

**EARLY ISLAMIC BANKING PRACTICES AND CURRENT DEVELOPMENT; A SURVEY  
OF LEGAL HISTORY AND SERVICE INNOVATION**

**PRAKTEK PERBANKAN ISLAM AWAL DAN PENGEMBANGAN SAAT INI; SURVEI  
SEJARAH HUKUM DAN INOVASI LAYANAN**

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**ABSTRACT**

This study aims to determine the practice of Islamic banking in the early days of Islam and its development to date from the legal aspects and service innovations used by banks. This research method uses qualitative research with data collection techniques using literature studies relating to Islamic banking practices from the beginning of Islam to the present. The results of this study indicate that not all Islamic banking products and services are unanimously accepted in all Islamic financial institutions, such as bay al-'inah and bay al-dayn which are conducted in Malaysia but not in the Middle East. This is because it refers to differences in views about the halality of the two products.

Keywords: Islamic Banking, Legal History, Service Innovation

**ABSTRAK**

Penelitian ini bertujuan untuk mengetahui praktek perbankan syariah pada masa awal Islam dan perkembangannya hingga sampai saat ini dari aspek hukum dan inovasi layanan yang digunakan perbankan. Metode penelitian ini menggunakan jenis penelitian kualitatif dengan teknik pengumpulan data menggunakan studi literatur yang berkaitan dengan praktek perbankan Islam dari awal Islam hingga sampai saat ini. Hasil penelitian ini menunjukkan bahwa tidak semua produk dan layanan perbankan Islam diterima dengan suara bulat di semua lembaga keuangan syariah, seperti bay al-'inah dan bay al-dayn yang dilakukan di Malaysia tetapi tidak dilakukan di kawasan Timur Tengah. Hal ini dikarenakan mengacu pada perbedaan pandangan tentang kehalalan dari kedua produk ini.

*Kata Kunci : Perbankan Islam, Sejarah Hukum, Inovasi Layanan*

## INTRODUCTION

Business, financial and banking transactions, usually included in the category of *muamalah* teachings. Like other dimensions of Islamic teachings, *muamalah* teachings have a very broad scope. Unlike the pure aspects of worship (*mahdlah* worship), the dimensions of *muamalah* are very varied, develop and run very dynamically. So, innovation, creativity, and discoveries to make it easier for humans to play around certainly cannot be avoided: there will always be to support the search for solutions and convenience (Mannan, 1984; Ahmad, 1980; Thanthawi, 1997).

Even though the *muamalah* pattern develops with endless innovation and creativity, along with human demands to be able to interact, transact, and cooperate quickly and well, it does not mean that Muslims in the slope tend to forget and abandon the teachings of Islam. On the contrary, the dynamics of innovation and creativity of interactions and financial transactions that have occurred throughout human history, continue to be responded to and weighed by Muslims with the lens of Islamic values and views (Karim, 2003).

Verses of the Al-Qur'an, such as Ar-Rum 39, An-Nisa 160-161, Ali Imran 130, Al-Baqarah 275-281, are among the few verses that continue to provide inspiration, inspiration, and understanding for the pursuit of trading methods, transactions and *muamalah* are based on intrinsic value which is far from speculation, deception and strong domination over the weak.

Thus, throughout its history, Muslims have always tried to stick to the teachings of their religion, not least in aspects of *muamalah*. This holistic and comprehensive view of religion is reflected and manifested by historical records containing examples of commercial practices and economic

activities carried out by the Prophet, Companions, Tabiin and Ulama (Zaman, 1991; Lee and Detta, 2007; Karim, 2003).

In essence, the main function of a bank is to store wealth, distribute it (financing or loans) and transfer it. The cities of Mecca and Medina where Islam began and developed is a commercial and metropolitan area, where economic and commercial activities are the veins of the lives of its citizens. So, it is not surprising if in such conditions a variety of business activities are patterned with a similar mode of banking.

As a person who called by "*Al-Amîn*" (trustworthy), so many Meccan people who entrust their wealth to the Prophet Muhammad. Therefore, when the Prophet was about to emigrate to Medina, the Prophet ordered the companions of Ali bin Abi Talib to return the deposited assets back to their original owners.

Zubair Ibn Awwam, one of the best friends of the Prophet, had received a loan. With the loan, he uses it for business development and he feels obliged to return it. Ibn Abbas, another prominent friend, was recorded in history as someone who had transferred money to the city of Kufa by entrusting it to a trade caravan. This was also done by a friend of Abdullah bin Zubair who transferred money from Mecca to Iraq.

The use of a kind of "check" at that time has also become a norm. Umar Ibn Khattab had practiced such things, in order to collect and buy wheat from Egypt which would be stored in the *baitul mâl*. In addition to these transaction models, a model of economic activity based on profit-loss sharing is also commonly used. Therefore, the term *mudlârabah*, *muzâra'ah* dan *musâqah* are known between Muhajirin and Ansar's friends.

More than that, several trades and banking terminologies that will develop rapidly are also well known. For

example; credit terms. According to some experts, the term actually has a generic meaning that is synonymous with the term "*qard*" in fiqh terms. There is also a check term. The term check actually has a closeness of meaning to the word *sûq* (market). Checks are usually used as a payment instrument in the market.

According to some experts, at that time there was not yet one official institution specifically engaged in the business of finance. One institution that has been relatively developed is the *baitul mâl* (public treasury). At the time of the Prophet, *baitul mâl* was an integral part of the mosque. But in the time of Umar ibn al-Khattab (644 AD), it was separated from the mosque and its existence functioned more optimally. The two main financial sources of *baitul mâl*; a. Regular official sources obtained from *zakat*, tax (*kharj*), *waqf*, *infaq*, and *shadaqah*; b. Incidental sources obtained from found objects or inheritance from people who do not have an heir. All the income in *baitul mâl* is used to fulfill the public interest: building roads, paying civil servants and the army.

According to some experts, *baitul mâl* which is essentially a social function has also been used as a basis for business and economic activity. At least Umar bin al-Khattab's best friend had lent money from *baitul mâl* for business activities based on the *Mudlârabah* principle (Hamoud, 1985; Mirakhor and al-Hasani, 1989).

## MATERIALS AND METHODS

Such practices as banking in the modern world existed during the Umayyads. During Muawiyah (661-680 AD), the term *jihbiz*, *sharrâf*, and *naqîd* were known. This term refers to analysts and experts in the field of finance (to be exact, coin and coin values). Besides their work, they are experts in the field of coins, these experts are also usually

tasked with collecting tax levies, *jizyah* or other distributions (Karim, 2001).

During the Abbasids, this profession became more popular. In the Muqtadir era (908-932 AD), almost all ministers in the cabinet had an expert in the field of finance and logistics. Ibn Furat chose Harun bin Imran and Yosef bin Wahab as financiers and regulators of quasi-banking practices. Ibn Abi Isa chose Ali bin Isa in a similar profession. Hamd Ibnu Wahab chose Ibrahim bin Yuhana. Even minister Abdullah al-Baridi has three assistant financial experts at once; two are Jews and one Christian (Karim, 2003).

Not surprisingly, some experts note that during the Abbasid era the practice of deposits, money transfers and payments by checks and loans had become an inseparable part of the daily economic activities of Abbasid citizens. It is recorded in the history of *Sayf al-Daulah al-Hamdani* as the one who pioneered the issuance of checks as a practical payment model used in trading activities in Arabia and Aleppo (Spain) (Haron, 1997).

## Research Methodology

This research uses a type of qualitative research that is a search to explore and discuss a situation, event or phenomenon that occurs. Source of the type of data used consists of secondary data. While the technique of collecting data using literature studies includes papers, journals, and books that discuss Islamic banking practices such as al-Fiqh al-Islami waadillatuhu by Wahbah az-Zuhaili, Islamic Banking and Financial Law by Mei Peng Lee and Ivan Jeron Detta, and other sources support this research.

## RESULTS AND DISCUSSION

### The Latest Development of Islamic Banks in Several Countries

As the spirit of independence from imperialism continues to grow in Muslim countries and the need for expanding public participation in the economy is felt, many feel the interests of an alternative financial and banking system. The alternative is expected to be truly rooted in cultural and moral wisdom and a vision of the importance of economic and banking activities that are truly oriented towards social justice, equal opportunity and free from exploitative models. In this context, in some countries, there are institutional efforts to build a new tradition of banking based on the vision and values of Islam. A banking model that is essentially free of interest.

#### 1. Egypt

Attempts in the 1940s in Malaysia and 1950s in Pakistan to establish a bank without interest failed. The Mit Ghamr Bank of Egypt, founded in 1963, can be recorded as a major pioneer that is relatively concrete and real to realize an Islamic Bank that is free of interest. Bank experiments with this model have broad support, especially from farmers and rural communities. The number of savers rapidly increased, from 17,560 people in 1963-1964 to 251,152 in 1966-1967. The number of deposits also increased, from LE 40,944 to LE 1,828,375 (Karim, 2003; Lee and Detta, 2007).

Unfortunately, the bank pioneering was then disturbed by the political situation. In 1967 the pioneering Islamic Bank was taken over by the Egyptian National Bank so that ultimately customer confidence dropped dramatically. In 1971, the effort of the Islamic Bank without interest was then tried to be revived under the name Nasser Social Bank. Then this step was

followed by Faisal Islamic Bank of Egypt, Egyptian Saudi Finance Bank. In the 1990s the Bank of Egypt opened sharia-based special services, even though the Bank of Egypt was not a pure Islamic bank (Lee and Detta, 2007).

Although it failed to survive, the existence of Mit Ghamr Bank was not a wasted effort. Islamic Development Bank (IDB) was founded in 1975 with 22 founding countries. This bank, besides providing loans to its member countries, also sponsors research and development for the establishment of Islamic banks. Today IDB is based in Jeddah and has 43 members (Karim, 2003).

#### 2. Iran

In 1979 the Iranian Shah fell and the government was run by the Ayatollah regime. Iran becomes the Islamic Republic. On 8 June 1979, all banks in Iran were nationalized. There are 35 banks. With this national effort, the 35 banks were classified into 6 commercial banks, three banks with specific and specific objectives, such as for home loans. It also established 22 banks at the provincial level.

August 1983 passed the law on banks without interest. The Law also stipulates that on March 21, 1984, all banks should use the interest-free system. Finally, in March 1985, all banking transactions in Iran were based on sharia (Lee and Detta, 2007; Al-Sadr, 1984; Taleqani, 1982).

#### 3. Pakistan

Islamization in Pakistan occurred in the late 1970s when General Ziaul Haq came to power (1977). An ideological commission was set up in 1977. In 1979 four financial institutions, namely the House Building Finance Corporation, the Investment Corporation of Pakistan, the National Investment Trust, and Bankers Equity Limited began offering sharia-based services. In June 1980, the Pakistani government bank began

introducing the *mudlârabah* and *murabahah*, transaction models. January 1981 all banks own and provide sharia-based services. January to July 1985 all Pakistani financial institutions and transactions based on sharia (Ansari, 1981; Iqbal, 1988; Afzalurrahman, 1979).

The development of Islamic Islamization in Pakistan shows that there are stages by stages. These stages include the regulation of conflict resolution mechanisms in Islamic banking transactions in several courts. One thing is certain that in Pakistan there is not found a special institution that guarantees the standardization of the validity of sharia-based banking products.

#### 4. Sudan

The step of Islamization of the Sudanese banking was carried out in 1977 when the Faisal Islamic Bank of Sudan was established and strengthened by a parliamentary decision to confirm the determination for the Islamization process. The move was then followed by the Islamization of the Tadamon Islamic Bank, the Sudanese Islamic Bank, the Islamic Co-operative Bank, al-Barakah Bank of Sudan, and the Islamic Bank of Western Sudan. In 1983, all banks were required to implement the Islamic bank model. But in 1985 the agenda was delayed again in line with the change of power. Starting in 1994 the step of the Islamization of banks was encouraged again (Lee and Detta, 2007).

#### 5. Turkey

Turkey is the only Muslim country that claims to be a secular state. However, in 1983 there was a rule that allowed banks or financial institutions to operate without interest or based on sharia. Then build Al-Baraka Turkish Finance House and Faisal Finance Institution Incorporation (Lee and Detta, 2007).

#### 6. Europe and America

Today the Islamic Bank is not only found in the region of Muslim countries but has been established in the European and American regions. In 1983 the International Islamic Bank of Denmark was established which is the first Islamic bank established in the European region. Then followed by Citibank, ANZ Bank, Chase Manhattan Bank, and Jardine Fleming who also opened the Islamic Bank window.

#### 7. Malaysia

It can be said that the fastest development of Islamic banking took place in Malaysia. Separate rules for Islamic banking exist in Malaysia. The Islamic Bank of Malaysia Berhad was established in 1983 and went public on January 17, 1992. The rules of the Islamic Bank of Malaysia in 1983 took effect on April 7, 1983. Like other banks, the Islamic Bank of Malaysia is regulated and supervised by the Central Bank of Malaysia (Bank Negara Malaysia, BNM). Malaysian government regulations regarding investment in 1983 also allow for the existence of Islamic securities.

All of the above rules are intended to realize the target for the wider involvement of Islamic banking and financial service enthusiasts, the more varied Islamic banking and financial services products and to create a stronger Islamic money market and capital market in Malaysia (Lee and Detta, 2007).

In addition to an increasingly improved set of rules, Bank Negara Malaysia (BNM) also undertook institutional expansion steps for the existence of an increasingly affordable Islamic Bank in various parts of the country. In order to continue to market these Islamic banking services and products, BNM also allows conventional banks to open office channeling or window services for Islamic Banks. This

is done with the consideration that the step will feel more effective and expansive. Considering the infrastructure and network of these banks have existed before. To maintain the standardization of the purity of these banks' products and at the same time as guarantees of their Islamic orientation, on March 4, 1993, BNM issued a Banking Scheme without Benefits (interest) as a standard operational guideline for the authenticity of sharia.

Today, in addition to the flourishing of Islamic banks in Malaysia, non-bank financial institutions are also developing with a variety of variations, ranging from the Islamic Financial Market, Islamic Stock Exchange, and Islamic Index. If you look closely, then from these institutions there are no less than 40 product variants offered: *mudlârabah*, *musyâarakah*, *murâbahah*, *al-bay al-muajjal*, *al-ijârah*, *al-qard al-hasan*, *istisnâ*, and others. To strengthen the network and cooperation between Islamic financial institutions, there is an Islamic Interbank Money Market that was formed on January 4, 1994.

To supervise the guarantee of halal products and to provide independent opinions from a sharia perspective on the products and services offered by these financial institutions, on May 1, 1997, the National Sharia Advisory Council on Islamic Banking and Takaful (NSAC) was formed. This NSAC institution is also the highest institution that carries out the supervision function.

October 1, 1999, two large banks, Bank Bumiputera Malaysia Berhad (BBMB) and Bank of Commerce Berhad (BOCB) merged into one bank, Bank Muamalat Malaysia Berhad (BMMB). The merger of the two major banks into one Islamic bank marked the expansion of the branches of Islamic Banks in several Malaysian cities and at the same time the integration of thousands of workers in them. The steps to develop the Islamic

Bank above are further strengthened by the operational license issued by the National Bank of Malaysia (BNM) for the operation of the Kuwait Finance House and the al-Rajhi Bank. In addition, there are many other micro-scale financial and banking institutions that operate with sharia schemes and offer highly varied financial products and services.

## 8. Other Countries

In addition to the aforementioned countries, conventional banking and financial institutions are also growing and developing very rapidly in Gulf Arab countries: United Arab Emirates, Kuwait, Bahrain, Qatar. In Jordan and Bangladesh, Islamic banks also continue to grow and develop. Dubai Islamic Bank, Faisal Islamic Bank of Bahrain, The Kuwait Finance House, Jordan Islamic Bank, The Islamic Bank of Bangladesh are some of the leading Islamic banks in these countries (Lee and Detta, 2007).

### Variation of Services in Several Banks and Islamic Financial Institutions

Apart from its social vision and function, the Islamic Bank is a business institution that cannot be separated from its competitive nature. Sharia banking practices and services must be able to reach and open the widest possible market share. As a new system that operates during the conventional banking system, the Islamic Bank must convince its users of the reliability and convenience of its products so that they are truly ukhrawi and worldly in dimension.

Some observers of the growth and development of banks and Islamic financial institutions conclude: in terms of the difference with conventional financial systems and the distinction of products and services, then some of the banks and financial institutions mentioned above differ from the side; First: financial institutions and Islamic banks are free from usury (interest-free);

Second: financial institutions and Islamic banks are more oriented towards goals and missions, compared to conventional financial institutions and banks whose emphasis is on maximizing profits; Third: conventional banks are purely commercial banks, while Islamic banks can be multifunctional. In addition to commercial, it can function as an investment bank or investment instrument based on trust for investment management (investment trust and investment-management). Fourth: Islamic banks are more careful in evaluating their role as an equity-oriented financing institution; Fifth: in conventional banks, the relationship between bank managers and customers is purely functional (debtor-creditor relationship), while in Islamic Banks, banks also function as managers and managers for a project in the pattern of sharing losses and profits. Sixth: Basically, Islamic banks can avoid negative spreads and derivative transactions that are full of speculation elements and are not based on real work patterns but are purely financial mediators and profit speculators (Zuhaili, ; Qalaji, 2001; Vogel and Hayes, 1998; Iqbal and Lewellyn, 2002).

Based on the distinctive model and style of Islamic banking and financial institutions, Islamic business contracts are usually in the form of: barter contracts (contracts of exchange/'*uqûd al-mu'awadah*), contracts for securities (contracts of security/'*uqûd al-tauthîqat*), contract of mutual giving (contract of gratuity/'*uqûd al-tabarru'ah*), contract of cooperation (contract of partnership/'*uqûd al-shirkah*), custody and maintenance contract (contract of safe custody/'*wadî'ah*), contract for mutual benefits (contracts pertaining to utilisation/'*uqûd al-manfaah*), contracts for work (contracts pertaining to do a work/'*wakâlah, ju'âlah*).

Not all banking products and services and Islamic financial institutions are unanimously accepted in all Islamic financial institutions. Sell and buy back (*bay al-'inah*) and sale of debt (*bay 'al-dayn*) for example. Both are carried out in Islamic banking and financial institutions in Malaysia but not in similar institutions in the Middle East region. This refers to differences in the outlook on the halal of these products.

The following is a brief description of the modification of the variant of the development of products and services of several modern Islamic banks and financial institutions in these countries and their equivalents with conventional financial institutions and Banks (Lee and Detta, 2007).

**Deposits**

Product/Services	Applicable Concepts (Syariah)
Current account	Wadîah Yad Dhamana / Mudlârabah
General investment account	Mudlârabah
Saving account	Wadîah Yad Dhamanah / Mudlârabah
Special invesment account	Mudlârabah
Specific investment account	Mudlârabah

**Financing**

Product/Services	Applicable Concepts (Syariah)
Benevolent loan	Qard <u>H</u> assan
Block discounting	Bai' Dayn
Bridging finance	Istisnâ' / Bai' Bithaman Ajil
Bungalow lost financing	Bai' Bithaman Ajil
Cash line facility	Bai' Inah / Bai'

	Bithaman Ajil / Murâbahah
Club membership financing	Bai' Bithaman Ajil
Computer financing	Bai' Bithaman Ajil
Contract financing	Murâbahah / Bai' Bithaman Ajil / Istisnâ
Education financing	Murâbahah / Bai' Bithaman Ajil / Bai'inah
Equipment financing	Bai' Bithaman Ajil
Factoring facility	Bai' Dayn
Fixed asset financing	Bai' Bithaman Ajil
Floor stocking financing	Murâbahah / Bai' Bithaman Ajil
Hire purchase	Wakâlah
Hire purchase agency	Ijârah Thumma al Bai'
Home / House financing	Bai' Bithaman Ajil / Istisnâ' / variable rate ijârah
Industrial hire purchase	Ijârah Thumma Bai'
Land financing	Bai' Bithaman Ajil
Leasing	Ijârah
Pawn broking	Rahnu (Qard ḥasan and Wakîlah Yad Dhamanah) / Rahnu
Personal financing	Bai' Bithaman Ajil / Bai'inah / Murâbahah
Plant & Machinery financing	Bai' Bithaman Ajil / istina' / variable rate ijârah
Project financing	Bai' Bithaman Ajil / Istina' / Ijârah
Property financing	Bai' Bithaman Ajil/ Istisna' /

	variable rate ijârah
Revolving creFdit facility	Bai' Bithaman Ajil / Murâbahah / Hiwâlah / Bai' Inah
Share financing facility	Bai' Bithaman Ajil / Bai'inah
Shop house financing	Bai' Bithaman Ajil / Istisnâ' / Variable rate ijârah
Sundry financing	Bai' Bithaman Ajil
Syndicated financing	Istisna' / Bai' Bithaman Ajil / Ijarah Thumma Bai'
Term financing	Bai' Bithaman Ajil
Tour financing	Bai' Bithaman Ajil
Umrah & vision financing	Bai' Bithaman Ajil
Working capital financing	Murâbahah / Bai' Bithaman Ajil

### Card Services

Product/Services	Applicable Concepts (Syariah)
Charge card	Qard Ḥasan
Credit card	Bai' Inah / Bai' Bithaman Ajil
Debit card	Ujr/Ijârah

### Trade Financing

Product/Services	Applicable Concepts (Syariah)
Accepted bills	Murâbahah / Bai' Dayn
Bank Guarantee	Kafâlah
Export credit refinancing	Murâbahah / Bai' Dyan



Letter of credit	Wakâlah / Murâbahah / Ijarah / Bai' Bithaman Ajil Kafâlah
Shipping guarantee	Kafâlah
Trust receipt	Wakâlah / Murâbahah

### Treasury / Money Market Investment

Product/Services	Applicable Concepts (Syariah)
BNM negotiable	Bai' al-Inah
Cagamas papers	Bai' Bithaman Ajil / Mudlârabah
Commercial papers	Murâbahah
Government investment issues	Bai' al-Inah
Malaysian Islamic treasury bills	Bai' al-Inah
Negotiable debt certificate	Bai' Bithaman Ajil
Sell and buy back agreements	Bai' al-Inah
Foreign exchange	Ujr/Ijârah
Negotiable instrument of deposit	Mudlârabah

### Banking Services

Product/Services	Applicable Concepts (Syariah)
ATM Services	Ujr/Ijârah
Cashier' Order	Ujr/Ijârah
Demand Draft	Ujr/Ijârah
Standing instruction	Ujr/Ijârah
Stock-broking services	Ujr/Ijârah
TT/Fund transfer	Ujr/Ijârah
Travellers' cheques	Ujr/Ijârah
Tele-banking	Ujr/Ijârah

Thus the product variants that are commonly developed in various Islamic

banks in the world but terms of the contract used on a product, technical implementation, and product innovation are very dependent on the policy of the Supervisory Board and the management of each bank itself.

### CONCLUSIONS AND IMPLICATIONS

The practice of Islamic banking has developed in every phase in terms of the law and service products used. Not all service products used by Islamic banking agree to be used. This is due to differences in legal views on a product issued by Islamic banking, both contract terms used on the product, technical implementation, and product innovation that are very dependent on the policies of the supervisory board and each management itself.

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