57).

From the information written above, it can be stated that there are two contradictory opinions between Darul Ifta' Almishriyyah and MUI. This difference is motivated by different perspectives on the concept of interest and usury, whether interest is in accordance with the concept of usury or not. MUI, as an independent religious institution in Indonesia representing the textualist group, issued fatwa no 1 year 2004 on bank interest, which reads that the current practice of money lending has met the criteria of usury that occurred at the time of the Prophet Muhammad, namely *nasi'ah* usury. Thus, the practice of money lending is one form of usury, and usury is haram. So, the practice of money laundering in the view of the Sharia is prohibited, whether carried out by banks, insurance, capital markets, pawnshops, cooperatives, and other financial institutions or carried out by individuals.

The foundation of the fatwa is based on the *dhohir nash* of the prohibition of usury, that any addition to the nominal value of the creditor's principal loan to the debtor is included in the category of loan utilization which is considered usury in the eyes of sharia. MUI believes that *the 'illat of* the (addition), every debt and credit contract or loan that has an element of addition to the principal loan, then it is included in the usury criteria. The addition of the principal amount (usury) of the debt and credit transaction in the perspective of MUI is the same as the in contemporary banking, through this perspective comes out prohibition of usury is *azziyadah* interest law in the form of a fatwa about the prohibition of interest or *istinbath faidah*.

Darul ifta' almishriyyah representing the contextualist group has an opposite opinion to MUI, that bank interest is not included in the category of usury. They reasoned that the *'illat of* usury in ancient times is not the same as today. This group understands that the context of the prohibition of usury is *Addzulmu*, namely the existence of injustice and exploitation in the implementation of mu'amalah contracts. If this situation occurs in the implementation of bank interest, then the law of bank interest is haram. However, if no elements of injustice and exploitation are found, they determine the permissibility of bank interest because it is not included in the category of usury (Firdaus, 2019).

They elaborated on the basis of, firstly, that there is no Shari'ah prohibition on bank interest and its utilization. Because the mu'amalah transaction between the two parties is mu'amalah with a financing contract, not using a debt and credit contract, the bank interest or addition is not considered haram but is considered as profit from the financing contract. The second; adhering to the principle of *hurriyyatu atta'aqqud*, namely freedom of contract. This principle is based on the Shari'ah adage that reads, *alashlu fil 'uqudi assihah* (Muhammad, n.d), namely the origin of every contract is permissible or correct (Fatwa of Darul Ifta' Almishriyyah, 2020).

Legal *Istinbath* Bank Interest in Islamic World Fatwa Institutions

The opinions of contemporary scholars regarding bank interest are included in the category of usury or not very much. The cross opinions among them can be summarized in a compilation of fatwas issued by the authority of the fatwa institutions of Islamic countries in the world on the legal status of bank interest, including:

1. Darul Ifta' Allibiyyah (Libyan State Fatwa Council)

Regarding the legal ruling on bank interest, the Fatwa Institute of Libya decided on the issue in Fatwa No. 2979. According to this institution, bank interest is usury, and its legal status is absolutely forbidden. It is not allowed to be taken or utilized by all parties to the transaction. They are of the view that bank interest is a derivative of the *qordh* (debt and credit) contract so that the addition of the nominal value of the principal loan or the additional nominal value of the deposit product is included in the category of usury based on the fiqh rules derived from the Prophet's words, every debt and credit contract that provides benefits to the creditor from the debtor, the benefit is included in the criteria of usury, and usury is prohibited (Fatwa of Darul Ifta' Allibiyyah, 2016).

2. Darul Ifta' Almamlakah Alurduniyyah Alhashimiyyah (Fatwa Council of the Kingdom of Jordan)

Regarding profits (bank interest) from investments, the Fatwa Institute of the Kingdom of Jordan decided on fatwas No. 729 and 741. According to this institution, profits (bank interest) from investment transactions carried out by conventional banks are not allowed. Their perspective is that the profit obtained is in accordance with the '*illat* *riba*, namely the addition (*azziyadaha*.) so that it is decided that any profit obtained is worth usury, and Shari prohibits usury'

However, if the investment transaction uses the system of *murobahah as adopted by state-owned Sharia banks, the profit (bank interest) is allowed. So, investors who want to invest should first look at each proposed contract and then conduct in-depth research on its suitability with the principles of the contract murobahah legalized by Sharia* (Fatwa of Darul Ifta' Alurduniyyah, 2010).

3. *Lajnah Daimah Lil Buhust Wal Ifta' Almamlakah Assu'udiyyah (Saudi Research and Fatwa Commission)*

Regarding the legal status of bank interest from savings and loan transactions, the Saudi Fatwa Commission ruled that savings and loan activities on the basis of need or seeking interest (bank interest) from conventional banks are prohibited. Even without this purpose (seeking profit/bank interest), it is still not allowed because the growth and development of usury banking

depends on the economic transactions carried out by banks and customers. Therefore, Islam forbids collaboration in evil. It becomes legal to transact in conventional banking if there is an emergency that requires its means.

In a contract *qordh* (debt and credit), it is not allowed to charge interest on the principal capital even if it is for the purpose of meeting daily needs, buying and selling, production and investment. This prohibition is based on the generality of *the text* on the prohibition of usury, but if there is no nominal addition to the principal capital (interest) then it is allowed (Adduwais, nd). The Saudi Research Commission assessed the prohibition of interest by looking at the *dhohir nash* about the prohibition of interest. Textually, it is clear from the Prophetic text that any benefit received by the creditor from the debtor is usury. Therefore, the research commission took the perspective that bank interest is another description of the benefit obtained by the creditor from the debtor in a receivable contract (*Qordh*).

4. Mufti 'Amm of the Kingdom of Brunei Darussalam

In view of the legal status of *Interest* and *Azziyadah* in credit transactions, the royal mufti ruled that additions to credit or installment transactions do not include usury, while additions in contracts *qordh* in conventional banking fulfill the elements of usury. He opined that the *illat of* interest is the same as usury, namely is *azziyadah*, and usury prohibited by religion (Mufti, 2024). In this case, the mufti took the view that interest is a derivative of the loan contract, and any loan that has an additional benefit is *riba*. Therefore, the mufti amm of Brunei considers that interest in banking is included in the category of usury which is forbidden but allows credit for goods that have additions due to the derivative of the sale and purchase contract with different types, such as; money and goods.

5. Organization of the Islamic Conference (OIC)

All participants of the 2nd OIC Council which took place in Karachi, Pakistan, December 1970, agreed on two main points, namely: First, the practice of banking with the interest system is not in accordance with Islamic sharia. Second, it is necessary to immediately establish alternative banks that operate in accordance with sharia principles. The result of this agreement is the background of the establishment of the Islamic Development Bank (IDB) (Kasdi, 2013). In this case, the OIC also has the perspective that interest is a derivative of the contract *Qordh* (debt-debt) while any benefit received from the contract is worth usury in the view of sharia.

6. Darul Ifta' Almishriyyah Pra 1989

The decision of the Egyptian State Mufti's Office on the law of bank interest has always been fixed and consistent. Recorded at least from 1900 to 1989 the State Mufti of the Arab Republic of Egypt decided that bank interest is one form of usury that is prohibited () (Kasdi, 2013: 333).

This institution believes that the *illat of* bank interest is like usury, namely *Azziyadah*, so in its fatwa it decided on the prohibition of interest. And one of the muftis of darul ifta' at that time was a charismatic scholar who inspired most of the Egyptian people, Shaykh Mutawali Assya'rowi.

The Egyptian fatwa institution consistently issued a fatwa on the prohibition of bank interest before 1989, taking the perspective that interest fulfills the element of *az ziyadah* (addition), while any addition in a loan contract is categorized as usury, which is strictly prohibited in the Qur'an and Alhadist.

7. Muassasatul Majlis Al'ilmi Al'ala Lil Mag'rib (Higher Fatwa Institute of the Kingdom of Morocco)

Regarding the status of bank interest, this institution decided that bank interest is haram, the issue meets the criteria of usury.

In their perspective, bank interest is the result of a contract *qordh* (debt and credit) that contains the element of usury. Therefore, Islam has forbidden the benefit obtained by the creditor from the debtor in the transaction of the debt and credit contract because it is considered usury by the sharia perspective (Ministry of Waqf and Islamic Affairs of the Kingdom of Morocco).

However, when examining this fatwa, there is a difference of opinion between the mufti and the members of the fatwa institution of the kingdom of Morocco regarding this issue. The Mufti's perspective is that interest in banking is permissible but the other 6 members differ from the mufti's view. Therefore, it was decided that bank interest in the view of the Moroccan Royal Fatwa Board is haram or not allowed.

8. Majma' Alfiqhi Alislami Addauli (International Union of Jurisprudence)

The union ruled that bank interest is prohibited. The concept of interest in the banking system is an extension of usury *nasi'ah*, which Sharia forbids. *Riba nasi'ah*, in the perspective of classical and contemporary fiqh scholars, is a derivative of a loan contract or transaction, where the profit or profit obtained by the creditor from the debtor is due to the deferral of payment time.

Therefore, they view interest as an addition to the contract *qordh* (loan) made at the beginning of the agreement that falls under the criteria of forbidden usury, namely *riba nasi'ah*. So the decision of this conference, which was attended by nearly 35 Islamic countries, advised member countries to conduct economic transactions under sharia rules. It also recommends that members to establish an independent banking system in accordance with Islamic values to meet the needs of Muslims (Decree of Majma' Alfiqhi Alislami, 1985).

From the description above, it can be described *istinbath* law fatwa institutions in the world against bank interest in the following table:

Table 1. Istinbath Law Fatwa Institutions

No.	Fatwa Institute	Bank Interest	
		Halal	Haram
1.	MUI	-	√
2.	Darul Ifta Almishriyyah (1900-1989)	-	√
3.	Darul Ifta Almishriyyah (1990-present)	√	-
4.	Majma' Alfiqhi	-	√
5.	Muassasatul Majlis Al'ilmi Almaghrib	-	√

6.	Organization of the Islamic Conference	-	√
7.	Mufti 'Amm Brunei Darussalam	-	√
8.	Saudi Lajnah Daimah	-	√
9.	Darul Ifta' Alurduniyyah	-	√
10.	Darul Ifta' Allibiyyah	-	√

Conclusion

The result of the research shows that the problem of bank interest has become a matter of cross opinion among contemporary scholars who oversee the fatwa institutions of the world, including; Fatwa Institution of Saudi kingdom, Morocco, Libya country, Jordan, Brunei and Institution or World Jurisprudence Organization with one opinion that interest in banking is forbidden by sharia. When facing contemporary mua'malah problems, MUI along with the majority of fatwa institutions in the Islamic world conduct collective ijtihad that produces the same legal product, namely the problem of bank interest is prohibited. They have the perspective that bank interest is *riba nasiah* that occurs in contracts *Qordh* (debt), so any additional benefit received or felt by the creditor from the debtor during the suspension of payment is punished as *riba*. Therefore, MUI followed the fatwa of the majority of fatwa institutions of the Islamic world and also issued the same fatwa about the prohibition of bank interest contained in fatwa no. 1 of 2004.

However, there are also those who view that interest is different from usury so that it is valid to deal with it, as was the ruling of Darul Ifta' Almishriyyah led by the great mufti Assayyid Muhammad Atthanthowi and then followed by muftis after him, such as: Shaykh 'Ali Jum'ah and Shaykh Ahmad Shauqi 'Alam. In the issue of usury, all fatwa institutions in the world agree on the prohibition of usury, but they differ in opinion about interest. This is due to differences in perspective on the validity of interest, whether it includes usury or not.

References

- Adduwais, A. (n.d.). *Fatawa Allajnah Addaimah*. Riyadh: Riasatu Idarotil Buhust Al'Ilmiyyah Wal Ifta'.
- Ali, M. (1980). *Rawa'iul Bayan Tafsiru Ayatil Ahkam Minal Quran*. Damaskus: Maktabah Alghozali.
- Alfayyumi, A. (1977). *Almisbah Almunir*. Kairo: Darul Ma'arif.
- Darul Ifta' Almishriyyah. (n.d.). *Fatwa Darul Ifta' Almishriyyah*.
- Darul Ifta' Allibiyyah. (n.d.). *Fatwa Darul Ifta' Allibiyyah*.
- Darul Ifta Alurduniyyah. (n.d.). *Fatwa Darul Ifta Alurduniyyah*.
- Faris, I. (1979). *Mu'jamu Maqoyisil lughoh*. Beirut: Darul Fikr.
- Firdaus, R. (2019). Perbedaan pandangan fuqoha ihwal bunga bank dan *riba*. *Jurnal Ekonomika Syariah*.
- Kasdi, A. (2013). Analisis bunga bank dalam pandangan fiqh. *Jurnal Iqtishodia*.
- Mandhur, I. (1994). *Lisanul Arab*. Beirut: Dar Shodir.

- Muhammad, S. (n.d.). *Hasyiyatut Dasuqi 'ala Assyarhil Kabir*. Beirut: Darul Fikr.
- Muhammad, S. (2008). Bunga bank: Antara paradigma tekstual dan kontekstual. *Jurnal Hunafa*.
- Rahardjo, M. (2017). *Studi kasus dalam penelitian kualitatif*. Malang: UIN Malang.
- Suryabrata, S. (1998). *Metodologi penelitian*. Jakarta: PT. Raja Grafindo Persada.
- Putusan Mufti 'amm Brunei Darussalam. (n.d.). *Putusan Mufti 'amm Brunei Darussalam*.
- Syarif, M. (2008). Bunga bank: Antara paradigma tekstual dan kontekstual. *Jurnal Hunafa*.
- Fatwa Lajnah Addaaimah Assu'udiyyah. (n.d.). *Fatwa Lajnah Addaaimah Assu'udiyyah*.
- Fatwa Muassasatul Majlis Al'ilmi Al'ala Lil Mag'rib. (n.d.). *Fatwa Muassasatul Majlis Al'ilmi Al'ala Lil Mag'rib*.
- .