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BANK INTEREST IN THE CONTEMPORARY ERA: PROBLEM OF *AD'AFAN MUDA'AFAH* INTERPRETATION IN DETERMINING LAW OF USURY

Abstract: : Usury in Islam is a prohibited system in the Qur'an and hadith. The system is not recognized in the modern banking system, leading to different opinions among Muslims in determining the legality of bank interest. Therefore, this research aimed to explore the contemporary law of bank interest, focusing on the different opinions among the mufasir on the definition of *Ad'afan Muda'afah* as a basis for determining the legality of usury. A normative method was adopted, and a literature review of several scholars was conducted on usury law and the interpretation of *Ad'afan Muda'afah*. The data was analyzed considering the modern banking system within the framework of Islamic law, particularly *Maqashid Shari'ah*. The results showed that the difference in the *illat* used for bank interest law varied in legal conclusions. Despite efforts to forbid bank interest, Muslims did not attain a definite solution to avoid this issue. Consequently, bank interest was temporarily sanctioned under certain conditions such as not being compounded, having low interest, and not comprising any form of persecution. To address this problem, Muslims should support the existence of Islamic bank producing muamalah products according to Islamic Sharia.

Keywords: *Ad'afan Muda'afah, Bank Interest, Contemporary Era, Persecution, Riba.*

INTRODUCTION

Economic activities are progressing and developing rapidly in the development of the nation. However, this advancement also evolved with new problem related to Islamic law such as bank interest.

This particular problem adheres to the standard of riba prohibited in Islam¹ but also serves a significant social function in the development of society. The problem of usury in Islam is essentially a challenge necessitating current studies and discussions. These studies are increasingly influenced by the existence of modern social structures, distinctive from the past.²

The discourse on usury has been widely discussed by scholars, categorizing riba as a forbidden act by religious doctrine.³ Allah permits buying and selling but forbids usury as stated in the Qu'ran. Jumhur ulama also agrees that riba consists of two types, namely *Ribâ Nasî'ah* and *Ribâ Fadl*.⁴ *Ribâ nasî'ah* in practice is often associated with bank interest and is considered haram to perform by the Islamic jurists and economists.⁵ *Ribâ Fadl* on the other hand, includes exchanging the same object (community) but of different quality and quantity.

There exists a discrepancy between scholarly opinion and societal behavior. Despite various scholars including MUI Fatwas affirming that bank interest is *riba* and thereby prohibited in Islam, numerous Muslims continue to use conventional banking services for business transactions.⁶ This is very ironic where certain policies are disregarded, showing no significant relationship between law and society.⁷ The discrepancy is attributed to several

¹ M. Umer Chapra, "The Nature Of Riba In Islam," *Millah* 8, no. 1 (16 Agustus 2008): 107-21, <https://doi.org/10.20885/millah.vol8.iss1.art7>.

² Zainal Abidin dkk., "Al-Wasathiyah fî al-Iqtishâd al-Islâmî: Ârâ'u 'ulamâ Jam'iyati 'Nahdlatul Ulama' Bi Jawa al-Syarqiyah haula 'al-Taraddud' bi Sya'ini Fatâwa al-Fawâid al-Mashrifîyah," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 18, no. 1 (30 Juni 2023): 246-83, <https://doi.org/10.19105/al-lhkam.v18i1.6989>.

³ Saad Abdul Sattar al-Harran, *Islamic Finance: Partnership Finance* (Kuala Lumpur: Pelanduk Pubs, 1993).

⁴ Abd al-Rahmân al-Jazîrî, *Kitâb al-Fiqh 'alâ al-Mazâhib al-Arba'ah*, vol. 2 (Beirut: Dâr al-Kutub al-'Ilmiyyah, 1990).

⁵ Imam Anas Mushlihîh, "The Thought of Ahmad Hassan About Riba," *Realita* 1, no. 1 (t.t.): 2004.

⁶ Timur Kuran, *The Long Divergence: How Islamic Law Held Back the Middle East* (New York: Princeton University Press, 2011), <https://press.princeton.edu/books/hardcover/9780691147567/the-long-divergence>.

⁷ Agus Saron, "Eksplorasi Hukum Riba dari Berbagai Macam Pandangan serta Penerapan Ilmu Hukum dalam Aplikasinya," *Diponegoro Private Law Review* 7, no. 1 (2020): 17-27.

factors such as the persistence of old habits (using conventional institutions) and the differences in understanding law governing bank interest.⁸

A debate evolved about the essence of usury, particularly concerning the reason the practice is forbidden due to the increase or multiplication. This relates to usury known as *Ad'afan Muda'afah* (multiplied),⁹ where delaying the payment of capital becomes multiplied as practiced in the days of ignorance.¹⁰ Several questions arise regarding the word “*Ad'afan Muda'afah*” as a criterion for the prohibition of usury or to explain the objective conditions while condemning the practice.¹¹

Usury is forbidden in the Qur'an and hadith¹² but the extent of the prohibition is not explicitly detailed. Therefore, many mufasirs interpret the definition differently. Certain scholars assert that forbidden usury includes a multiplying element (*Ad'afan Muda'afah*), while others do not limit it to multiplication. Ahmad Hassan in interpretation of *Al-Furqan* explains that usury refers to jahiliyah's interest, characterized by continuous multiplication through coercion.¹³ Bank interest in Indonesia is not categorized as the interest forbidden in the Qur'an because there is no element of persecution.

Examining law of bank interest and relation to usury is essential in the contemporary era. Additionally, exploring the prerequisites for the prohibition of bank interest is crucial. Several scholars have conducted research on usury including Burhanudin

⁸ Muhammad Akram Khan, *What is Wrong with Islamic Economics?: Analysing the Present State and Future Agenda* (Edward Elgar Publishing, 2013), <https://doi.org/10.4337/9781782544159>.

⁹ Abdul Malik Abdul Karim Amrullah, *Tafsir Al-Azhar. Cet. 1.* (Jakarta: Penerbit Gema Insani, 2015).

¹⁰ Ahmad Mustafa Al-Maragi, *Tafsir al-Maragi*, vol. 4 (Mesir: Mustafa Al-Babi Al-Halabi, 1974).

¹¹ Ainur Rafiq, *Mazhab Jogja: Menggagas Paradigma Ushul Fiqh Kontemporer* (Yogyakarta: Ar-Ruzz Media, 2002).

¹² Chapra, “The Nature Of Riba In Islam.”

¹³ Ahmad Hassan, *Tafsir al-Furqan* (Surabaya: al-Ikhwan, 1986).

Harahap & Tastaftiyan Risfandy,¹⁴ Zaman, M. R,¹⁵ Abdulmajeed Hassan,¹⁶ and Abd Hadi & Muhammad Arfan Mu'ammam.¹⁷ These scholars present diverse perspectives on riba and banking practices. Burhanudin Harahap & Tastaftiyan Risfandy state several opinions regarding usury and bank interest,¹⁸ while Zaman emphasizes the distinction asserting that Islam prohibits usury and not interest.¹⁹ Furthermore, Hassan states that the prohibition of usury in Islam is to establish an economic system where all forms of exploitation will be eliminated.²⁰

Distinct from previous research, this article aims to provide insights into the initial prohibition of usury by interpreting the definition of *Ad'afan Muda'afah*. It further focuses on the contextualization between law of usury and bank interest in the contemporary era. Furthermore, the research will provide solutions to the arising problem, particularly those concerning usury and bank interest.

RESEARCH METHODOLOGY

The research adopted a normative or library method, conducting a literature review on various articles. Data were collected from the various scientific literature with primary sources consisting of the works interpreting *Ad'afan Muda'afah* in the Quran and Hadith. Definitions used were obtained from contemporary sources, specifically from Ahmad

¹⁴ Burhanudin Harahap dan Tastaftiyan Risfandy, "Islamic Organization and the Perception of Riba (Usury) and Conventional Banks Among Muslims: Evidence From Indonesia," *SAGE Open* 12, no. 2 (April 2022): 215824402210979, <https://doi.org/10.1177/21582440221097931>.

¹⁵ M. Raquibuz Zaman, "Usury (Riba) and the Place of Bank Interest in Islamic Banking and Finance," *International Journal of Banking and Finance* 6 (2009), <https://doi.org/10.32890/ijbf2009.6.1.8379>.

¹⁶ Abdulmajeed Bolade Hassan-bello, "RIBA AND ISLAMIC BANKING, EXAMINING THE PRACTICES OF JAIZ BANK PLC, NIGERIA," *AHKAM : Jurnal Ilmu Syariah* 18, no. 1 (12 Januari 2018), <https://doi.org/10.15408/ajis.v18i1.9818>.

¹⁷ Abd Hadi dan Muhammad Arfan Mu'ammam, "THE VARIANT OF THOUGHT OF THE MUHAMMADIYAH PRICE ELITES IN CONDUCTING USURY AND INTEREST OF BANK," *Humanities & Social Sciences Reviews* 7, no. 4 (7 Oktober 2019): 997-1003, <https://doi.org/10.18510/hssr.2019.74136>.

¹⁸ Harahap dan Risfandy, "Islamic Organization and the Perception of Riba (Usury) and Conventional Banks Among Muslims."

¹⁹ Zaman, "Usury (Riba) and the Place of Bank Interest in Islamic Banking and Finance."

²⁰ Hassan-bello, "RIBA AND ISLAMIC BANKING, EXAMINING THE PRACTICES OF JAIZ BANK PLC, NIGERIA."

Hasan and Quraish Shihab. Secondary data included various previous research and was supplemented with results published by various institutions through journals and other scientific publications. The collected data was subsequently categorized and analyzed using contemporary Islamic legal methods, leading to the formation of the conclusions.

RESULTS AND DISCUSSION

Ribâ and Bank Interest: An Overview in Islam

A fundamental principle of Islamic finance was the prohibition of Riba or interest.²¹ The Qur'an consisted of a minimum of seven verses and numerous hadiths which emphasized the prohibition of usury (riba) in Islam and avoided by Muslims.²² *Ribâ* was defined as the release of funds, loan sharks, interest on money, and *rent*.²³ According to terminology, the word *ribâ* was formulated differently based on the emphasis of each interpreter. Abu Bakr Jabir al-Jazairi briefly described *ribâ* as the addition of money to a specific object in particular.²⁴ Al-Jurjani in *Kitab Al-Ta'rifat* stated that *ribâ* linguistically implied 'Ziyadah or addition'.²⁵ Al-Razi also defined '*ribâ*' in language as 'additional'.²⁶ However, in terms of legal definition, *ribâ* referred to the addition of property (money) made by a lender due to late payments by borrowers deviating from a predetermined agreement.²⁷

Hamka explained in *Tafsir Al Azhar* that *Ribâ* was a significant form of extortion from the creditor to the debtor, known as *Ad'afan Muda'afah*. The term *Adh'afan* signified

²¹ Yaaseen Maswood dan Y. Lokeswara Choudary, "Islamic Banking-A Cross Cultural Patronage Study among the Students in Chennai," *Asian Social Science* 11, no. 4 (14 Januari 2015): p310, <https://doi.org/10.5539/ass.v11n4p310>.

²² Harahap dan Risfandy, "Islamic Organization and the Perception of Riba (Usury) and Conventional Banks Among Muslims."

²³ Departemen Pendidikan dan Kebudayaan, *Kamus Besar Bahasa Indonesia* (Jakarta: PT. Balai Pustaka, 1991).

²⁴ Abu Bakar Jabir Al-Jazairi, *Minhaj al-Muslim* (Kairo: Maktabah Dar al-Turas, 2004).

²⁵ Ali bin Muhammad al-Jurjani, *Kitab al-Ta'rifat* (Beirut: Dar al-Kutub al-'Ilmiyyah, t.t.).

²⁶ Iman Fahrudin al-Razi, *al-Tafsir al-Kabir aw Mafatih al-Ghaib* (Beirut: Dar al-Kutub al-'Ilmiyyah, t.t.).

²⁷ Yunahar Ilyas, *Tafsir Tematik Cakrawala al-Qur'an* (Yogyakarta: Suara Muhammadiyah, 2003).

multiplied while *Mudh'afan* referred to repeated multiplication.²⁸ Fazalur Rahman also asserted that the Arabic word "*ribâ*" partly corresponded to the English term "usury", denoting excessive interest in the modern language. However, *ribâ* in Arabic implied an additional amount to the extent of the principal capital lent, comprising both *ribâ* and interest.²⁹ Regarding the Qur'anic verses on *ribâ*, the first verse was found in Surah al-Rum, verse 39:

وَمَا آتَيْتُمْ مِنْ رَبًّا لِيَرْبُوَ فِي أَمْوَالِ النَّاسِ فَلَا يَرْبُو عِنْدَ اللَّهِ وَمَا آتَيْتُمْ مِنْ زَكَاةٍ تُرِيدُونَ وَجْهَ اللَّهِ فَأُولَئِكَ هُمُ الْمُضْعِفُونَ

"Whatever loans given, 'only' seeking interest at the expense of other's wealth would not be acceptable by Allah. However, whatever charity given, seeking the pleasure of Allah would multiply the reward." (QS. al-Rum: 39).³⁰

The first mention of the word descended in the Makkah period, where other verses addressing *ribâ* appeared during the Madinah era. Regarding the *ribâ* discussed in Surah al-Rum, certain mufassir argued that *ribâ* did not to the forbidden interest. *Ribâ* in this verse referred to giving something to another person without sincerity, such as sharing a gift with the hope of receiving a greater reward in return. Other verses on *ribâ* included al-Nisa': 160-161, Ali Imran: 130, and al-Baqarah: 273-280.

There was a common thread asserting that *riba* was a gain comprising additional elements, either in vain or contrary to Islamic principles. From a societal perspective, usury practices were not advantageous to the society. The practice of *ribâ* led to significant social disaster burdening the underprivileged and undermining the crucial values of human brotherhood, mutual aid, and solidarity promoted by Islam.

²⁸ Amrullah, *Tafsir Al-Azhar*. Cet. 1.

²⁹ Fazalur Rahman, *Doktrin Ekonomi Islam*, vol. 3 (Yogyakarta: PT Dana Bhakti Prima Yasa, 1995).

³⁰ Kementrian Agama RI, *Al-Qur'an dan Terjemahnya* (Jakarta Timur: Latnah Pentashihan Mushaf Al-Qur'an, 2019).

Muhammad Muslehuiddin divided *ribâ* into two types in the book *The Islamic Banking System*, namely *nasiah* and *fadl*. The word *nasiah* signified postponement of payment to the debtor, implying that the borrower had forgiven the delay in repaying the debt and made additional compensation for the capital. The other term *fadl* implied surplus imposed in the exchange or sale of goods of the same type or shape (e.g., wheat, rice, oxen, goats, etc.).³¹

Similar to the general definition of *ribâ*, there were differences of opinion among scholars regarding the precise definition. For instance, Ibn Rushd identified two types of usury, namely buying and selling (*nasiah* and *tafadul*) as well as the dependents (*jahiliyyah*). Shaykh Zainuddin Ibn Abd Aziz al-Malibary further divided *ribâ* into *fadl*, *nasiah*, and *yad*.³² However, most fiqh scholars categorized *ribâ* into *nasi'ah* and *fadl*. Concerning interest, it represented income and served as a profit for capital owners.³³ Interest included the amount paid or added for the use of capital, often expressed in terms of a percentage relative to the capital rate.³⁴

When this issue was initiated into a modern context, Muslims expressed varying perspectives specifically concerning the application in economics and banking. Certain Muslims with the contemporary arguments argued that bank interest differed from *ribâ*. This was because *ribâ* was limited to instances of excessive lending and taking advantage of others in need.³⁵

Muslims could hardly avoid addressing conventional institutions, which used interest systems in all aspects of life, including religious matters. Scholars in Islam remained divided on the legality of conventional institutions and bank interest. Figures such as Abu

³¹ Muslehuiddin, *Bankin and Islamic Law*, Terj. Aswin Simamora, "Sistem Perbankan Islam (Jakarta: Rineka Cipta, 1990).

³² Syekh Zainuddin Ibn Abd Aziz al-Malibary, *Fath al-Mu'in* (Semarang: Toha Putera, t.t.).

³³ Kaslan A. Tohir, *Economics at a Glance* (Bandung: Van Hoeve Publishing, 1955).

³⁴ Abdurrahman Kasdi, "Analisis Bunga Bank Dalam Pandangan Fiqih," *IQTISHADIA: Jurnal Ekonomi & Perbankan Syariah* 6, no. 2 (2013), <http://dx.doi.org/10.21043/iqtishadia.v6i2.1111>.

³⁵ Harahap dan Risfandy, "Islamic Organization and the Perception of Riba (Usury) and Conventional Banks Among Muslims."

Zahrah, Al-Maududi, and Al-Arabi asserted that bank interest was included in *ribā nasiah* and Muslims should refrain from engaging with financial institutions adopting interest systems. Exceptions were made in emergencies or forced situations, with hopes for an interest-free Islamic bank.³⁶ According to Mustafa Ahmad Az-Zarqa, Professor of Islamic and Civil Law at the University of Syria, banking system currently accepted was an inevitable reality. Muslims were further motivated to transact with conventional institutions for *muamalah* purposes during emergencies and temporarily. This motivation originated from the necessity for Muslims to explore alternative avenues by establishing interest-free bank.

Interest was defined as any additional amount demanded beyond the principal sum borrowed in a loan agreement.³⁷ Through the prohibition of usury, Islam aimed to establish an economic system devoid of all forms of exploitation.³⁸ Specifically, the view on the incompatibility between usury and bank interest originated from Nahdlatul Ulama followers. This was evidenced by the absence of a fatwa on usury and interest issued by Nahdlatul Ulama.³⁹

Regarding the NU's Lajnah Bahsul Masa'il forum held in 1927, no agreement was reached on bank interest and usury. Three main views evolved during the forum, namely (1) Bank interest was equated to usury and deemed haram due to the technical similarities, (2) Bank interest was permissible because there were no special conditions at the time of contract, and (3) Bank interest was considered shubhat due to conflicting opinions.⁴⁰

³⁶ Rachmat Syafe'i, *Fiqih Muamalah* (Bandung: Pustaka Setia, 2004).

³⁷ Raymond De Roover, "Scholastic Economics: Survival and Lasting Influence from the Sixteenth Century to Adam Smith," *The Quarterly Journal of Economics* 69, no. 2 (Mei 1955): 161, <https://doi.org/10.2307/1882146>.

³⁸ Hassan-Bello, "Riba And Islamic Banking, Examining The Practices Of Jaiz Bank Plc, Nigeria."

³⁹ Harahap dan Risfandy, "Islamic Organization and the Perception of Riba (Usury) and Conventional Banks Among Muslims."

⁴⁰ Shofwan Al Banna Choiruzzad dan Bhakti Eko Nugroho, "Indonesia's Islamic Economy Project and the Islamic Scholars," *Procedia Environmental Sciences* 17 (2013): 957-66, <https://doi.org/10.1016/j.proenv.2013.02.114>.

Mufasir's Opinions on the Definition of *Ad'āfan Mudā'afah* in Law of Usury and Bank Interest

Modernists such as Fazlur Rahman (1964), Muhammad Asad (1984), Sa'id al-Najjar (1989), and Abd. Al-Mun'im al-Namir (1989) emphasized the moral aspect of the prohibition of usury, embedding it in the "legal form" as described in Islamic jurisprudence. These scholars believed that law prohibiting usury was unjust, showing support from the Quran statement "*laa tadllimun wa laa tudllamun*" (Do no injustice, do no injustice). Additionally, the modernist perspective was validated in the writings of classical scholars such as Ibn Qayyim and Ibn Taymiyyah. Elaborating on the reason for banning usury, Mufasir al-Razi asserted that lenders were rich and borrowers were poor. Therefore, allowing usury contracts implied that the rich could impose higher costs on the economically weaker.⁴¹

The word *adh'af* was the plural form of the word *dha'if* in terms of language, interpreted as "something equal to something else (double)". Consequently, *Ad'afan Muda'afah* denoted multiplication many times over. Al-Thabraniy provided a narrative in the Tafseer that led to the concept of *Ad'afan Muda'afah* or *ribā* prevalent during the revelation of the Qur'an.⁴² Al-Thabari concluded that *Ad'afan Muda'afah* was an increase in credit due to late payment, also called *ribā nasi'ah*. According to Al-Tabari, a loan shark was called a *murbin* because the creditor increases wealth at the expense of the debtor either directly or through delayed payments.⁴³ Doubling occurred solely through the addition of interest during the Jahiliyyah period, known as *ribā*.⁴⁴ The multiplication in this period was not voluntary but because there was an element of persecution.

⁴¹ Hadi dan Arfan Mu'ammam, "The Variant Of Thought Of The Muhammadiyah Price Elites In Conducting Usury And Interest Of Bank."

⁴² M. Quraish Shihab, *Membumikan Al-Qur'an* (Bandung: PT Mizan Pustaka, 2004).

⁴³ A. Gad Makhlof, "The Doctrinal Development of Contemporary Islamic Law: Fiqh Academies as an Institutional Framework," *Oxford Journal of Law and Religion* 10, no. 3 (2021): 464-86, <https://doi.org/10.1093/ojlr/rwac005>.

⁴⁴ Muhammad Rasyid Ridha, *Tafsir al-Qur'an al-Hakim*, vol. 4 (Mesir: Dar al-Manarah, 1957).

Ahmad Hasan argued that verse 130 of Sura Ali Imrân was the key to understanding the prohibition of *ribâ* in the Qur'an. Among all the verses and hadiths prohibiting usury, Hasan stated that only Sura Ali Imran explained *ribâ* multiplying. Therefore, understanding that the forbidden *ribâ* comprised of multiplication was crucial. This argument was based on the theory of understanding *lafadz muthlaq-muqayyad* as the origin of *fiqh*.⁴⁵ Emphasizing the pattern of Qur'anic prohibition against *ribâ* was underscored that only multiplied interest was forbidden in Sura Ali Imrân verse 130. This perspective was also found in the opinion of two Egyptian Islamic jurists, Ibrahim Zaki al-Badawi and Muhammad al-Sanhuri.

Based on the understanding of the verse, a little *ribâ* was not considered forbidden because only multiplied interest was considered prohibited. Subsequently, Hasan distinguished between permissible *ribâ* (in small amounts) and impermissible *ribâ* (when multiplied). Due to the absence of a religious proposition explaining the limits of *ribâ*, Ahmad believed it was necessary to exercise *ijtihad*. Hassan further identified several prohibited characteristics of *ribâ*, obtaining parallels with certain forms prevalent during the period of ignorance.⁴⁶

Muslim scholars discussed Surah Ali 'Imran against the phrase *Ad'afan Muda'afah*. Few interpreted this phrase as only describing behaviors performed during the *jahiliyah* period, rather than a condition of prohibited *ribâ*. Others argued that multiplication was indeed a condition of prohibited *ribâ*. As cited by Hashim, Syafi'i Antonio stated that for bank interest, the criterion of multiplication was not a condition for usury but rather a characteristic. Therefore, interest of large or small financial institutions was still considered usury due to the inherent doubling nature.⁴⁷

⁴⁵ Ahmad Hassan, *Some Discussion of the Problem of Riba* (Bangil: Unity, 1975).

⁴⁶ Hassan.

⁴⁷ Muhammad Syarif Hasyim, "Bunga Bank: Antara Paradigma Tekstual dan Kontekstual," *HUNAFa: Jurnal Studia Islamika* 5, no. 1 (15 April 2008): 45, <https://doi.org/10.24239/jsi.v5i1.151.45-58>.

M. Quraish Shihab introduced another keyword, “*falakum ru'usu amwalikum*” (for capitals), implying that what lenders deserved back was the capital. Therefore, any increase or excess of capital collected under similar conditions as when the verse on *ribâ* was shown in the Qur'an remained unjustified. The keyword asserted that any form of addition or excess was forbidden by the Qur'an. This showed that *Adh'afan Mudha'fah* was not a necessity but a prevailing reality at that time.⁴⁸

Bank Interest in the Contemporary Islamic Law: Actualization of the Definition of Ad'afan Muda'afah and the Purpose of Prohibition of Usury

The research on usury was often connected with the impact on the nation's economy. The abolition of usury system served as an effective measure to promote an economic system free from exploitation.⁴⁹ The distinction between interest and usury in Islam originated from the predetermined profit rate that financial institutions agreed to pay as agents of depositors entrusting capital for profitable use.⁵⁰ This differentiation showed that *Ribâ* and interest were not the same terms and Islam prohibited usury.⁵¹

The definition of usury could be comprehended from two perspectives, namely textual and rational viewpoints. First, from a textual viewpoint, bank interest and usury were perceived as the same. This implied that the current mechanism of traditional banking should be changed, specifically concerning transaction contracts. This was because any additional funds lent or borrowed by customers were classified as usury, strictly prohibited in the Quran. Second, from a rational perspective, the prohibition of usury emphasized injustice. For instance, usury was considered permissible when bank interest lacked elements detrimental to customers and could even benefit the national economy. This

⁴⁸ M. Quraish Shihab, *Al-Qur'an dan Maknanya* (Pisangan: Lentera Hati, 2010).

⁴⁹ Mohammad Omar Farooq, “Exploitation, Profit and the Riba -interest Reductionism,” *International Journal of Islamic and Middle Eastern Finance and Management* 5, no. 4 (23 November 2012): 292–320, <https://doi.org/10.1108/17538391211282818>.

⁵⁰ Mohammad Nejatullah Siddiqi, “Islamic Banking And Finance In Theory and Practice: A Survey Of State Of The Art,” *Islamic Economic Studies* 13, no. 2 (Februari 2006).

⁵¹ Zaman, “Usury (Riba) and the Place of Bank Interest in Islamic Banking and Finance.”

rational perspective on usury referred to past practices when financial institutions were nonexistent.⁵²

Bank interest was permissible in certain cases because *ribâ* referred to small money loans intended for profit sharing. Therefore, bank loans used for investment did not explicitly comprise interest as considered in productive loans. Another opinion explained that not all types of interest were exploitative and met the criteria of *ribâ*.⁵³ Consequently, the opinion suggested that prohibited usury comprised excessive interest,⁵⁴ distinguishing between *ribâ* and bank interest.⁵⁵ This opinion known as the Non-Equivalence Mazhab or modernist⁵⁶ opposed the argument equating usury and interest as advocated by the traditional/conservative school.⁵⁷

The various arguments among scholars regarding *ribâ* and interest underscored the significance of financial transactions within a society, specifically in Islam. This was because no economy could survive completely free of interest.⁵⁸ Furthermore, Patinkin argued that interest was part of an income obtained from property acquired through dividends, rents, and profits.⁵⁹ In Islam, there was no prohibition against dividends, rents, or profits in transactions. Therefore, interest in Islam was based on fairness (*adl*) and the equalization of economic values in contrast to conventional economics.⁶⁰

⁵² Harahap dan Risfandy, "Islamic Organization and the Perception of Riba (Usury) and Conventional Banks Among Muslims."

⁵³ Khan, *What is Wrong with Islamic Economics?*

⁵⁴ Samah Al Agha, "Money Laundering from Islamic Perspective," *Journal of Money Laundering Control* 10, no. 4 (23 Oktober 2007): 406–11, <https://doi.org/10.1108/13685200710830899>.

⁵⁵ Imad-ad-Dean Ahmad, "Riba and interest: Definitions and implications," dalam *22nd Conference of American Muslim Social Scientists*, 1993.

⁵⁶ Saima Akbar Ahmed, "Global Need for a New Economic Concept," *International Journal of Islamic Financial Services* 1, no. 4 (2000).

⁵⁷ Abu Umar F. Ahmad dan M. Kabir Hassan, "Riba and Islamic Banking," *Journal of Islamic Economics, Banking and Finance* 3, no. 1 (2007).

⁵⁸ Kuran, *The Long Divergence: How Islamic Law Held Back the Middle East*.

⁵⁹ D Patinkin, *Studies in Monetary Economics* (New York: Harper and Row, 1972).

⁶⁰ University of Cape Coast, Cape Coast, Ghana, West Africa dkk., "Interest free Banking and Finance in Brunei Darussalam: Present Realities and Future Prospects," *Journal of Islamic Thought and Civilization* 08, no. 02 (Desember 2018): 35–62, <https://doi.org/10.32350/jitc.82.03>.

Interest was not the prohibited usury in Islam due to an essential part in a system remarkably different from the Arabian system.⁶¹ Therefore, modern bank interest did not violate the norms of justice, negating any moral case against interest. Unlike the past Arab scenario where the poor paid interest to affluent lenders, *ribâ* in commercial loans was distinct from the consumption loans.⁶² Moderates did not consider bank interest as halal or haram but rather categorized it as part of usury. This opinion reflected tolerance towards Indonesia's financial reality, which was still dominated by conventional institutions.⁶³

Numerous systems were considered similar to the past practice of usury in modern economic progress, particularly bank interest. Regarding the law of bank interest, there were still certain groups expressly forbidding interest and others allowed it even with notes. This discrepancy occurred due to varying definitions of usury verses. Generally, the polemic was motivated by two fundamental aspects. First, the basic principles of muamalat in Islam originated from nass, which was general and not detailed, allowing for *ijtihad*. Second, the difference among scholars in determining what the *illat* prohibition of usury was between *ziyâdah* (additional), *Ad'afan Muda'afah* (multiply), and *zulm* (persecution).⁶⁴

Before determining law of bank interest, considering various perspectives technologically and contextually concerning bank interest was necessary. Technologically, understanding bank interest was based on prohibitions derived from texts (NAS), without delving into the moral aspect. This opinion was based on the belief that any debt requiring additional/benefit of capital was considered usury. When using *qiyas*, the case was established with *qiyas* (*fara'*) and *qiyas* (origin) should both be based on *illat jâlî* (clear *illat*). Both cases (bank interest and usury) were united by the same *ilat*, having additional interest without reward. Therefore, bank interest was considered legal as usury from this perspective.

⁶¹ Fazlur Rahman, *Riba and Interest* (Islamabad: Islamic Studies, 1964).

⁶² A. K Aqdas, "Islamic banking is a mere myth," *dawn* (blog), 27 September 2009, www.dawn.com/news/881273.

⁶³ Abidin dkk., "Al-Wasathiyah fi al-Iqtishâd al-Islâmi."

⁶⁴ Hasyim, "BUNGA BANK."

The prohibition of *ribâ* in the Qur'an was attributed to the *zulm* factor from a contextual or *illat* perspective, including collection of additional debts from those who should be assisted. The context of bank centered on commerce (*tijârah*) to explore mutual benefits among capital holders (investors), those in need of funds (debtors/entrepreneurs), and financial institutions serving as mediators and service providers.

Interest had absolutely nothing to do with helping the rich and poor but rather represented a collaborative effort in developing capital by positioning bank as a mediator between savers, entrepreneurs, and financial institutions. Therefore, the aspect of persecution (injustice) had a lower probability of occurring because each party had willingly engaged with the other and understood the respective rights and obligations. With such an analysis, adherents of this paradigm required the abandonment of *qiyâs* and preferred to adopt the *istihsân* method as a basis for arriving at a legal conclusion considered more appropriate to pursue.⁶⁵

Concerning the punishment of *ribâ* regarding the definition of *Ad'afan Muda'afah* (doubled), evidence showed that bank interest did not include usury. Bank interest typically ranged from 1.5 to 2.5% of capital or receivables. A. Hassan further explained that bank interest in Indonesia did not include the forbidden *ribâ* by the Qur'an because the element of persecution (multiplied) was absent. Quraish Shihab considered that *Ad'afan Muda'afah* was not a condition for the prohibition of *ribâ* but merely an explanation commonly practiced. These two differences of opinion originated from the interpretation of Sura Ali Imran verse 130, which described *ribâ* as having a nature of "double". This was in contrast to Surah al-Baqarah verse 278, which defined usury as any amount exceeding the principal leading to a paradox between the two verses.⁶⁶

⁶⁵ Ghufton A Mas'adi, *Fiqh Muamalah Kontekstual* (Jakarta: PT. Raja Grafindo Persada, 2002).

⁶⁶ Rizal Bin Jami'an, "Ijtihad Jama'i Nahdatul Ulama (NU) dan Ijtihad Qiyasi Muhammadiyah Tentang Bunga Bank dalam Praktik Perbankan," *Jurnal Hukum Respublica* 16, no. 1 (13 Juni 2018): 20-35, <https://doi.org/10.31849/respublica.v16i1.1424>.

Recognizing the differing opinions, the research emphasized the importance of prudence regarding bank interest. The research considered this issue as *mustasyabihat*, thereby referring to the opinions of Abu Zahrah, Al-Maududi, and Al-Arabi. These scholars suggested that bank interest could be permissible under emergency circumstances, expressing hope for the establishment of an Islamic bank devoid of interest.⁶⁷ Regarding emergency *hajjâyat*, the research stipulated several conditions for the permissibility of bank interest as outlined in the following table.

Table 1: The Permissibility of Bank Interest in Certain Conditions

<i>Hajiyat-Daruriat</i>	Make loans to financial institutions on a cooperative basis and for productive activities that were not consumptive.
<i>Did not double</i>	The stance on bank interest not being double was rooted in the belief that either interest doubled or not, it remained prohibited. Therefore, when bank interest doubled, it was considered forbidden.
<i>interest rates were not excessively high</i>	Bank interest only ranged from 1.5-2.5% (even 0%) of the capital/loan. Each bank was also currently supervised by the government and law in practice.
No persecution	When bank interest had the nature of persecution and oppression rather than just excess or increase in the amount of debt, then it was considered haram.

Source: Author's Interpretation

First, *Hajiyat-Daruriat* showed that the economic transactions in Indonesia had long been conducted through conventional institutions, as there was no complete avoidance of this system due to the absence of alternative solutions. The existence of the opportunity to

⁶⁷ Syafe'i, *Fiqh Muamalah*.

do business for those who lack capital could certainly make loans to bank based on cooperation and for productive activities that were not consumptive. In this case, borrowing money from financial institutions was more advisable than for individual loan sharks who applied a system similar to the era of *Jahiliyyah*.

Bank represented an honorable institution and interest served as bank mechanism for managing public money circulation. Members of the community who have capital could even be encouraged to leave the money not used for a certain period. Subsequently, bank would lend the funds to other members of the community who needed business capital for a certain period as well. The debtors would borrow generally for business capital purposes and not to meet consumptive needs.

Second, Table 1 clarified that interest *did not double* as explained in the Aurah Ali Iman verse 130 regarding the prohibition of *ribâ*. This was similar to the truth in the days of *Jahiliyah* when someone collected a loan and the repayment was paid twice. And when the repayment was late, the loan would continue many times. Even when interest doubled, it was not considered prohibited under this perspective.

Third, interest rates were not excessively high, someone had to return the principal along with interest was considered a natural thing in banking world. Furthermore, the excess of the basic money was used for employee financing, building rent, and other needs related to the life and death of banking and economic growth. Bank interest only ranged from 1.5 to 2.5% of the capital/loan with any financial institutions. This was considered a natural aspect within banking sector to cover operational costs and facilitate economic growth. As long as interest rates were reasonable and did not result in persecution or exploitation, it was not classified as haram usury. *Fourth*, there was no persecution evident in bank interest transactions. When bank interest exhibited characteristics of persecution and oppression rather than just an increase in debt, it was considered *haram*.

Muhammad Abduh clarified that bank interest did not equate to extortion, contrasting it with the Qur'an's prohibition of consuming unlawfully gained food. Abduh

further explained that *ribâ* during the *jahiliyah* era was the source of extortion as condemned by the Qur'an.

With the fulfillment of the observation, even in emergencies, there would be no impact of persecution. The issue of usury would be interesting to research, alongside the development of an increasingly religious and complex economic system requiring legal adaptation to the contemporary context. A proposed solution to avoid the entanglement of *ribâ* in bank interest was the establishment of Islamic bank, which could exemplify the principles of the Islamic economy.

Although there were Sharia-based financial institutions, numerous individuals have not fully transitioned from conventional to Sharia banking due to transactional complexities and other factors. Therefore, Indonesian Muslims should prioritize the development of Islamic bank. These institutions evolved as an alternative bank service that avoids usury,⁶⁸ using religious principles to guide the operations including legal, ethical, and business aspects.⁶⁹

Islamic interest-free banking depended on the support and collaboration of the Muslim community, strong institutional structures, and equitable governmental support.⁷⁰ For instance, the Sharia banking system was successfully implemented in Brunei Darussalam facilitated by political backing and cooperation efforts among stakeholders. This success underscored the importance of efficient implementation and strong socio-cultural and economic foundations in ushering in a new economic paradigm.⁷¹

⁶⁸ Muhammad Maksum, "The Mechanism of Avoiding Riba in Islamic Financial Institutions: Experiences of Indonesia and Malaysia," *JURIS (Jurnal Ilmiah Syariah)* 22, no. 2 (15 Desember 2023): 235, <https://doi.org/10.31958/juris.v22i2.6952>.

⁶⁹ Nur Hidayah dan Abdul Azis, "Implementation of Progressive Law in Sharia Banking Dispute Settlement: Case Study of Religious Court Decisions in Indonesia," *Ulumuna* 27, no. 1 (26 Juni 2023): 227-57, <https://doi.org/10.20414/ujis.v27i1.652>.

⁷⁰ Mohammad Mansoor Khan dan M. Ishaq Bhatti, "Why Interest-free Banking and Finance Movement Failed in Pakistan," *Humanomics* 22, no. 3 (1 Juli 2006): 145-61, <https://doi.org/10.1108/08288660610703320>.

⁷¹ University of Cape Coast, Cape Coast, Ghana, West Africa dkk., "Interest free Banking and Finance in Brunei Darussalam."

Despite the growth of financial institutions in Indonesia, the contribution both at the global and national levels remained relatively small. Globally, Indonesia's Islamic banking assets accounted for only 2%, significantly lower than Bahrain and Malaysia which reached 15% and 13% respectively (IFSB, 2020). At the national level, the total assets of Islamic bank in Indonesia were less than 7% compared to the total national banking assets. The promotion of Islamic banking has experienced several challenges, exemplified by the situation in Afghanistan. Therefore, the implementation of Islamic banking faced complexity due to various issues related to the legal system, the mindset of policymakers, and public perception.⁷² These factors have impeded the expansion of Islamic banking in Afghanistan and emphasized the obstacles faced in advocating for the adoption.

CONCLUSION

In conclusion, issues related to *ribâ* have been and would continue to be of interest for research. Discussions about *ribâ* remained pertinent, particularly concerning modern economic developments. *Ribâ* comprised an increase with each borrowing, but there were differing opinions regarding the threshold for prohibition, specifically *Ad'âfan Mudlâ'afah*. Certain scholars argued *ribâ* was prohibited only when doubled, while others contended any increase rendered it usury. This difference originated from varied definitions of usury law, which were multiplied, exploratory, and increased. When bank interest adhered to the doubling criterion, it did not constitute usury despite certain dissenting opinions. From these differences, the research referred to the opinions of Abu Zahrah, Al-Maududi, and Al-Arabi who advocated for the permissibility of bank interest in emergencies and obligatory hajj situations. Furthermore, there was hope for the evolution of Islamic bank devoid of interest-based systems.

⁷² Mustafa Disli, Ahmad Hatam, dan Shakir Jalaly, "Faithful Finance: Unlocking Banking Islamization in Afghanistan," *Economies* 11, no. 7 (12 Juli 2023): 189, <https://doi.org/10.3390/economies11070189>.

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