

A DISCOURSE OF SHARIA BANKING SUPERVISION MODELS IN ACEH

DISKUSUS MODEL PENGAWASAN PERBANKAN SYARIAH DI ACEH

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Abstract

The Helsinki MoU gave Aceh the privilege to regulate the banking sector independently. Then the Qanun of Islamic Financial Institutions (LKS) instructed Aceh to have a single banking system, meaning that Aceh only knows Islamic banking. One of the characteristics of Islamic banking is sharia supervision. The purpose of this article is to discuss the banking sharia supervisory model in Aceh. The method used in this study is qualitative with a descriptive approach, documents published and not compiled are then classified into several segments which are then analyzed both deductively and inductively. The study results show that Aceh's specificity through the Helsinki MoU and the implementation of the LKS Qanun has not been seen in the banking sharia supervision there. Banking sharia supervision is still carried out by the Financial Services Authority (OJK) and the National Sharia Council (DSN). The formation of the Aceh Sharia Council has not delivered any meaning in banking supervision in Aceh. Therefore the authors provide three alternatives so that banking sharia supervision in Aceh is by the Helsinki MoU and the LKS Qanun.

Keywords: Sharia Banking Supervision Models, Islamic Banking, Aceh

Abstrak

MoU Helsinki memberi Aceh hak istimewa untuk mengatur sektor perbankan secara mandiri. Kemudian Qanun Lembaga Keuangan Syariah (LKS) menginstruksikan Aceh untuk memiliki sistem perbankan tunggal, artinya Aceh hanya mengenal perbankan syariah. Salah satu ciri perbankan syariah adalah pengawasan syariah. Tujuan artikel ini adalah untuk membahas model pengawasan perbankan syariah di Aceh. Metode yang digunakan dalam penelitian ini adalah kualitatif dengan pendekatan deskriptif, dokumen yang diterbitkan maupun tidak akan disusun kemudian diklasifikasikan menjadi beberapa segmen yang selanjutnya dianalisis secara deduktif dan induktif. Hasil kajian menunjukkan kekhususan Aceh melalui MoU Helsinki dan implementasi LKS Qanun belum terlihat dalam pengawasan perbankan syariah. Pengawasan syariah perbankan masih dilakukan oleh Otoritas Jasa Keuangan (OJK) dan Dewan Syariah Nasional (DSN). Pembentukan Dewan Syariah Aceh belum memberikan arti yang signifikan dalam pengawasan perbankan di Aceh. Oleh karena itu penulis memberikan tiga alternatif agar pengawasan perbankan syariah di Aceh sesuai dengan MoU Helsinki dan LKS Qanun.

Kata Kunci: Pengawasan Perbankan Syariah, Perbankan Syariah Aceh

A. Introduction

Aceh is one of the provinces within the territory of the Unitary State of the Republic of Indonesia. (Murdani 2022; Bustamam-Ahmad 2007; Djumala 2013) This province is located at the westernmost tip of the island of Sumatra. (Schulze 2004) In the early days of Indonesian independence, Aceh was considered a capital area for the formation of the Republic of Indonesia. (Abrar 2016)

The relationship between Aceh and Indonesia has had its ups and downs. Many people think the conflict in Aceh resulted from the central government breaking promises to Aceh. (Siti Ikramatoun 2018) The people were promised to apply Islamic law but were not supported. Then also economic injustice and exploitation of natural wealth for the benefit of the central government, the people of Aceh themselves do not receive any results and even become "spectators" in their territory. (Danial, Mahamatayuding Samah, Munawar Rizki Jailani 2022)

In 2004 the earthquake and tsunami devastated Aceh, although this disaster was seen as a blessing in disguise in reaching a peace agreement between Jakarta and Aceh. However, it cannot be denied that Jusuf Kalla and the team have developed a long-standing communication process. Farid Husain was one of Jusuf Kalla's staff who was asked to communicate with GAM when he was Coordinating Minister for People's Welfare. This communication was built to build mutual trust in resolving the Aceh conflict. Apart from that, on the part of the Free Aceh Movement, there was a feeling of battle fatigue, being ostracized from the international community, and Aceh not being exposed to the international community. Because of this, GAM thought of changing the demand for independence and being realistic and negotiating again with the Indonesian government. (Kingsbury 2006)

These negotiations are known as the Helsinki MoU. This negotiation confirms the commitment of both parties to resolve the Aceh conflict in a peaceful, comprehensive, sustainable, and dignified manner for all. Both Jakarta and Aceh are committed to creating safe and peaceful conditions for the people of Aceh within the framework of the unitary state and the constitution of the Republic of Indonesia. (Zulkarnaen and Suzanna 2018)

One of the points of the Helsinki MoU negotiations was the ability of Aceh to determine interest rates that were different from those set by Bank Indonesia. This statement is contained in article 1.3.1, thus giving the meaning that banking in Aceh may be different from what is practiced

in Indonesia in general. However, as is well known, Aceh has implemented a sharia banking system since the enactment of Qanun No. 11 of 2018 concerning Islamic Financial Institutions (Royani Salpina, Rusjdi Ali Muhammad, and Yenny Sriwahyuni 2020).

Islamic banking has similarities with conventional banking, where Islamic banking is also mentioned as an intermediary institution that collects money from the public and refinances it. Irum Saba, "Comparative Shari'ah Governance Framework in Selected Muslim Countries," *Al-Shajarah*, no. Special Issue: Islamic Banking and Finance (2018): 337–74. However, there are significant differences between Islamic banking and conventional banking where Islamic banking implements a system without interest, gharar, and maysir alias profit sharing. (Jailani and Mohamad 2019) To ensure that sharia banking runs according to sharia principles, an institution known as a sharia supervisor is required. (Wajdi Dusuki 2008)

So far, sharia supervision of sharia banking in Aceh has been at the National Sharia Council (DSN) of the MUI. (Gilani 2015) This institution is mandated by law to oversee all Islamic banking operations in Indonesia, including Aceh. However, the Helsinki MoU and the implementation of Islamic law in Aceh, sharia banking supervision needs to be reviewed so that it is in line with the Helsinki MoU peace agreement and the implementation of Islamic law in Aceh. Therefore, this study is a discourse on sharia banking supervision in Aceh so that it remains in line with the mandate of the Helsinki agreement and the implementation of Islamic sharia in Aceh.

B. Research Methodology

This article is a qualitative study using a descriptive analysis approach. (Muhadjir 2011) This study describes the discourse on sharia supervision of Islamic banking in Aceh. The data used in this article consists of primary data and secondary data. Primary data were obtained from the Helsinki Draft Memorandum of Understanding (MoU) between the Government of Indonesia and the Free Aceh Movement, the Qanun of Islamic Financial Institutions, and published and unpublished documents related to sharia supervision of Islamic banking in Aceh. As for secondary data obtained from books, and recent articles related to Islamic banking in Aceh. The data is then classified into segments where content analysis is carried out to summarize the essence of the subject matter described in the literature. (Ishaq 2017)

C. Research Results and Discussion

As mentioned above, the research examines the discourse on Islamic banking supervision in Aceh. In discussing the results of this study the authors try to divide it into several sub-themes starting with an in-depth explanation of sharia supervision, Islamic banking in Aceh, and finally sharia supervision of Islamic banking in Aceh.

1. Sharia Supervision

The term sharia supervision is a term that has been known since Islamic Islamic banking was present in our midst.(Wajdi Dusuki 2008) In the *Kamus Besar Bahasa Indonesia*, the word supervision comes from the word watch out which means to look carefully, to be sharp-eyed, to pay close attention, and to be alert and careful. While the word supervision itself means surveillance and guarding. Therefore, monitoring activities can be interpreted as an effort to surveillance, guard, and direct the policies of the company's operations.(KBBI, 2022)

The word Sharia etymologically (*lughawi*) comes from Arabic, namely "Shariah" which means a place where water comes out or springs.(Al-Jawi 1992) The term comes from the verb *shara'*, which means "to go to the spring" or the path that must be followed, namely the path to the main source of life.(Ibn Manzur 1990) Shari'a according to the term implies something that comes from Allah that must be done by humans so that the goodness of human life itself, both in this world and in the hereafter. In the Islamic context, what is called Shari'a refers to what is contained in the word of Allah through the al-Quran and the Hadith of the Prophet Muhammad.(Wahbah Zuhaili 1989)

Shari'a, as defined above, contains all provisions relating to the regulation of all aspects of human life which are the implementation of what is contained in religion. If it is associated with the word "Islam", then the understanding of Shari'a becomes narrow, namely, the Shari'a which was revealed to the Prophet Muhammad Peace be Upon Him to implement the religion brought by the Prophet Muhammad Peace be Upon Him, namely Islam.(Danial, Mahamatayuding Samah, Munawar Rizki Jailani 2022)

It can be concluded that Shari'a is the entirety of the rules or laws governing the relationship between humans and Allah, humans and humans, and humans and nature (the environment), both

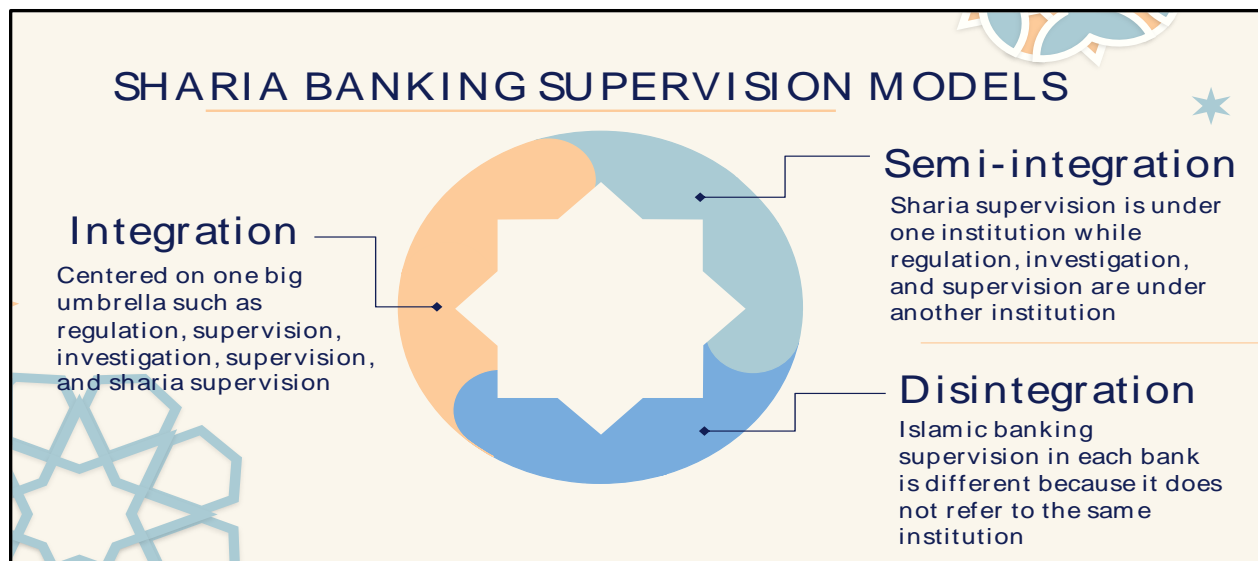
those applied in the al-Quran and Hadiths to create welfare, good life for mankind in the world and as well as in the hereafter.

So sharia supervision is an effort to observe, supervise and ensure that Islamic banking activities are run by Islamic law both contained in the al-Quran and Hadith to create benefit and good for human life in this world and the hereafter.

So far, the banking Shari'a supervisory system has been divided into two, namely the schools of integration and disintegration.(Paltrinieri et al. 2020) In my opinion, it is more appropriate to divide into three major sects, firstly integration, secondly disintegration, and thirdly, semi-integration. The Integration School is practiced in Malaysia where Bank Negara Malaysia (BNM) through the Shariah Board issues regulations and fatwas on Islamic banking and oversees every bank through a shariah committee in every bank there.

Then the schools of disintegration are widely practiced in countries where banking is not regulated under one big umbrella, but each bank has its supervisor and the freedom to refer to *fiqh* books and other sources of Islamic teachings. Furthermore, in my view, semi-integration or what is practiced in our country, Indonesia. However, even though they are both under the same command as the Otoritas Jasa Keuangan (OJK), the fatwa is issued by the Dewan Syariah Nasional (DSN)-MUI. It is possible that the DSN-MUI will have a different opinion from the OJK and this will not happen in the Malaysian integration school where it is the same institution that makes regulations and fatwas.(Grassa 2015)

In addition to the DSN-MUI which provides guidelines and fatwa for Islamic banking in Indonesia, each bank has a Dewan Pengawas Syariah (DPS) assigned to ensure that Islamic banking activities run following the DSN-MUI fatwas and banking regulations issued by the OJK.



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2. Islamic Banking in Aceh

The term banking as we know it today comes from the Italian word *banca* which means bench. Why is *banca* used for the term banking because banking is a place where people borrow money and in the Middle Ages people who made loans did their business on *banca* or benches. Then this term changed and was used for the first time for the Bank of Venice which carried out a savings and loan business.(Chapra 2003)

In Arabic the term bank is also used, this word later became one of the Arabic word. There is another term that is also popular in Arab countries, namely the term *al-mashraf* for institutions that carry out banking activities. According to Hamoud, the words of *al-Masraf* used today are not the same as the word of a bank, they cannot even replace the position of a bank which is popular today. However, al-Hamsyari thinks otherwise and considers the words of *al-Masraf* and the bank to be the same. (Muhammed 2013)

In Indonesia, the term banking was first used during the colonial Dutch East Indies, Vereenigde Oostindische Compagnie (VOC). To expedite and facilitate VOC trading activities in Indonesia, De Bank Van Leening was founded on August 20, 1746. The term bank used is the same as it is used today: an institution that carries out banking activities.(Jailani 2020)

Islamic banking is a banking system whose activities refer to Islamic law. According to the Terms of Law no. 10 of 1998, Islamic banks are banks that carry out their business activities based on sharia principles which in their activities provide services in payment traffic. According to Joni

Tamkin, Islamic banks in general are banking affairs that are free from elements of usury and are based on sharia principles.(Mahdzan, Zainudin, and Au 2017)

Furthermore, according to the Sharia Banking Act No. 21 of 2008 concerning Sharia banking, an Islamic bank is a term used in Indonesia to denote a type of bank that is implemented based on sharia principles. Sharia principles are Islamic legal principles in banking activities based on fatwas issued by institutions that have the authority to apply fatwas in the field of Islamic banking.(Budiono 2017)

Sharia banking was first introduced in Aceh in 1989 with the establishment of Bank Zakat Aceh by Governor Ibrahim Hasan. This bank received a warm welcome from the community so another Islamic bank was established under the name Hareukat People's Credit Bank (BPR) in 1991. This bank was smaller in terms of capital compared to the first Bank Zakat Aceh bank and operated on the outskirts of Banda Aceh City.(Jailani and Mohamad 2019)

Furthermore, in 1994 Islamic banking in Aceh continued to develop with the emergence of new Islamic banks such as BPR Syariah Baiturrahman in Ajun, Banda Aceh, and BPR Syariah Teungku Chik in Pidie. Then in 1995 Sharia Rural Banks were established, namely BPR Syariah Hikmah Wakalah in Aceh Besar and BPR Syariah Hijrah Agung in North Aceh.

Islamic banks run alongside conventional banks in Aceh's economic development until 2018. In 2018 the Aceh government issued Qanun No 11 of 2018 concerning Islamic Financial Institutions which only allows Islamic banks to operate in Aceh. Currently, there are 7 Islamic Commercial Banks, 6 Sharia Business Units, and 15 BPR/S.(Yusri 2023)



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Bank Aceh Syariah and BSI are the main players in the banking sector in Aceh with total assets of Bank Aceh reaching 56.53% and BSI with total assets of 37.87% while other banks are only 5.60% in December 2022 of a total of Rp. 47.12 Trillion banking assets in Aceh. The Bank Aceh Syariah Third Party Funds (DPK) reached 53.49%, BSI with 40.70%, and other banks with 5.81% of the total DPK Rp. 39.36 trillion in December 2022. Meanwhile, Bank Aceh Syariah's financing ranges from 46.51%, BSI with 50.44%, and other banks 3.05% of the total Rp. 34.23 Trillion financing in December 2022. (Yusri 2023)

3. Sharia Banking Supervision in Aceh

The discussion on banking supervision in Aceh is very interesting to investigate because Aceh is given the privilege to regulate its banking sector coupled with the implementation of Islamic law in the Veranda of Mecca. In discussing this issue, the authors will start with the ongoing supervision of Islamic banking in Indonesia, then analyze its suitability with the Helsinki MoU and the implementation of Islamic law in Aceh, then provide an ideal model that following the Helsinki MoU and the implementation of Islamic law in Aceh.

As mentioned above, Islamic banking is banking that operates under sharia principles. Among these sharia principles are no interest, gharar, and maysir. To ensure that sharia banking

runs according to sharia values, an agency that oversees the banking is needed.(Rosele, Muhammad Ikhlas 2020)

The banking oversight body that oversees Islamic banking in Indonesia is known as the National Sharia Council (DSN)-Indonesian Ulema Council (MUI). All banks that carry out their operations in this country need to follow the fatwas issued by the institution. From a regulatory perspective, it is also mandatory to comply with the regulations issued by the Financial Services Authority (OJK). These two institutions are responsible for ensuring that Islamic banking runs well.(Juita and Astanti 2018)

DSN-MUI is a non-governmental institution mandated by law to issue *fatwas* and supervise Islamic banking at a macro level. The micro supervision of sharia banking is carried out by the Sharia Supervisory Board (DPS) which is given a mandate by the DSN-MUI and is placed in every sharia bank.(Fariana 2017)

Furthermore, OJK is an independent government institution that takes over the authority of Bank Indonesia in the regulation, supervision, examination, and investigation of both sharia and conventional banking. For sharia banking, another body mentioned above is needed DSN-MUI to ensure that it runs according to sharia.(Nour Aldeen, Ratih, and Sari Pertiwi 2022)

So far, banks in Aceh have been accountable for their operations both from a regulatory perspective and from the point of view of fatwa to OJK and DSN-MUI. The 17 banks mentioned above, both Islamic Commercial Banks, Sharia Business Units, and BPR/S or Rural Bank), are accountable for their operations to these two institutions.

Then the Sharia Supervisory Board (DPS). The DPS is located at the head office of each bank. Not all banks operating in Aceh have their head office here. Of the 7 Islamic Commercial Banks, only the DPS of Bank Aceh is in Aceh, and the rest of their DPS is in Jakarta. Then none of the Sharia Business Units placed their Sharia Supervisory Board in Aceh. And finally, the BPRS, of all these small banks, have their DPS in Aceh.(Yusri 2023)

Banks in Aceh are responsible for their activities to the Financial Services Authority (OJK) concerning compliance with laws and regulations, while in matters relating to sharia compliance Islamic banks in Aceh are responsible to the Sharia Council (DSN) and also to the Sharia Supervisory Board in each of their banks.(Jailani and Mohamad 2019)

As mentioned above, DPS is a DSN representative placed in sharia institutions, in this case, sharia banking. The DPS must provide advice and suggestions to the leadership of the bank

regarding matters related to sharia aspects. Carry out supervision, both actively and passively, especially in the implementation of DSN *fatwas*, and provide direction/supervision of products/services and business activities so that they comply with Sharia principles. As a mediator between Islamic financial institutions and DSN in communicating proposals and suggestions for the development of products and services from Islamic financial institutions that require DSN studies and fatwas. Following the DSN fatwa. Formulate problems that require DSN approval. Report on the business activities and developments of the Sharia financial institutions they supervise to the DSN at least once a year.

The existence of the Helsinki MoU gave a mandate for Aceh to regulate its banking sector with the keyword being able to regulate interest rates that were different from what was applied by Bank Indonesia. The term interest rate is a term contained in conventional banking, currently, Aceh adheres to a profit-sharing banking system after the issuance of Qanun No. 11 of 2018 concerning Islamic Financial Institutions.(Royani Salpina, Rusjdi Ali Muhammad, and Yenny Sriwahyuni 2020)

One of the mandates of this Qanun is the establishment of the Aceh Syariah Council (DSA). In terms of the name of this institution, it is similar to the DSN-MUI. To become a member of the DSA, it is necessary to obtain a certificate of proficiency or ability in the field of Islamic Muamalah issued by the DSN. This institution has the task of supervising Islamic Financial Institutions (LKS) in Aceh, regardless of their form, even though the LKS has a Sharia Supervisory Board (DPS).(Juita and Astanti 2018)

From the discussion, it can be understood that there is an overlapping of responsibilities between supervisory institutions, both the National Sharia Council -MUI and the Aceh Sharia Council. To avoid this overlapping, there is a need for a new, fairer, and wiser discourse to resolve this issue so that the Helsinki MoU and the implementation of Islamic law in Aceh can be implemented.

According to the author, several options can be implemented in Aceh regarding sharia supervision in this banking. First, let as it is already running. Where OJK has the authority to regulate, supervise, examine, and investigate. As for sharia supervision, it is still given to the DSN, then the DSA is considered an extension of the DSN in Aceh. In this case, all fatwas were issued by the DSN-MUI, while the DSA only followed the DSN-MUI fatwas.

This first option is easier to implement, but in practice, it is difficult to implement, one of which is that the DSN-MUI is reluctant to recognize DSA as its representative in Aceh because they are already represented by the DPS at each bank. The existence of DSA is like what people say "its presence is the same as its absence". Today's DSA cannot be seen with real performance.

Furthermore, the second option is that OJK still has authority in regulation, supervision, inspection, and investigation. The DSA and the Ulema Consultative Council (MPU) oversee sharia banking related to sharia and fatwas. According to their views, these fatwas may later be the same or different from those issued by the DSN-MUI. After that, the fatwa must be followed by the banks in Aceh.

This second option is more accommodating to the Helsinki MoU and the mandate to implement Islamic law in Aceh. However, the implementation will be more difficult later because it is feared that there will be differences in banking practice in Aceh and outside Aceh, and not all banks in Aceh, both Islamic Commercial Banks, and Sharia Business Units, absolutely operate in Aceh alone, most of these banks operate elsewhere in Indonesia.

Furthermore, if you want to be bolder, actually these differences should not be a problem. As explained above, in the gulf countries that adhere to the disintegration school, one bank to another has very different operations because it refers to different *fiqh* books.

Furthermore, the third option, this option feels more extreme because the authority in regulation, supervision, inspection, and investigation is an independent institution under the Aceh government. So far, OJK has been a vertical institution or subordinate to its head office in Jakarta. So the Aceh government established an institution that has authority such as the OJK to regulate, supervise, examine, and investigate banking in Aceh. Then the MPU and DSA issued *fatwas* and banking supervision related to sharia. The banking system in this third option is indeed separate from the Indonesian banking system which has been standardized in practice. But it can still be realized because of the mandate of the MoU which gave Aceh the authority to regulate its system of government. This government system has been and is being practiced in Hong Kong, which is a Chinese territory.

According to the author, this third option is more difficult to realize because Indonesia is a unitary state. As the reasons for the second option are different, sharia supervision and fatwa alone are difficult, especially with the addition of different bank regulations, supervision, inspections, and investigations.

The three options mentioned above are the author's efforts to provide a better alternative for the development of Islamic banking in Aceh so that it is under the Law, the Helsinki MoU agreement, and the implementation of Islamic law in Aceh so that the Islamic banking sharia supervisory approach becomes an example and role model for other countries.

D. Conclusion

The discussion of Islamic banking supervision in Aceh has always been an interesting topic to discuss. Several conclusions can be drawn from the discussion above:

1. Supervision of sharia banking in Aceh has so far been carried out by OJK and DSN-MUI relating to sharia matters, while in each sharia bank, DPS has been placed as a representative of DSN-MUI.
2. The banking system in Aceh is a single banking system with Islamic banks being the only banks operating in Aceh since the issuance of the Qanun LKS. Currently, 28 banks are operating in Aceh with 7 banks BUS, 6 banks UUS, and 15 banks BPR/S. Of all these banks, Bank Aceh Syariah and BSI are the main players.
3. The author suggests that sharia supervision of banks in Aceh be carried out by the first three OJK, DSN-MUI, and DSA as an extension of DSN-MUI. Both OJK, DSA, and MPU. Three new institutions are similar to OJK in Aceh, DSA, and MPU.

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