

Legal Transformation of Indonesian Sharia Banks Towards Digital Banking in the Era of Industrial Revolution 4.0

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Abstract: Although Islamic banking has been operating in Indonesia since 1992, the institution has not been able to compete with conventional banking. The Government, therefore, intervened by merging several Islamic banks into a single entity, namely Bank Syariah Indonesia (BSI). This merger policy needs to be strengthened further by revising the Islamic Banking Law while encouraging the institution to prepare various steps to respond to the digital banking era. This study examines what kind of legal transformation patterns the Government needs to carry out in preparing Islamic banking institutions to face digital banking in the era of the Industrial Revolution 4.0. This study is juridical-normative research with a philosophical and sociological legal approach. The study results indicate that legal transformation in Indonesian Islamic banking is important to be carried out immediately so that this institution can improve the quality of service to customers along with the shift in banking industry management from a manual system to a full-digital system. For this reason, the Law of the Republic of Indonesia Number 21 of 2008 concerning Islamic Banking needs to be revised again by adding a special chapter that regulates the use of technology in the development of products, services, and operations. In addition, it is also important for the Government to create the Indonesian Sharia Bank Dispute Resolution Institution (LPSBSI), which will function as a unique institution to resolve disputes that occur in Sharia banking.

Keywords: digital banking, industrial revolution, legal transformation, Sharia Bank

Abstrak: Meski perbankan syariah telah mulai beroperasi di Indonesia sejak tahun 1992, namun kenyataannya lembaga ini belum mampu bersaing dengan perbankan konvensional. Karena itu, kemudian pemerintah melakukan intervensi dengan melakukan merger terhadap sejumlah bank Syari'ah ke dalam satu wadah tunggal yakni Bank Syari'ah Indonesia (BSI). Kebijakan merger ini perlu diperkuat lagi dengan melakukan revisi terhadap Undang-Undang Perbankan Syariah sekaligus mendorong lembaga itu agar mempersiapkan berbagai langkah untuk merespons era *digital banking*. Penelitian ini bertujuan untuk mengkaji pola transformasi hukum seperti apa yang perlu dilakukan pemerintah dalam mempersiapkan lembaga perbankan syari'ah untuk menghadapi *digital banking* di era revolusi industri 4.0. Studi ini

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tergolong dalam jenis penelitian juridis-normatif dengan pendekatan filsafat dan sosiologi hukum. Hasil penelitian menunjukkan bahwa transformasi hukum pada perbankan syariah Indonesia penting untuk segera dilakukan agar lembaga ini dapat meningkatkan kualitas pelayanan terhadap nasabah seiring dengan beralihnya manajemen industri perbankan dari system manual menjadi system full-digital. Untuk itu Undang-undang Republik Indonesia Nomor 21 Tahun 2008 tentang Perbankan Syariah perlu direvisi kembali dengan menambah bab khusus yang mengatur tentang pemanfaatan teknologi dalam pengembangan produk, layanan, dan operasionalnya. Selain itu penting juga pemerintah perlu juga menciptakan Lembaga Penyelesaian Sengketa Bank Syariah Indonesia (LPSBSI) yang akan berfungsi sebagai lembaga khusus untuk menyelesaikan sengketa yang terjadi pada perbankan syariah.

Kata kunci: *digital banking*, revolusi industri, transformasi hukum, Bank Syariah

Introduction

As a universal religion, Islam has a primary mission: to provide peace and prosperity to all humanity. The comprehensive and universal noble teachings apply to Muslims and people of other religions outside of Islam. Islamic universalism has a comprehensive meaning not limited by space and time. Islam calls on humanity to maintain peace and avoid division so that humans can prosper materially and spiritually in this world and the hereafter. This universalism is then expressed in several basic principles, including justice, togetherness and welfare. These basic principles and values of Islam are derived from several verses of the Qur'an and Hadith, which then underlie the existence of Islamic banks and become guidelines that must be implemented fully and consistently.¹

Meanwhile, there are currently two types of banking worldwide: conventional and Islamic. These two types of banking have different operational systems and patterns. Conventional banking adheres to a secular system and aims to serve the interests of the general public without being bound by a particular religious teaching. Meanwhile, Islamic banking adheres to the Islamic management system and was born to respond to the demands or desires of the Muslim Community, which wants to use banking services that follow Islamic principles and are free from usury.² Another difference is that conventional banking

¹ Rachmadi Usaman, *Aspek-Aspek Hukum Perbankan Islam di Indonesia* (Bandung: Citra Aditya Bakti, 2000), p. 21.

² M Ali Mansyur, 'Aspek Hukum Perbankan Syariah dan Implementasinya di Indonesia', *Jurnal Dinamika Hukum*, 11.Edsus (2011), doi:10.20884/1.jdh.2011.11.edsus.263.

does not recognize the concept of usury, so to support operational needs, this institution applies an interest system. The amount of interest also varies according to the development of the market economy. On the other hand, Islamic banking has its characteristics that distinguish it from conventional banking institutions. This difference covers all bank activities, from things classified as operational to the level of Supervision. All activities of this institution must reflect submission and obedience to the provisions of Islamic Law and provide instruments to prevent usury practices, including through the Profit and Loss Sharing (PLS) scheme or profit sharing system.³

As an institution that serves the needs of the public, Islamic banking still has to face various obstacles and challenges. This phenomenon is natural because its existence is still relatively new. One of the most crucial challenges is convincing the Indonesian Muslim Community that the existence of Islamic banking has many advantages and benefits compared to conventional banks, both economically and in terms of practising Islamic teachings. In addition, this institution must implement a fast, easy and uncomplicated service procedure while still adhering to the principle of caution and minimizing risk.

Another challenge that is still an obstacle is the absence of a unique institution that functions as a forum for handling and resolving disputes. So far, the institution authorized to carry out this function is the Religious Court. However, in its development, the judges who work in this institution often find it difficult because many cases arise are rare and new problems that previous scholars have never discussed. Hence, the settlement of Islamic banking disputes is more recommended to be resolved through an Arbitration Institution rather than through the Religious Court due to the weaknesses in the court system.⁴

³ Titik Triwulan , 'Kedudukan Hukum Perbankan Syariah dalam Sistem Perbankan Nasional', *Muqtasid: Jurnal Ekonomi dan Perbankan Syariah*, 7.1 (2016): 1, doi:10.18326/muqtasid.v7i1.1-27.

⁴ Usep Saepullah, 'Legal Certainty of Arbitration in the Settlement of Islamic Economic Civil Cases in the Perspective of Positive Law in Indonesia', *Al-Adalah*, 19.2 (2022): 261–290, doi:10.24042/adalah.v19i2.14384.

The many crucial challenges and obstacles that the managers of Islamic Banks must face have caused this institution, even though it has been established since 1992, to still be unable to compete with conventional banking. Therefore, the Indonesian Government was forced to take rescue measures by merging several Islamic banks into Bank Syariah Indonesia (BSI). Unfortunately, this government policy was not followed by a revision of the Islamic Banking Law as a legal basis for Islamic banking in preparing strategic steps towards the digital banking era. This last thing caught the author's attention, so he conducted this research.

It should be emphasized here that this research is not the first to examine the problem of Islamic banking. Before this research, scientists conducted many studies related to Islamic banks using various perspectives and approaches. One of these studies is the research of Yusmad et al.⁵, which found that several problems in the Islamic bank supervisory institution caused the supervisory performance to be less than optimal and potentially pose a legal risk to the Bank itself. Another study on the same topic is the study by Maulana et al.⁶ This tendency reveals that Sharia bank customers still face several technical obstacles, which gives the impression that Sharia banking services have not fully met the standards of easy, fast, and uncomplicated service quality. Furthermore, the study by Anggareni et al.⁷ Concluded that digital Sharia banking has no effect on cash *waqf* activities among millennial Muslims. In addition, another study was conducted by Tahmid et al,⁸ which concluded that Sharia financial institutions, including Sharia banks, have not fully

⁵ Muammar Arafat Yusmad et al, 'Revitalization Supervision Islamic Banking in Enhancement Compliance in Indonesia and Malaysia', *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 8.1 (2024): 468–494, doi:10.22373/sjhk.v8i1.20524.

⁶ Muhammad Maulana at al., 'Islamic Banking Services for Communities and Families in Aceh Province Post Closure of Conventional Banks: A Comprehensive Review', *El-Ushrah: Jurnal Hukum Keluarga*, 7.2 (2024): 903–922, doi:10.22373/ujhk.v7i2.26312.

⁷ Erike Anggareni, Gustika Nurmalia, and A. Kumedi Ja'far, 'Utilizing the Banking System For Digital Waqf Behavioral Approach of Millennial Muslims', *El-Ushrah: Jurnal Hukum Keluarga*, 7.1 (2024): 390–405, doi:10.22373/ujhk.v7i1.22562.

⁸ Khairuddin Tahmid, Muhammad Zaki, and Haryanto H, 'Implementation of DSN-MUI Fatwa In Handling of Sharia Economic Problems (A Case In Syariah Bank of Bandar Lampung)', *AL-'ADALAH*, 16.2 (2019): 263–286, doi:10.24042/adalah.v16i2.3520.

implemented the provisions outlined in the fatwa of the National Sharia Council (DSN) MUI.

Research Methods

This study attempts to analyze the Indonesian Government's policy of merging several Sharia banks to save the institution from the heavy burden of internal and external factors that can hinder its growth in the desired direction. It uses three approaches simultaneously: philosophical, legal, and sociological.⁹ Data were obtained through a review of specific sources of information, especially the Law of the Republic of Indonesia Number 21 of 2008 concerning Islamic Banking. The results of this review are then correlated with developments that occurred during the Industrial Revolution, especially with the digitalization of the banking world. Furthermore, the data is analyzed using the theory of legal sociology to find strategic efforts that must be prepared by Islamic banking in welcoming the era of digital banking in the future.

Result and Discussion

A Brief History of Islamic Banking in Indonesia

The history of Islamic banking in Indonesia began with the birth of Bank Muamalat in 1992, initiated by President Soeharto with several scientists, Muslim business people, and the Indonesian Ulema Council (MUI). The embryo of this desire had actually existed since 1988 when the Government issued the October Policy Package (PAKTO) which regulated the deregulation of the banking sector in Indonesia. The establishment of this banking institution was aimed at responding to the growing trend among the Community who wanted a banking institution that operated in accordance with Islamic teachings.

Furthermore, in 1992, the Indonesian Government issued a banking policy with a dual banking system. This is regulated through Law of the

⁹ Nur Hidayah, Abdul Aziz, and Moch Bukhari Muslim, 'Complying with Sharia while Exempting from Value-Added Tax: *Murābahah* in Indonesian Islamic Banks', *Abkam: Jurnal Ilmu Syariah*, 22.1 (2022): 59–82, doi:10.15408/axis.v22i1.22833.

Republic of Indonesia Number 7 of 1992, which was later revised by Law of the Republic of Indonesia Number 10 of 1998 concerning Banking. Based on this Regulation, Indonesian banks can implement a banking system with two systems: the conventional and the sharia systems. The issuance of this Law can be seen from a legal and political perspective. From a legal perspective, the Regulation can be the basis for Islamic banking to operate on par with conventional banking. Meanwhile, from a political perspective, the Government's existence of Islamic banking is an effort to introduce a banking system that operates under the auspices of Islamic teachings.¹⁰

When the Monetary Crisis hit Indonesia at the end of the 20th century, almost all conventional banks experienced heavy liquidity pressures, which resulted in some of them being forced to close. The only Bank not affected by the impact of the crisis was Bank Mu'amalat. The resilience of the Islamic banking system in facing this economic crisis attracted the Government's attention, so the existence of this Bank began to attract the attention of a number of groups.

After the monetary crisis passed, many parties were motivated to establish Islamic banks that operate with an interest-free system.¹¹ This desire received support from the Government, which was marked by the issuance of Law Number 21 of 2008 concerning Islamic Banking.¹² With the issuance of this Regulation, several new Islamic banking institutions under the auspices of conventional banks emerged such as BRI Syari'ah, BNI Syari'ah, and Bank Syari'ah Mandiri.¹³ Later, the Government merged the existing Islamic Banks and united them under the Bank Syariah Indonesia (BSI) banner.

¹⁰ Nurul Ihsan Hasan, *Pengantar Perbankan Syariah* (Jakarta: Referensi (GP Press Group, 2014), p. 22.

¹¹ Muhammad Syafi'i Antonio, *Dasar-Dasar Manajemen Bank Syariah* (Jakarta: Pustaka Alfabeta, 2006), p. 6.

¹² Muhamad Sadi Is, *Konsep Hukum Perbankan Syariah Pola Relasi Sebagai Institusi Intermediasi dan Agen Investasi* (Malang: Setara Press, 2015), p. 27.

¹³ Kasmir, *Bank dan Lembaga Keuangan Lainnya* (Jakarta : PT Raja Grafindo Persada, 2013), p. 13.

The establishment of Bank Syariah Indonesia (BSI), as a result of the merger of several Islamic Banks in Indonesia, is a new chapter in the history of Islamic economics in Indonesia. The presence of this institution, in addition to being a manifestation of the commitment of the Government of the Republic of Indonesia to revive the Islamic economic system in the country, is also expected to be a catalyst for the growth of Islamic banks in Indonesia in the future as well as a new pillar of strength in efforts to realize the vision of Indonesia becoming a global Islamic economic centre.¹⁴ This vision is in line with the demographic conditions of Indonesia, which has the largest Muslim population in the world.¹⁵

Two important variables are related to establishing Islamic Banks in Indonesia's economic development. First, the Government shows its commitment to strengthening the role of the Islamic financial industry in the equitable distribution of the Community's economy. This phenomenon is closely related to the situation in Indonesia, which, despite having the largest Muslim population in the world, the growth rate of the Islamic economic sector is relatively slow. Second, the existence of Bank Syariah Indonesia has the potential to be a driving force for the growth of the Islamic financial and economic sectors. Therefore, high and stable financial resources are needed so that this institution can reach all community interests both nationally and internationally.

Bank Syariah Indonesia (BSI) has a vision to enter the top 10 global Islamic banks by 2025, especially in terms of capital and to establish itself as a major participant in market activities. To achieve this target, BSI is advised to transform into a bank that serves all community needs and is open, inclusive, and universal. In addition, BSI must also make various strategic efforts, including standardizing HR recruitment and development practices and implementing the concept of Good Corporate Governance by the demands of modern management, which includes Transparency, Accountability, Responsibility, Professionalism, and Fairness.

¹⁴ Sri Mahargiyantie, 'Peran Strategis Bank Syariah Indonesia dalam Ekonomi Syariah di Indonesia', *Al-Misbah*, 1.2 (2020): 199–208.

¹⁵ *Ibid.*

On the other hand, the public response to the existence of Islamic banking shows an increasingly positive trend. This phenomenon is natural. As a country with a Muslim-majority population, the need for economic services following Islamic principles is very high.

This positive trend is also supported by domestic and foreign trade activities that contribute to Indonesia's economic and banking growth. Thus, Islamic banking plays a significant role in the economic activities of the Islamic Community in the country.¹⁶

Basic Concept of Bank Syariah Indonesia

Islamic banking is one form of implementing Islamic teachings concerning mu'amalah (relationships between humans). The primary sources of reference for Islamic banking are the Qur'an and hadith. Both sources contain several general principles for creating a fair and just economic system. Islamic banking uses the principles of justice, togetherness, and halal as the basis for regulations and guidelines for implementation.¹⁷ All principles in operating Islamic banking can be applied as long as they do not conflict with the text and do not contain elements of injustice.¹⁸

The Islamic economic system, based on the principles of justice, togetherness, and halal, aligns with the people's economic system adopted in Indonesia: justice, equality, and Independence. Therefore, from the perspective of the political economy, the position of Islamic banking in the national economic system functions as a new pillar that will strengthen the national economic system.

¹⁶ Wardah Yuspin, *Aspek Hukum dan Kelembagaan Perbankan Syariah* (Yogyakarta: Genta Publishing, 2016), p. 3.

¹⁷ Jundiani, *Pengaturan Hukum Perbankan Syariah di Indonesia* (Malang: UIN Malang Press, 2009), p.30.

¹⁸ Kusnoto and others, 'Credit or Financing Analysis in Banking Institutions in the Perspective of Qiyas', *Nurani: Jurnal Kajian Syari'ah dan Masyarakat*, 24.2 (2024): 391–412, doi:<https://doi.org/10.19109/nurani.v24i2.24718>. See also Ahmad Muqorobin and Novan F. Alafianta. "Financing by Instalment in Indonesian Islamic Bank: a Maqasidic-Analytical Study." *Malaysian Journal of Syariah and Law*, 11.2 (2023): 271-289.

Islam teaches that all muamalah activities must pay attention to the welfare of all parties.¹⁹ Therefore, Islam prohibits all economic activities that involve *maisîr* (Gambling), *gharar* (deception), and *ribâ* (usury).²⁰ This concept is in line with *maqâshid sharîa* (the main objective of Islamic Law)²¹ which teaches that property should not be obtained and used in an unlawful manner.²²

According to Mulawarman, there are at least five main points contained in the objectives of establishing Islamic banks, namely: (i) to carry out Islamic teachings properly, especially regarding economic activities; (ii) to create justice between parties; (iii) to help improve the quality of the people's economy; (iv) to assist government programs in eradicating poverty; (v) to maintain economic and monetary stability.²³

Islamic banking aims to apply the principles of Islamic economics in a concrete and tangible way through the performance of financial organizations whose operational framework is based on Islamic Law. This

¹⁹ Alhusni Alhusni, 'Tinjauan Hukum Islam Tentang Penggunaan Uang Elektronik dan Relevansinya Terhadap Lahirnya Fatwa Dewan Syariah Nasional Majelis Ulama Indonesia', *Nurani: Jurnal Kajian Syari'ah dan Masyarakat*, 19.1 (2019): 1–14, doi:10.19109/nurani.v19i1.2864; Nurfala Safitri and Maftukhatusolikhah, 'Profit Equalization Reserve and DSN MUI No: 127/DSN-MUI/VIII/2019 in Maqashid Syariah Perspective', *Jurnal Kajian Syari'ah dan Masyarakat*, 21.1 (2021): 31–40, doi:10.19109/nurani.v21i1.8340.

²⁰ Bayu Mogana Putra, 'Kebijakan Politik Negara Terhadap Perbankan Syariah', *Lex Renaissance*, 6.2 (2021): 407–419; Suhety Cindy, Nely Rahma Wati, and Amalia Rizmaharani, 'External Debt the State for Indonesia's Economic Development in Perspective of Islamic', *MILRev : Metro Islamic Law Review*, 1.1 (2022): 134–146, doi:10.32332/miles.v1i1.6195; Nurmala HAK and Yuswalina Yuswalina, 'Konsep Fiduciarie Eigendoms Overdracht Dalam Kajian Fiqh Muamalah', *Nurani: Jurnal Kajian Syari'ah dan Masyarakat*, 19.1 (2019): 77–90, doi:10.19109/nurani.v19i1.2711; Zarul Arifin, 'The Effectiveness of the Wakalah Account on Women Group Specific Loan Savings From the National Program for Sharia-Based Community E', *Nurani: Jurnal Kajian Syari'ah dan Masyarakat*, 20.2 (2020): 295–306, doi:10.19109/nurani.v20i2.5241.

²¹ Achmad Firdaus and Khaliq Ahmad, *Islamic Business and Performance Management: The Maslahah-Based Performance Management System* (Routledge, 2023); Asyharul Muala, 'Reposisi Ekonomi Islam di Era Globalisasi Perspektif Maqashid Syari'ah', *JIL: Journal of Islamic Law*, 1.1 (2020): 45–63, doi:10.24260/jil.v1i1.17; Che Rosmawati Che Mohd Zain and Zalina Zakaria, 'A Review of Halal Governance in Malaysia from the Perspectives of Maqasid al-Shariah', *Journal of Shariah Law Research*, 7.2 (2022): 199–222.

²² Andriyani Andriyani and Rusmala Dewi, 'Rehabilitation Sanctions against the Narcotics User according to the Perspective ff Maqashid Shariah', *Nurani: Jurnal Kajian Syari'ah dan Masyarakat*, 20.2 (2020): 233–46, doi:10.19109/nurani.v20i2.6926.

²³ Dedi Aji Mulawarman, *Menyibak Akuntansi Syariah: Rekonstruksi Teknologi Akuntansi Syariah dari Wacana ke Aksi* (Yogyakarta: Kreasi Wacana, 2006), p. 27.

institution provides a banking service system that is different from the previous banking system (conventional). One of the economic concepts implemented by this institution, which is believed to be in accordance with Islamic teachings, is the interest-free system. The Islamic economic system does indeed prohibit usury but allows profit sharing.²⁴ Therefore, unlike the interest system implemented in conventional banking, Islamic banks work with a profit-sharing system and avoid the practice of usury, which Islam prohibits. Because the pattern and performance of this banking do not implement an interest system, it is natural that Islamic banks are also known by other names, namely interest-free banks or profit-sharing banks.²⁵

The profit-sharing concept is intended to build a balanced relationship between banks and customers. This concept is realized in the form of a set of rules regarding a fair profit-sharing pattern between banks and customers through a balanced and proportional profit and risk sharing pattern. This concept allows all stakeholders to share profits and, at the same time, bear the potential for potential losses (risks). Because capital managers and owners benefit from the profit-sharing concept, this pattern will likely encourage economic equality throughout the country. Therefore, Muslims should support the existence of Islamic banks that issue muamalah products following Islamic Sharia.²⁶

Furthermore, regarding operational aspects, Bank Syariah Indonesia is also expected to provide standard Sharia services for the retail sector. This strategy can be done by expanding the Micro, Small and Medium Enterprises segment in an integrated chain ecosystem. In addition, Bank Syariah Indonesia is also expected to provide wholesale transaction services with cutting-edge products such as global business development through a digital platform that facilitates business operations and offers sharia transactions such as Savings & Gold Pawn, ZISWAF (Zakat, Infak, Sedekah, and Wakaf), and other Islamic services.

²⁴ Abd. Somad Trisadini P. Usanti, *Transaksi Bank Syariah* (Jakarta: Bumi Aksara, 2013), p. 29.

²⁵ Muhamad, *Manajemen Dana Bank Syariah* (Depok: RajaGrafindo Persada, 2014), p. 2.

²⁶ Karimuddin et al., 'Bank Interest in the Contemporary Era: Problem of Ad'afan Muda'afah Interpretation in Determining Law of Usury', *MILRev : Metro Islamic Law Review*, 3.1 (2024): 43–65, doi:10.32332/milrev.v3i1.8948.

Several challenges for the development of Islamic Banking in Indonesia

a. Availability of competent human resources

The progress of Islamic banking in Indonesia needs to be supported by competent human resources, both academically and practically, and the concept of Islamic economics must be genuinely understood following the instructions of the Qur'an and Hadith. Unfortunately, so far, many personnel are still involved in Islamic banking institutions who do not have sufficient experience related to Islamic banking governance. Weaknesses in the human resources sector certainly need to be fixed because they can result in not only reducing the quality and performance of services but also, this is most dangerous, deviating banking performance from the corridor of Sharia. For this reason, Islamic banks need to prepare human resources who, in addition to understanding the concept of Islamic economics, are innovative and creative, master technology, understand customer desires, and are responsive to customer needs in transactions.

b. Low literacy of the Community about Islamic Banks

The low financial literacy of the Community is one of the challenges that Islamic Banking must resolve. As mentioned before, although Indonesia has a Muslim majority population, their understanding and appreciation of Islamic Law are still lacking. Most of them are obsessed with syncretic or secular ideology, only a few of them can truly be called true Muslims.

It must be admitted that changing society's mentality and spirituality is not easy; for that, concrete efforts are needed to familiarize people with Islamic banking's vision and mission and show them why they should choose Islamic Banks over conventional banks.²⁷ This objective can be achieved by establishing intense cooperation between Islamic Bank managers and Muslim preachers and figures. Through this strategy, the Community, especially Muslims, will be easily attracted to choosing Islamic Banks both as financial supporters and as investment partners.

²⁷ Mawarni, 'Penerapan Digital Banking Bank Syariah Sebagai Upaya Customer Retention Pada Masa Covid-19'.

In addition, the Bank must also identify what aspects need to be developed in order to attract public attention by conducting a SWOT analysis,²⁸ to identify factors affecting the product development process and institutional operations.²⁹

c. Digitalization era

The Industrial Revolution 4.0, also known as the Fourth Industrial Revolution, has spread to almost all countries, including Indonesia.³⁰ The era, which began in 2018, has indeed changed the pattern of human life, resulting in many changes in human relationships and communication, employment, and lifestyle patterns. The shift in the role of human labour in the production process to the hands of machines or robots (automation) has created a new phenomenon in the world of industry and commerce, marked by the emergence of new modes of commerce such as online buying and selling, online-based transportation services, etc. This mode continues to develop and become increasingly popular, making it a real example of changes in patterns in the relationship between humans and technology.

The era of digitalization is a challenge in itself for the development of Islamic Banking. This is because, in this era, there are extraordinary changes in world society that can even change human civilization. As stated by Toffler, the digitalization era provides a new lifestyle in all aspects of human life, starting from how to communicate, socialize, work, learn, and so on.

In line with that, Bank Syariah Indonesia must participate in the digitalization process in its operational sectors. The institution is also required to use Artificial Intelligence/AI to work on the omnichannel market (online shopping) and large-scale personalization, including

²⁸ Philip Kotler dan Gary Armstrong, *Prinsip-Prinsip Pemasaran Jilid 1* (Jakarta: Penerbit Erlangga, 2008), p. 33.

²⁹ Freddy Rangkuti, *Analisis SWOT: Teknik Membedah Kasus Bisnis Cara Perhitungan Bobot, Rating, Dan OCAI* (Jakarta: PT. Gramedia Pustaka, 1997), p. 29.

³⁰ Rustam Aji, 'Digitalisasi, Era Tantangan Media (Analisis Kritis Kesiapan Fakultas Dakwah dan Komunikasi Menyongsong Era Digital)', *Islamic Communication Journal*, 1.1 (2016): 43–54, doi:10.21580/icj.2016.1.1.1245.

protecting the Bank's interests from hacker crimes. By implementing digital-based services, Bank Syariah Indonesia will benefit greatly, saving expenses while increasing profits. Banks also no longer need to spend large amounts of money to employ many employees. Besides, various features such as chatboxes, simple data processes, task automation, or repetitive job tasks can all be completed by robots/artificial intelligence systems.

Technology does provide convenience/facilities for human activities while improving the quality of human life. Today's life trends require all humans or society to follow the flow of technological developments. A society that is anti-technology will be left behind by time, and vice versa. Therefore, business and manufacturing companies at the national and international levels then carry out massive transformations and switch to modern technology. The use of technology has proven to be very helpful and profitable for companies and produces maximum production. This tendency applies to all types of companies, including those engaged in the service sector such as Islamic banking.³¹

Digitalization in the banking sector has a broad and strategic function. The target of digitalization is not only to replace manual transactions with automatic transactions but also to meet the demands of business models and offer the latest services to facilitate customer service.³²

In addition, customer information and transactions outside banking products, such as financial consulting services, investment innovations, e-commerce transactions, and other customer needs, can be obtained through one channel, such as electronic banking or digital banking facilities.³³ Such is because digital banking allows customers to carry out banking activities independently without involving bank officers. Thus, the challenge of digitalization of Bank Syariah Indonesia is not only to provide online and mobile banking services.³⁴ However, it must

³¹ AG. Eka Wenats Wuryantai, 'Digitalisasi Masyarakat: Menilik Kekuatan dan Kelemahan Dinamika Era Informasi Digital dan Masyarakat Informasi', *Jurnal ILMU KOMUNIKASI*, 1.2 (2013): 131–42, doi:10.24002/jik.v1i2.163.

³² *Ibid.*

³³ Gita Putri Maulidya and Nur Afifah, 'Perbankan dalam Era Baru Digital: Menuju Bank 4.0', *Proceeding Seminar Bisnis Seri V*, 2021: 278–88.

³⁴ Abdus Salam Dz., 'Inklusi Keuangan Perbankan Syariah Berbasis Digital-Banking:

innovate to combine customer interaction with digital, which can make it easier for customers.³⁵

Furthermore, Financial Services Authority (OJK) Regulation Number 12/POJK.03/2018 concerning the Provision of Digital Banking Services by Commercial Banks defines digital banking as an electronic banking service designed to utilize customer data optimally in order to serve and provide information to customers more quickly, efficiently, and according to customer needs. Thus, customers can run services independently while paying attention to various security aspects. The OJK Law aims to improve services, encourage operational efficiency, and embrace digitalization. Because existing norms are sufficient to encourage banking innovation, especially in the service sector, this Regulation should allow it to respond to disruption so that banks, especially Bank Syariah Indonesia, can create products that gradually pamper customers.

d. Regulation

The Government must revise Law Number 21 of 2008 concerning Islamic Banking. This statement does not mean that existing regulations can no longer be used as the legal basis for the operation of Islamic banks; it is just that there need to be additional clauses for several things that have not been accommodated in existing regulations. One of them is the existence of Bank Syariah Indonesia (BSI) as a new entity that has not been explicitly stated in the Regulation. Thus, through this revision, the Government can confirm that the existence of Bank Syariah Indonesia has the status of a state-owned bank or what is known as a State-Owned Enterprise bank. Thus, BSI can contribute as much as possible to national economic growth.

In addition, Islamic banks also require a strong legal basis that accommodates social development.³⁶ In reality, existing laws and

Optimalisasi dan Tantangan', *Al-Amwal : Jurnal Ekonomi dan Perbankan Syari'ah*, 10.1 (2018): 63, doi:10.24235/amwal.v10i1.2813.

³⁵ Rika Mawarni, 'Penerapan Digital Banking Bank Syariah sebagai Upaya Customer Retention pada Masa Covid-19', *Al Iqtishod: Jurnal Pemikiran dan Penelitian Ekonomi Islam*, 9.2 (2021): 39–54, doi:10.37812/aliqtishod.v9i2.233.

³⁶ Andrew Shandy Utama, 'Sejarah dan Perkembangan Regulasi mengenai Perbankan

regulations do not yet regulate big data governance in its entirety, including those related to data ownership, data collection and processing, cloud service policies, and data audit procedures, which have so far made it difficult for Bank Syariah Indonesia. The Government of Indonesia faces difficulties in data governance. First, there is inadequate data governance (privacy, ownership, and data acquisition mechanisms); Second, there are no comprehensive guidelines for using cloud services; and third, there is no audit mechanism guideline for prominent data activists.³⁷ The following description will discuss several important things related to this regulatory issue.

Legal Transformation of Indonesian Sharia Banks in Facing the Digitalization Era

As explained in the previous description, the legal transformation of Sharia banks in Indonesia needs to be done by revising the Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking. This revision includes several important things, including:

1. Addition of legal principles

Several principles that need to be added to the above regulations include the principle of *Maslahat* (goodness). *Maslahat* is the main legal principle in Sharia banking law in Indonesia. Such is because one of the goals of Sharia banking is to achieve social welfare, equality, transparency and Independence. *Second* is the Principle of Social Welfare. This principle aims to realize a decent and dignified life for customers and the wider Community. *Third*, The Principle of Equality. This principle can be a pillar of social justice for all humanity in Indonesia. *Fourth* is the Principle

Syariah dalam Sistem Hukum Nasional di Indonesia', *Jurnal Wawasan Yuridika*, 2.2 (2018): 187–200; Dhian Indah Astanti, B Rini Heryanti, and Subaidah Ratna Juita, 'Penegakan Hukum Penyelesaian Sengketa Perbankan Syariah', *Humani (Hukum dan Masyarakat Madani)*, 9.2 (2019): 203–216; Sujian Suretno and Bustam Bustam, 'Peran Bank Syariah dalam Meningkatkan Perekonomian Nasional Melalui Pembiayaan Modal Kerja pada UMKM', *Ad-Deenar: Jurnal Ekonomi dan Bisnis Islam*, 4.01 (2020): 1–19.

³⁷ Indra Rahmatullah, 'Rambu-Rambu Hukum Merger Bank Bum Syariah menuju Prinsip Good Corporate Governance (GCG)', *SALAM: Jurnal Sosial dan Budaya Syar'i*, 8.2 (2021): 499–514, doi:10.15408/sjsbs.v8i2.20186.

of Transparency. This principle has a major influence on customer trust in the programs owned by Sharia banking itself. *Fifth* is the Principle of Independence. With this principle, Islamic banking in Indonesia can be independent without any influence or assistance from conventional banking, especially in its operational management.³⁸

2. Strengthening Supervision

Based on Article 5 of the Law of the Republic of Indonesia Number 21 of 2011 concerning the Financial Services Authority, the Financial Services Authority supervises and controls digital banking in Indonesia. If there is no supervision from the OJK, there will be many loopholes for fraud that will be carried out by irresponsible people towards digital banking. In supervising the implementation of digital banking, the OJK formed a Digital Banking Taskforce team and at the same time determined several important things that need to be considered, such as establishing e-KTP as a single identity, preparing information technology infrastructure, setting standards for increasing discipline in implementing telco SOPs, increasing security, and making adjustments to several regulations.³⁹

Furthermore, the Financial Services Authority is tasked with developing an integrated regulatory and supervisory structure for all activities in the financial services industry. In this sense, the financial services of the banking industry include digital banking. Thus, in order to provide digital banking services, several requirements must be met, namely: first, the Bank must have a risk profile rating of 1 or 2 based on the health level assessment in the last assessment period. Second, the Bank must have good information technology infrastructure and infrastructure management. Third, conducting business activities can at least carry out business activities related

³⁸ Muhamad Sadi Is, *Hukum Perbankan Syariah dalam Perspektif Dogmatik Hukum, Teori Hukum, dan Filsafat Hukum* (Malang: Setara Press, 2022), p. 35.

³⁹ Muhammad Urfi Amrillah, 'Urgensi Pembentukan Undang-Undang Digital Banking bagi Perbankan Syariah di Indonesia', *Jurnal Lex Renaissance*, 5.4 (2020): 928–945, doi:10.20885/jlr.vol5.iss4.art12.

to electronic banking services as referred to in the provisions of the Financial Services Authority.⁴⁰

In addition to the OJK, Sharia Banking is also supervised by the Sharia Supervisory Board (DPS), which supervises the daily performance of Sharia Banks so that they do not deviate from the corridor of Islamic Law. The Sharia Supervisory Board (DPS) itself is further supervised by the National Sharia Council (DSN), which supervises the implementation of the duties and functions of the DPS so that it can work professionally and proportionally in supervising all activities carried out by Bank Syariah Indonesia.

3. Establishment of a unique institution for resolving disputes

So far, since 2006, the institution tasked with adjudicating disputes that occur in Sharia Banks is the Religious Court. However, until now, very few sharia economic cases can be resolved entirely by the institution. In other words, the Religious Court has not been able to resolve Sharia economic disputes because the institution has been busy resolving divorce cases, inheritance disputes, waqf, zakat, infaq and *sadaqah*. This condition does not allow the institution to optimally resolve the extensive and complex Sharia economic disputes that cover cases in Sharia banks and include cases in Sharia microfinance institutions, Sharia insurance, Sharia reinsurance, Sharia mutual funds, Sharia bonds, Sharia securities, Sharia financing, Sharia pawnshops, Sharia financial institution pension funds, and Sharia businesses.

Considering the breadth and complexity of the problems related to Islamic Economics, it is only right that dispute resolution in the field of Islamic banking is no longer tried by the Religious Court but rather by a special judicial institution called the Indonesian Islamic Banking Dispute Resolution Agency (BPSBSI), which has the same position as other commissions such as the Business Competition Supervisory Commission (KPPU) or the Consumer Dispute Resolution Agency (BPSK). This body is expressly given the authority to resolve Sharia economic disputes not

⁴⁰ Muhammad Urfi Amrillah

only originating from Bank Syariah Indonesia but also other disputes that occur in Sharia financial institutions such as Sharia pawnshops, Sharia insurance, Sharia mutual funds, Sharia mutual funds and others. This body has human resources from experts/academics in Sharia banking law and practitioners such as the Indonesian Ulema Council (MUI) in Sharia banking law or economics. The existence of this body can reduce the burden on the Religious Court in resolving Sharia economic disputes because, so far, the religious court has resolved most disputes, so it is considered ineffective in trying Sharia economic cases.

Proposed Revision of Law Number 21/2008 concerning Islamic Banking

As mentioned, the revision of the Law of the Republic of Indonesia Number 21 of 2008 concerning Islamic Banking needs to be carried out as a form of legal transformation to develop Islamic Banking. This effort can be started by adding or revising the wording of the regulations, as presented below.

Table 1: Main Points of the Proposed Revision of the Law on Islamic Banking

| Article | Statement of Old Article | Statement Proposed to New Article |
|---------|---|--|
| 2 | Islamic Banking conducts business activities based on the Principles of Sharia, economic democracy, and prudence. | This article needs to be added with the words "principle of benefit". Although the principles of Sharia already contain benefits, the word benefit still needs to be stated to emphasize the institution of Bank Syariah Indonesia in carrying out its operations. Thus, article 2 will read: " <i>Sharia Banking in carrying out its business activities is based on Sharia Principles, economic democracy, the principles of prudence and benefit.</i> " |
| 3 | <i>Islamic Banking aims to support the implementation of national development, improving justice, togetherness, and equal distribution of people's welfare.</i> | The word "people" is replaced with "ummah" to show consistency with the welfare principle. Thus, Article 3 will read: " <i>Islamic Banking aims to support the implementation of national development in order to improve justice, togetherness, and equal distribution of people's welfare.</i> " |

| Article | Statement of Old Article | Statement Proposed to New Article |
|--------------------|---|--|
| 5 par 2 | <p><i>To obtain a Sharia Bank business license, it must meet the following requirements at least regarding:</i></p> <ul style="list-style-type: none"> <i>a. organizational structure and management;</i> <i>b. capitalization;</i> <i>c. ownership;</i> <i>d. Human resources expertise in the field of Sharia Banking;</i> <i>e. business feasibility.</i> | <p>Letter d in Article 2 must be added with "Technology". Thus, Article 5, paragraph 2 will read: <i>"To obtain a Sharia Bank business license, it must meet the following requirements at least regarding:</i></p> <ul style="list-style-type: none"> <i>a. organizational structure and management;</i> <i>b. capitalization;</i> <i>c. ownership;</i> <i>d. Human resources having expertise in the field of Sharia economics and technology;</i> <i>e. business feasibility."</i> |
| 50 | <p><i>Bank Indonesia carries out guidance and Supervision of Islamic Banks and UUS.</i></p> | <p>This article needs to include the National Sharia Council and Bank Syariah Indonesia to show that Bank Syariah Indonesia differs from conventional banks regarding guidance and Supervision. Thus, Article 2 will read: <i>"Bank Indonesia and the National Sharia Council</i></p> |
| | <p>carry out guidance and supervision of Islamic Banks and UUS." 55 par (1) A court within the Religious Court environment resolves Islamic Banking disputes.</p> | <p>Settlement of Islamic banking disputes is proposed to be carried out by another institution outside the Religious Court, which is specially formed and called the Indonesian Islamic Banking Dispute Resolution Agency (BPSBSI). The function and role of this institution need to be regulated in a separate chapter added to this Law. Thus, Article 55 paragraph (1) will read: <i>The Indonesian Islamic Banking Dispute Resolution Agency Resolves Islamic Banking Disputes.</i></p> |
| 55 par (2) and (3) | <p><i>If the parties have agreed to a dispute resolution other than that referred to in paragraph (1), the dispute resolution shall follow the Agreement's contents.</i> <i>(3) The dispute resolution in paragraph (2) may not contradict Sharia Principles.</i></p> | <p>This article must be deleted or revoked because the Constitutional Court revoked it in its decision Number 93/PUU-X/2012. "</p> |

Conclusion

Bank Syariah Indonesia's legal transformation in the era of the Industrial Revolution 4.0 requires Islamic banks to transition from a conventional banking system to digital banking, including providing online and mobile banking services. This strategy is intended to improve work efficiency while improving the quality of service to customers. In line with this, the Government needs to revise Law Number 21 of 2008 concerning Islamic Banking by adding several new clauses to the existing articles. In this revision, it is also proposed that a new chapter be added that regulates a unique institution to resolve disputes in Islamic banking, namely the Indonesian Islamic Bank Dispute Resolution Institution (LPSBSI).

Author Contribution

Qodariah Barkah is responsible for compiling the initial draft of the manuscript and the analysis section. Muhammad Sadi is responsible for data collection, data processing, and data accuracy. Romli SA is responsible for data processing and developing the methodology. Andriyani is responsible for the data collection, editing, and refinement stages of the final draft, as well as the publication process through OJS. Adawiyah Bt Ismail is responsible for monitoring and checking the data.

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