

APPLICATION OF SHARIA PRINCIPLES IN UMRAH BAILOUT FUND FINANCING IN ISLAMIC BANKS

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Abstract: *The purpose of this study was to analyze the application of sharia principles in financing Umrah bailouts in Islamic banking and to analyze legal consequences if sharia principles in financing Umrah bailouts in Islamic banking were not implemented by ichwanuddin@gmail.com. The type of research carried out in this study is normative legal research, research that examines / examines legal materials both primary legal materials consisting of laws, regulations related to the problem being assessed and also reviews secondary legal material consisting of the literature and opinions of scholars related to the problem under study. The approach taken in this study is the Statute Approach, Analytical Approach, and Conceptual Approach.*

Research results: The application of sharia principles in financing Umrah bailouts in Islamic banking according to contract theory and maslahah mursalah theory, that the contract theory used in financing Umrah bailouts in Islamic banking does not conflict with the principle of contract in Islamic law, because the contract in bailout financing Umrah uses two types of contract but combines the two contracts of al-qordh with al-Ijarah. In the Umrah bailout financing contract distinguish the service contract. This refers to the Fatwa of the National Sharia Council No. 29 / DSN-MUI / VI / 2002 concerning management of Hajj / Umrah financing. While the legal consequences if sharia principles in financing Umrah bailouts in Islamic banking are not applied. The application of the Hajj / Umrah bailout funds in Islamic Banks refers to the Fatwa of the National Sharia Council. Fatwa of the National Sharia Council Number: 09 / DSN-MUI / VI / 2000 concerning Ijarah Financing, in weighing the letter b determines that the community needs to obtain the services of other parties to carry out certain work through ijarah contract with payment of wages (ijarah / fee), and in Al-Baqarah verse 233 which is used as a legal basis for ijarah by the National Sharia Council, states what means "... and if you want your child to be taken away by someone else, it is not a sin for you if you pay according to what is worth repenting to Allah; and know that Allah sees all that you do ". The legal consequences of Umrah bailout financing that do not refer to the Fatwa of the National Sharia Council are null and void by law.

Keywords: *sharia principles, Umrah bailout*

I. INTRODUCTION

Islam as a Shari'a brought by the last apostle has a comprehensive and universal nature.¹ Comprehensive means to summarize all aspects of human life both ritual (worship) and social (*muamalah*). Worship is the way and procedure of human beings directly related to God, should not be added or added or reduced. The relationship still cannot be changed. Worship is closed and applies general principles, namely; all acts of worship are prohibited except for actions that are expressly told to do. Muamalah is the provision given by God that is directly related to human social life, limited to the main points. Muamalah is open to be developed with human *ijtihad* that is qualified to do that business. In muamalat, the principle applies to all actions which can be done, unless the action is prohibited in the Qur'an and Al Hadist which contains the Sunnah of the Prophet Muhammad, PBUH.²

Worship is needed to maintain obedience and harmony in human relations with the Creator. Worship is also a means of continuously reminding human duty as His caliph on the earth. Muamalah is revealed to be the rule of the game or the rules of human play in social life. Knowing muamalah God establishes good laws and general principles. God does so, so that it is in accordance with your state of affairs which constantly changes and requires perfection.

The basis of the ummah's grip on matters of worship is "illegitimate, may not do anything before the order comes to do it. "The basic basis in muamalah business is the ability to arrange, organize and do everything that is desired as long as there is no prohibition that prevents it or forbids it".³

The Sharia Economy, in this case the Islamic Bank, is one part of Islamic law. Bustanul Arifin, comparing between sharia and law. Sharia is a method of implementation, the regulation of all movements in the heart to wars between nations. Whereas law in the sense of law only regulates the relationship of the actions of a human being with other human beings in society, which means that law (in the sense of law) regulates diverse human interests so as not to collide with one another.⁴

The peculiarity of Islamic Shari'a compared to law is its theological nature (*rabbaaniyyah*) or religious (*diniyyah*). The sanctity of the legislation is unmatched. The creator of this Shari'a is not a human who has weaknesses and weaknesses and is influenced by factors in situations, conditions, and places where he is, also not affected by inheritance ties, marriage, lust, and affection.⁵

The creator of this Shari'a is the owner of all beings and all affairs in the universe. The Lord of all inhabitants and the contents of this universe, and substances that have humans, how to improve their rank, and all good things will bring good to them. Therefore, Sharia and Islamic legislation are theological (*rabbaaniyyah*). Regarding the Islamic law, there is no reason to reject it, both in a legal subject (*haalām*) and as a legal object.

The nature of rabbaaniyyah Islamic law and legislation makes Muslims want to respect, accept, implement, and obey it. This is not found in human legislation. When

¹ Muhammad Syafii Antonio, *Bank Syariah dan Teori ke Praktik*, Gema Insani, Jakarta, 2001, p. 317.

² Muhammad Daud Ali, *Pengantar Ilmu Hukum dan Tata Hukum Islam di Indonesia*, Raja Grafindo Perkasa, Jakarta 2000, p. 49.

³ Hasbi Ash-Shiddieqy, *Pengantar Hukum Islam Jilid II*, Bulan Bintang, Jakarta, Without year, p. 91.

⁴ Ahmad Gunawan, BS. and Mu'amar Ramadhan (Penyunting), *Menggagas Hukum Progresif Indonesia. Kerjasama Pustaka Pelajar*, Yogyakarta, IAIN Walisongo dan Program Doktor Ilmu Hukum UNDIP. 2006. p. 122.

⁵ Meni Sri Imaniyati, *Perbankan Syariah Dalam Perspektif Hukum Ekonomi*, Mandar Maju, Bandung, 2013, p. 21

obeying and implementing the Shari'a, a Muslim believes that he is worshiping and drawing closer to his Lord. This is a guide to the faith and obligation of a Muslim. This is the Dutch *Burgerlijk Wetboek*, especially the principle of “neutral” or “worldliness” of civil law, in other words (eg Article 26 BW).⁶

From the description above, it appears that economic problems as one part and Islamic law, is not something that stands alone, but is part of the aspect of worship that is very closely related to the divine aspect. In Islam there is no single human activity that is not related to the divine aspect. Therefore economic activities must still be carried out in accordance with the instructions of Allah SWT and as exemplified by the apostle through the sunnah.

One characteristic, and at the same time as the majesty of Islamic law is not a priori (*husnuzhan*) towards the development of human thought. This can be interpreted that Islamic law does not reject old ways, because of the length or age, and vice versa does not just accept new ways because of the new. However, Islamic law screens all ways and evaluates its importance to the general benefit, with parameters and basics that can be accounted for in a syar'i manner.⁷

Another feature of Islamic law is the upholding of the principle of “eliminating *mafsadah* and bringing *maslahah*” to all humanity, both its body, soul, ratio, society as a whole, and *maslahah* for all humans in every time and generation. Islamic law always prioritizes public interests rather than special interests in certain situations. This gives the possibility that Islamic law can live in a more complex society. This is also what causes Islamic law to accommodate the needs and needs of the people. This principle is stated in the rules of the ushul fiqh, all the benefits of the law revolve around the benefit of the people. So, if benefit is found, therein lies the law of God.⁸ One of the benefits in the economic field is banking business activities called Al-Qordh.

The qardh application in banking is usually in four ways, namely:⁹

- 1) As a Hajj / Umrah bailout loan, where prospective Hajj customers are given a bailout loan to fulfill the conditions for depositing the cost of Hajj / Umrah trips. The customer will pay it off before his departure to the holy land to perform Hajj / Umrah.
- 2) As a cash advance from sharia credit card products, where customers are given the freedom to withdraw bank cash through an ATM. The customer will return it according to the specified time.
- 3) As a loan to small-scale entrepreneurs, which according to the calculation of the bank will burden the entrepreneur if given financing with a scheme of buying and selling, *ijarah*, or profit sharing.
- 4) As a loan to the bank's management, where the bank provides this facility to ensure the fulfillment of bank management needs. The bank management will return the loan funds in installments through deductions from his salary.

Muslims in worshiping especially the Five Pillars of Islam show high activity and enthusiasm, both in performing the Hajj and Umrah to the holy land, but in carrying out /

⁶ Soepomo, *Sistem Hukum di Indonesia sebelum Perang Dunia 14*, Pradnya Paramitha. Jakarta, 1991, p. 131.

⁷ Meni Sri Imaniyati, *Op. Cit.*, p. 22

⁸ *Ibid*

⁹ Adimarman Karim, *Bank Islam Analisis Fiqih dan Keuangan*, Raja Grafindo Persada, Jakarta, 2004, p. 96.

departing Umrah to the Holy Land sometimes there is a lack of funds. To overcome this problem, the pilgrims who will carry out Umrah will deal with the Bank, to overcome the lack of funds. In financing the Umrah bailout in Islamic Banking, use the *qardh wal-ijarah* contract.

If you pay close attention, it is found that in the community of Umrah bailout funds there are two contracts that are combined in a product. The two contracts are *qardh* (lending and borrowing) contracts in the form of giving Umrah funds bail out from the bank to Umrah registrants. The second contract is *ijarah* (sale and purchase of services) in the form of *ujrah*. Combining the *qardh* with *ijarah* contract has been banned by the Prophet Muhammad. As the words of the Prophet Muhammad as follows:

It is not lawful to combine loan agreements and buying and selling contracts.¹⁰

Thus, the Umrah bailout product is contrary to the hadith of the Prophet SAW above because the product is combined with the two contracts. Another reason, this *ijarah* contract can be used by lenders to take profits from loans provided so that it includes the prohibition of loans that bring benefits (profits). So the legal issue in this study is the application of sharia principles in financing Umrah bailouts in Islamic banking and what are the legal consequences of Umrah bailouts that are applied in Islamic banking.

The purpose of this study is to analyze the application of sharia principles in financing Umrah bailouts in Islamic banking and to analyze legal consequences if sharia principles in financing Umrah bailouts in Islamic banking are not applied.

II. RESEARCH METHODS

The type of research carried out in this study is normative legal research, research that examines/examines legal materials both primary legal material consisting of laws, regulations related to the problem being assessed and also reviews secondary legal material consisting of the literature and opinions of scholars related to the problem under study. The approach taken in this study is the Statute Approach, Analytical Approach, Conceptual Approach.

III. RESULT AND DISCUSSION

3.1 Application of Sharia Principles in Financing Umrah Funds in Islamic Banking

3.1.1 Principles of Umrah Financing Funds

a. Al-Qardh principle

The definition of *qardh* in Arabic means a loan. In terms of *muamalah (ta'rif)*, *qardh* is to have something that must be returned with the same substitute.¹¹ So Al-*qardh* is giving wealth to other people who can be billed again. In other words Al-*qardh* is giving loans without expecting certain rewards.¹²

According to Ahmad Ash-Syarbasyi quoted by Syafi'i Antonio, Al-*qardh* is the giving of assets to other people who can be billed or asked to return or in other words lend without

¹⁰ HR. Abu Daud and dishahihan by Al-Albani Rahimahullah.

¹¹ Muhammad, *Model-model Akad Pembiayaan Di Bank Syariah*, UII Press, Yogyakarta 2009, p. 137.

¹² Muhammad Ridwan, *Manajemen BMT*, UII Press, Yogyakarta, 2004, p. 174.

expecting a reward. In classical jurisprudence literature, qardh is categorized in aqd tathaawun or contract is mutually helpful and not a commercial transaction.¹³

The definition developed in the jurists, Al-Qardh is the surrender (possession) of al-misliyat property to others to be billed for return “, or in other terms,” a contract which aims to surrender misliyat assets to other parties to be returned to the same type.¹⁴ Misliyat assets are assets that have similarities or equivalents by not considering the existence of differences between one another in their unity of type, usually in the form of property that can be weighed, measured, measured or calculated in quantity.

According to the term qardh is the property given by someone (*Muqridh*) to the needy (*Muqtaridh*), which then the borrower will return it after being able to, while the Maliki, Syafii, and Hambali schools argue, it is permissible to do qardh for all assets that can be bought, good it is measured or weighed, like gold, silver and food or of valuable property, such as merchandise, animals and so on. The qardh agreement is a loan agreement. In the qardh agreement, the lender (creditor) provides a loan to another party provided that the loan recipient will return the loan at the agreed time with the same amount when the loan is given. *Qardh* includes financing products provided by banks, provided that banks cannot take any profit from them and are only given during an emergency. Limited banks can only collect administrative fees from customers. The customer is only obliged to pay the principal.¹⁵

From this definition it appears that in fact the debts are a form of mu'amalah that has a ta'awun pattern (help) to other parties to fulfill their needs.¹⁶

b. *Ijarah* principle

Ijarah in Arabic means wages, rent.¹⁷ *Ijarah* is a form of mu'amalah activity in meeting the needs of human life such as leasing, contracts and others. In another sense, *ijarah* from *ujrah* which means wage, which is giving a wage to someone after doing a certain job or until a certain time.¹⁸

According to Rawas Qal'aji quoted by Syafi'i Antonio, Al-Ijarah is the contract of transfer of usufructuary rights to goods or services, through payment of rent, without being followed by the transfer of ownership (ownership *milkiyyah*) to the goods themselves.¹⁹ *Ijarah* is a leasing agreement between the owner of *ma'jur* (object of lease) and *musta'jir* (tenant) to get compensation for the object of the lease he leased.²⁰ Whereas, *ijarah* in the context of Islamic banking is a lease contract. A lease contract is a financial institution that rents equipment in the form of a building or goods, such as machinery, airplanes and others to one of its customers based on a predetermined cost.²¹

The Hanafi School of Ulama argues that the *ijarah* contract is binding on both parties, but can be canceled unilaterally, if there is an age such as death, it cannot act legally like crazy. Jumhur ulama argues, that the *ijarah* contract is binding, unless there is a defect or the item cannot be utilized. Based on these conditions, the transaction system in this contract is

¹³ M. Syafi'i Antonio, *Bank Syariah dari Teori ke Praktik*, Gema Insani Press, cet. ke1, Jakarta, 2001, p. 131.

¹⁴ Ghufron A. Mas'adi, *Fiqh Muamalah Kontekstual*, PT Raja Grafindo Persada, Jakarta, 2002, p. 170-171.

¹⁵ Widyarningsih, *Bank Dan Asuransi Islam Di Indonesia*, Prenada Media, Jakarta, 2005, p.59.

¹⁶ Ghufron A. Mas'adi, *Fiqh Muamalah Kontekstual*, p.171.

¹⁷ Muhammad, *Model-Model Akad Pembiayaan di Bank Syariah*, UII Press, Yogyakarta, 2009, p.109.

¹⁸ Moh. Rifa'i et al., Translation Khulashah Kifayatul Akhyar, CV. Toha Putra, Semarang, 1990, p. 224.

¹⁹ M. Syafi'i Antonio, *Bank Syariah Dari Teori ke Praktik*, Gema Insani Press, cet. ke-1, Jakarta, 2001, p.117.

²⁰ Muhammad Yusuf, Wiroso, *Bisnis Syariah Edisi 2*, Mitra Wacana Media, Jakarta, 2011, p.117.

²¹ Zainuddin Ali, *Hukum Perbankan Syariah*, Sinar Garfika, Jakarta, 2008, p. 43-44.

related to the procedure for how the people make the desired leasing transaction, which is in accordance with Islamic law. Wherein there are various regulations that must be obeyed, such as terms and conditions. Because as a general transaction, the new *ijarah* is considered valid if it has fulfilled the pillars and conditions, as is generally applicable in other transactions.

Furthermore, regarding the implementation of this *ijarah* transaction, it must pay attention to a number of arguments, the jurisprudence formulating the renting of the lease occurs and is valid if there are permits and *qabul*, either in the form of speech or in other statements that indicate the agreement of both parties in renting a lease.²²

3.1.2 Legal Status of Umrah Gutter

a. DSN Fatwa Regarding Umrah Bailout Fund Financing

The DSN-MUI stipulates Fatwa Number: 29/DSN-MUI/VI/2002 concerning Financing for the Management of Umrah for Islamic Financial Institutions. This fatwa is the answer to the request of the financial industry that wants to improve the quality of services in the form of more varied methods of financing for the community.

DSN Fatwa Number: 29/DSN-MUI/VI/2002 concerning Umrah Management Financing of Sharia Financial Institutions, stipulates that: First, in the management of Umrah for customers, Islamic Financial Institutions (LKS) can receive service fees (*ujrah*) using the principle of *al-ijarah* according to DSNMUI Fatwa Number 9/DSN-MUI/IV/2000. Second, if needed, LKS can help bail out customer Umrah payments using the *al-qardh* principle in accordance with DSN-MUI Fatwa Number: 19/DSN-MUI/IV/2001. Third, Hajj/Umrah management services carried out by LKS should not be required by giving Umrah bailouts. Fourth, the amount of compensation for *al-ijarah* services should not be based on the amount of *al-qardh* bailouts given by LKS to customers.

The fatwa imposed two contracts in parallel: the *ijarah* contract and the *qardh* contract as a supporting contract. LKS that takes care of and helps customers to get Umrah seats from the authorities has the right to get *ujrah* for the work in the form of such services. Therefore, the *ijarah* norm applies as specified in the DSN-MUI fatwa, namely: first, the provisions of the *ijarah* object are:

- 1) The object of *ijarah* is the benefit of the use of goods and / or services;
- 2) Benefits of goods or services must be able to be assessed and can be implemented in the contract;
- 3) Benefits of goods or services must be permissible (not prohibited);
- 4) The ability to fulfill benefits must be real and in accordance with sharia;
- 5) Benefits must be identified specifically in such a way as to eliminate the ignorance (ignorance) that will lead to disputes;
- 6) Specifications of benefits must be clearly stated, including the time period. Can also be identified by specifications or physical identification;
- 7) Rent or wages are something that is promised and paid by the customer to the LKS as payment of benefits. Something that can be used as a price in buying and selling can also be used as rent or wages in *ijarah*;
- 8) Payment of rent or wages may take the form of services (other benefits) of the same type as object of contract; and

²² Hamzah Yakub, Fikih Muamalah: Kode Etik Dagang menurut Islam, Pola Pembinaan Hidup Dalam Berekonomi, (Bandung: CV. Diponegoro, 1992), p.320.

- 9) Flexibility in determining rent or wages can be realized in terms of time, place and distance.

Second, the LKS obligation as the beneficiary of goods or services:

- 1) Providing goods for rent or services provided;
- 2) Bear the costs of maintaining goods; and
- 3) Guarantee if there is a defect in the item being leased.

Third, the obligations of customers as beneficiaries of goods or services are:

- 1) 1) pay rent or wages and are responsible for maintaining the integrity of the goods and using them according to the contract;
- 2) 2) bear the cost of maintaining goods that are of a mild nature (not material); and
- 3) 3) if the rented item is damaged, not because of a violation of the allowed use, nor because of the negligence of the beneficiary in guarding it, he is not responsible for the damage.²³

b. Fatwa Provisions concerning *Ijarah*

DSN-MUI Issued Fatwa Number: 09/DSN-MUI/IV/2000 concerning *Ijarah* Financing. The substance of the fatwa consists of three parts:

- 1) Harmony and *ijarah* terms,
- 2) Provisions regarding *ijarah* objects, and
- 3) Provisions regarding LKS obligations and customers in *ijarah* financing.

Provisions regarding harmony and *ijarah* requirements are:

- 1) *Sighat ijarah*, *ijab* and *kabul* in the form of statements and both sides of the mind (contract), whether verbally or in other forms;
- 2) Parties who are involved: consist of the renter / service provider and tenant / service user;
- 3) The object of the *ijarah* contract is the benefit of goods and rent or benefits of services and wages.

Ketentuan objek *ijarah* adalah:

- 1) The object of *ijarah* is the benefit and use of goods and or services;
- 2) Benefits of new goods and services can be assessed and can be implemented in the contract;
- 3) Benefits of goods for service equipment must be permitted (not prohibited);
- 4) The ability to fulfill benefits must be real and in accordance with sharia;
- 5) Benefits must be identified specifically in such a way as to eliminate the ignorance (ignorance) that will lead to disputes;
- 6) Specifications of benefits must be clearly stated, including the time period. Can also be identified by specifications or physical identification;
- 7) Rent or wages are something promised and made by customers to LKS as payment of benefits. Something that can be used as a price in buying and selling can also be used as rent or wages in *ijarah*;

²³ Fatwa DSN-MUI Nomor: 19/DSN-MUI/VI/2002 about Financing al-Qardh.

- 8) Payment of rent or wages may take the form of services (other benefits) and the same type of objects as contracts; and
- 9) Flexibility in determining rent or wages can be realized in terms of time, place, and distance.

c. Fatwa Provisions Regarding Qardh

The qardh contract contained in Fatwa Number: 29/DSN-MUI/VI/2002 concerning Financing the Management of Islamic Financial Institutions Hajj, related to the DSN-MUI Fatwa Number: 19/DSN-MUI/IV/2001 concerning al-Qardh.

The fatwa provisions contained in the DSN-MUI Fatwa Number: 19/DSNMUI/IV/2001 consist of three parts: (1) general provisions regarding al-qardh, (2) provisions regarding sanctions, and (3) provisions regarding sources of funds.

General provisions regarding qardh are: (1) Qard is a loan given to a customer (muqtaridh) that requires; (2) Qardh customers are required to return the principal amount received at the agreed time; (3) Administrative costs are borne by the customer; (4) LKS can request guarantees to customers if deemed necessary; (5) The al-qardh customer can provide additional (donations) voluntarily to the LKS as long as it is not agreed upon in the contract; and (6) If the customer cannot return part or all of his obligations at the agreed time and the LKS has ascertained his inability, the LKS can: a) extend the period of return, or b) write off part or all of its obligations.

3.1.3 *Contracts in Financing the Umrah Bailout*

Regarding the contract in Umrah bailout financing there are differences of opinion among experts, which in principle are divided into two, namely opinions that allow and which do not allow. The following two opinions will be described:

a. Allow Opinions

Opinions that allow the use of Hajj / Umrah bailouts, as the opinions of scholars are as follows:

Ust. Ahmad Djalaludin argues that using bailouts for the purposes of Hajj / Umrah or Umrah is permissible but must be on condition. According to him, when examining the Fatwa of the National Syari'ah Council Number: 29/DSN-MUI/ VI/2002 Concerning the Financing of the Management of Hajj/Umrah for Islamic Financial Institutions, it does have two types of contracts namely al-qardh and al-ijarah, but for two different types of objects, namely: money and services.²⁴

b. Opinions That Don't Allow

In general, those who forbid this practice argue that in this kind of practice there is an element of hidden usury, namely rent (ujrah) received by creditors. They also argued that combining the two contracts in one transaction was not allowed in the Shari'ah. But if we look again at the example of the transaction above, there is absolutely no element of usury. The above example clearly shows that the al-Qard contract in the transaction does not require additional compensation, the customer only returns the principal amount of the loan he received. Whereas the administration fee / ujrah charged to customers is only a reward for

²⁴ <http://republika.co.id>, accessed on August 20, 2018

Hajj / Umrah management services, as it is known that Al-Ijarah has two types; namely Ijarah al-mal (rental of goods) and Ijarah al-amal (rental services). So in contract, both al-Qard and Ijarah in this practice have no problems, because they are in accordance with the principles of al-Qard and Ijarah above.

3.1.4 Application of Umrah Bailout Funds in Islamic Banking

In this sub-chapter, it will be described how the application of Umrah bailouts applied in Islamic banking.

a. Berumroh Funds Bailout (TADABUR)

Tadabur Program (Collateral Funding) / Umroh Financing is a short-term financing that is used to facilitate the needs of Umrah travel costs with an ijarah contract.

Benefits is helping customers in performing their Umrah and installments in payments with an installment amount that will not change during the agreement period

- 1) Provisions
 - a) Down Payment/DP 0%
 - b) Allotment of prospective pilgrims to individuals and or family members (Husband/Wife/Child/parents/In-laws/Brother/sibling or brother-in-law of the applicant)
 - c) Age of individual applicants is at least 21 years and or max. 70 years
 - d) 100% ceiling of the Umrah package or a maximum of Rp. 40 million/person
 - e) Financing period of 1 - 5 years (specifically for Mandiri Group customers) and/or 1-3 years (Special for Professional/Self Employed/MPP/Retired customers).
- 2) Document Requirements
 - a) Professionals / entrepreneurs
 - Land / Building Certificate, Vehicle BPKB, & Gold.
 - Photocopy of KTP, Marriage Certificate, KK and NPWP.
 - Financial statements for the last 2 years and / or sales / turnover report recapitulation
 - Business certificate from RT / RW or market manager (entrepreneur)
 - Practice permit / other professional permission (professional)
 - b) Retired
 - Retirement Decree
 - Photocopy of KTP, Marriage Certificate, KK and NPWP.
 - c) Employees (Payroll BSM / BM)
 - Photocopy of KTP, Marriage Certificate, KK and NPWP.
 - Copy of Salary account for the last 3 months (husband / wife)
 - Salary Slip (original) for the last 1 month (husband / wife)
 - Certificate of length of employment & position
- 3) Additional costs
 - a) Administration Fee 1% x ceiling
 - b) Insurance 1% x ceiling
 - c) Stamp duty

For details, it is described in the installment simulation table in TADABUR

Table 1. Simulation of installments

Ceiling /Rp.	Time period in years /Rp.				
	1	2	3	4	5
20.000.000	1.833.600	998.482	723.048	587.500	507.869
25.000.000	2.292.000	1.248.103	903.048	734.375	634.836
30.000.000	2.750.400	1.497.723	1.084.572	881.250	761.803
35.000.000	3.208.800	1.747.344	1.265.334	1.028.125	888.770
40.000.000	3.667.200	1.996.964	1.446.096	1.175.000	1.015.737

b. HIKB Umrah Financing

Umrah financing in HIKB is short and medium term financing for the purpose of going to Umrah with an individual or collective Ijarah contract provided that:

- 1) Status of a civil servant or permanent employee of a private company (Minimum work period of 2 years).
- 2) Professionals / Entrepreneurs with a minimum of 2 years experience.
- 3) Opening Taharoh savings in BPRS HIKB.
- 4) Engagement: Al-Ijarah.
- 5) Ceiling financing ranging from 5 million to 25 million, with a maximum financing of 90% of the benefits of the Umrah package.
- 6) Can be repaid up to 24 months.

Examples of calculations for Umrah packages are Rp. 17,500,000

Table 2. Calculations for Umrah packages

Ceiling	Minimum deposit (Rp)	Installments (Rp)	<i>Ujroh</i> (Rp)	Amount of Deposit (Rp)	Time period
5.000.0000	12.000.0000	416.650	70.850	487.500	12 months
5.000.0000	12.000.0000	416.650	70.850	487.500	24 months
10.000.0000	12.000.0000	416.650	70.850	487.500	24 months
15.000.0000	12.000.0000	416.650	70.850	487.500	24 months

From the description above if it is associated with contract theory and *maslahah mursalah* theory, the authors argue that the contract theory used in the financing of Umrah bailouts in Islamic banking does not conflict with the principle of contract in Islamic law, because the contract in Umrah bailout financing uses two types of contracts but combines two covenants *al-qordh* with *al-Ijarah*. In the Umrah bailout financing contract distinguish the service contract. This refers to the Fatwa of the National Sharia Council No. 29/DSN-MUI/VI/2002 concerning management of Hajj / Umrah financing. If it is associated with the theory of *maslahat murshalah* according to the author, it does not conflict with Islamic law, because with the funding of Umrah bailouts in Islamic Banking, it can help people who lack

funds to carry out Umrah worship to the holy land of Mecca. So people who intend to do Umrah intentions are achieved with the existence of the bailout fund. The application of the Umrah financing contract is in accordance with Islamic law and refers to the Fatwa of the Indonesian Ulema Council.

3.2 *Legal Effects If Sharia Principles In Financing Umrah Funds In Islamic Banking Are Not Applied*

3.2.1 *Contract in Financing the Umrah Bailout*

Based on the results of the study it is known that the contract used in the Hajj / Umrah bailout is al-qard wa ijarah. Thus, in the Hajj / Umrah bailout there has been a multi-contract or there are two contracts in one transaction. Regarding the legal status of multi-contract, scholars differ in opinions, especially related to their original law. This difference concerns whether multi-contract is valid and is permitted or null and prohibited from being practiced. Regarding this matter, the ulama are in the two opinions, there are those who allow and who forbid.

The majority of Hanafiyah scholars, some of the opinions of Malikiyah clerics, Syafi'iyah scholars, and Hanbali argued that the law of multi legal contract and allowed according to Islamic law. For those who allow reason, the original law of the contract is permissible and valid, not prohibited and canceled as long as there is no legal argument that prohibits or cancels it.²⁵

3.2.2 *Legal Effects If Sharia Principles In Financing Umrah Funds In Islamic Banking Are Not Applied*

Hajj/Umrah bailout funds which are now being applied in various financial institutions, is one form of engineering violating the law of Allah Ta'ala. The practice that is now mushrooming in this society is at a glance in the form of qardh (accounts receivable) and ijarah (leasing services) contracts. And there is no doubt that the two contracts if done separately are halal.

However, when the two contracts are carried out simultaneously and are interrelated, a big problem arises, that is, for some reason:

1. Prohibition of the Prophet *sallallaahu 'alaihi wa sallam*
2. Covert usury
3. To burden the community

If you pay close attention, it is found that in the product of the Hajj / Umrah bailout there are two contracts that are combined in a product. The two contracts are qardh (lending and borrowing) contracts in the form of Hajj / Umrah funds from banks to Hajj / Umrah registrants. The second contract is ijarah (sale and purchase of services) in the form of ujrah (fee) administration given by Hajj / Umrah registrants as parties owed to LKS or banks as lenders). Combining the qardh with ijarah contract has been banned by the Prophet *sallallaahu 'alaihi wa sallam*. It is not lawful to combine loans and buying and selling contracts. And the ijarah contract includes a sale-purchase contract, namely buying and

²⁵ Al- 'Imrâni, tt: 69 in Silvi Novindri, Analisis Fikih Terhadap Akad Dana Talangan Haji pada Bank Syariah, Jurnal Muqtasid, Sekolah Ttinggi Ekonomi Islam Yogyakarta, Vol. 4 Nomor 1, Juni 2013, p. 43

selling services. Thus, the product of the Hajj / Umrah bailout is contrary to the hadith of the Prophet Muhammad. Above because the product is combined with the two contracts. Another reason, this ijarah contract can be used by lenders to take profits from loans provided so that it includes the prohibition of loans that bring benefits (profits).

However, if the door to profit taking can be closed, it can be used as stated by various national and international fiqh institutions. As stated in the DSN fatwa which allows taking actual administrative costs needed in a fixed amount and not based on the size of the loan.

However, it turned out that the fatwa was not implemented in the practice described previously, where the amount of administrative fees varied based on the size of the loan provided by the bank. It is clear that the bank is not just attracting the administrative costs that are obviously needed but there have been included profits from the loan. So clearly this law includes usury.

If seen from the percentage of the amount of this administrative fee, which is about 10% of the size of the loan, this is almost the same as the loan interest drawn by conventional banks.

If examined and analyzed the application of financing for Hajj/Umrah bailouts in Islamic banks refers to the fatwa of the National Sharia Council. Fatwa of the National Sharia Council Number: 09/DSN-MUI/VI/2000 concerning Ijarah Financing, in weighing the letter b determines that the community needs to obtain the services of other parties to carry out certain work through ijarah contract with payment of wages (ijarah / fee), and in Al-Baqarah verse 233 which is used as a legal basis for ijarah by the National Sharia Council, states what means "... and if you want your child to be taken away by someone else, it is not a sin for you if you pay according to what is worth repenting to Allah; and know that Allah sees all that you do."

The Word of God in Surat Al-Baqarah above allows payment with ijarah in working on / managing other people's business.

Furthermore, the Fatwa of the National Sharia Council Number: 19/DSN-MUI/IV/2001 concerning Al-Qordh in the consensus weighs the letter a determines: "that Islamic Financial Institutions (LKS) as well as commercial institutions, must be able to act as social institutions that can increase the economy maximally".

One source of law that is used as a reference for DSN Number 19/DSN-MUI/IV) 2001 concerning Al-Qordh is a hadith which is narrated by Muslims which means: "the person who releases a Muslim from his troubles in the world, Allah will release his difficulties in the day doomsday; and God always helps His servants as long as he (likes) helps his brother (HR Muslim)".

Selanjutnya Fatwa Dewan Syariah Nasional Nomor: 29/DSN-MUI/VI/2002 tentang Pembiayaan Pengurusan Haji Lembaga Keuangan Syariah. Dalam konsideran menimbang huruf a menentukan: "bahwa salah satu bentuk jasa pelayanan keuangan yang menjadi kebutuhan masyarakat adalah pengurusan haji dan talangan pelunasan Biaya Perjalanan Ibadah Haji (BPIH)".

The legal basis used by the National Sharia Council Number: 29/DSN-MUI/VI/2002 is the Qur'an, hadith and fiqh principles. One of the words of Allah SWT which is used as a reference in the DSN Fatwa Number: 29/DSN-MUI/VI/2002 is Surat Al-Maidah verse 2 which means "And help you in (doing) virtue and piety, and do not help in committing sin and transgression. And fear Allah, verily Allah is very heavy in His torment."

Whereas the hadith that is used as a reference is a hadith narrated by Muslims which means “Whoever releases from a Muslim a difficulty in the world, Allah will release his difficulties from him on the Day of Judgment; and God always helps his ham as long as he (likes) helps his brother “.

The rules of jurisprudence used are

- a. Basically, all forms of muamalah can be done unless there is a proposition that harmonizes them.
- b. Difficulties can attract convenience.
- c. The need to be in an emergency position.

Based on the description above, the writer can explain it as follows:

- a. If needed, LKS can help bail out BPIH customer payments using the principle according to DSN-MUI Fatwa number 19 / DSN-MUI / IV / 2001.
- b. The services of Hajj management carried out by LKS must not be required by the provision of Hajj bailouts; and
- c. The amount of al-ijarah service fees should not be based on the amount of al-Qardh bailouts given by LKS to customers.

IV. CONCLUSION

1. The application of Umrah bailout financing is sharia-compliant in accordance with sharia principles, because the implementation of Umrah bailout financing is sharia-compliant in reference to the Fatwa of the MUI National Sharia Council.
2. The legal consequences of Umrah bailout financing that do not refer to the Fatwa of the National Sharia Council are null and void by law.

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