

**LECTURERS' OPINIONS OF CREDIT INTEREST**

**IN CONVENTIONAL BANK**

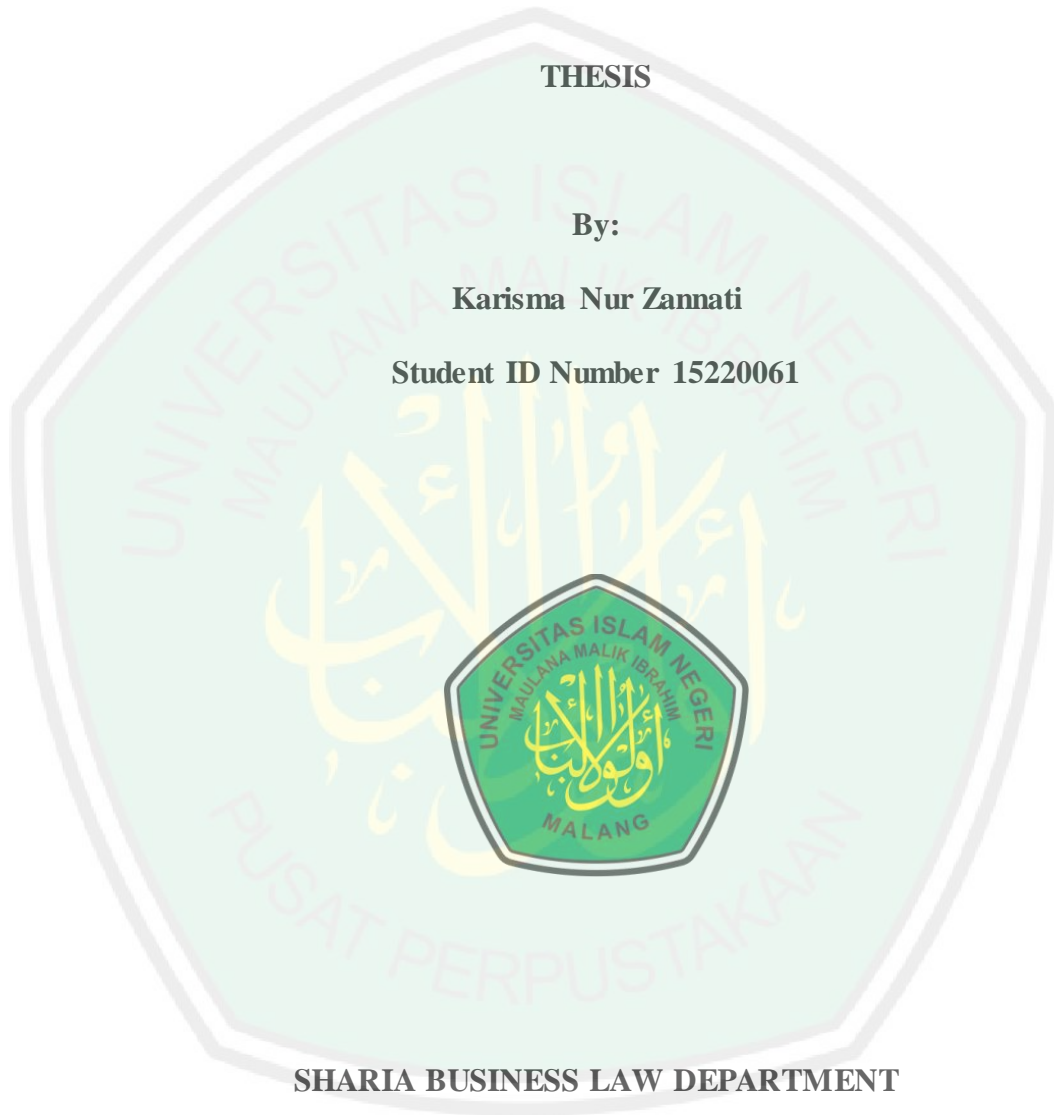
**(Study at Universitas Islam Negeri Maulana Malik Ibrahim Malang)**

**THESIS**

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**SHARIA FACULTY**

**MAULANA MALIK IBRAHIM**

**STATE ISLAMIC UNIVERSITY MALANG**

**2019**

**LECTURERS' OPINIONS OF CREDIT INTEREST  
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**(Study at Universitas Islam Negeri Maulana Malik Ibrahim Malang)**

**THESIS**

Presented to

Sharia Faculty of Maulana Malik Ibrahim State Islamic University Malang  
in Partial Fulfillment of the Requirement  
for the Bachelor Degree of Law (S.H.)

**By:**

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**SHARIA BUSINESS LAW DEPARTMENT**

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In the name of Allah (swt),

With consciousness and responsibility towards the development of science, the author declares that the thesis entitled:

### **LECTURERS' OPINIONS OF CREDIT INTEREST IN CONVENTIONAL BANK**

**(Study at Universitas Islam Negeri Maulana Malik Ibrahim Malang)**

is truly the author's original work. It does not incorporate any material previously written or published by another person. If it is proven to be another person's work, duplication, plagiarism, this thesis and my degree as the result of this action will be deemed legally invalid.

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IN CONVENTIONAL BANK**

**(Study at Universitas Islam Negeri Maulana Malik Ibrahim Malang)**

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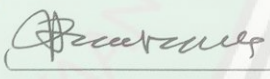
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1	Friday, 15 March 2019	Revision of Research Proposal	
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6	Friday, 5 July 2019	Chapter IV	
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8	Friday, 23 August 2019	Chapter V and Abstract	
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## MOTTO

وَعَسَىٰ أَنْ تَكْرَهُوا شَيْئًا وَهُوَ خَيْرٌ لَّكُمْ وَعَسَىٰ أَنْ تُحِبُّوا شَيْئًا وَهُوَ

شَرٌّ لَّكُمْ ۗ وَاللَّهُ يَعْلَمُ وَأَنْتُمْ لَا تَعْلَمُونَ ﴿٢١٦﴾

*Boleh jadi kamu membenci sesuatu, padahal ia amat baik bagimu, dan boleh jadi (pula) kamu menyukai sesuatu, padahal ia amat buruk bagimu; Allah mengetahui, sedang kamu tidak mengetahui. (QS. Al-Baqarah: 216)*

إِنَّ اللَّهَ لَا يُغَيِّرُ مَا بِقَوْمٍ حَتَّىٰ يُغَيِّرُوا مَا بِأَنْفُسِهِمْ ﴿١١﴾

*Sesungguhnya Allah tidak mengubah keadaan suatu kaum sehingga mereka mengubah keadaan yang ada pada diri mereka sendiri. (QS. Ar-Ra'd: 11)*

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With all the power and effort as well as assistance, guidance and direction and the results of discussions from various parties in the process of writing this thesis, then with all humility the author conveys a boundless thank you to:

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Hopefully what I have got during my studies at Sharia Faculty of Maulana Malik Ibrahim State Islamic University of Malang can be useful for all readers, especially for me personally. As an ordinary human who has never escaped from mistakes, the author realizes that this thesis is still far from perfection. Therefore, the author is hoping for criticism and suggestions from all parties for the perfection of this thesis.

Malang, 14<sup>th</sup> of November 2019

Author,

Karisma Nur Zannati

Student ID Number 15220061

## TRANSLITERATION GUIDENCE

### A. General

The transliteration guidance which is used by Sharia Faculty of Maulana Malik Ibrahim State Islamic University of Malang is the EYD (*Ejaan Yang Disempurnakan*). This usage is based on the Consensus Directive (Surat Keputusan Bersama) from Ministry of Religious Affairs and Ministry of Education and Culture of the Republic of Indonesia, dated 22 January 1998, No. 158/1987 and 0543.b/U/1987, which is also found in the Arabic Transliteration Guide book, INIS Fellow 1992.

### B. Consonants

Arabic	Latin	Arabic	Latin
ا	Not symbolized	ض	Dl
ب	B	ط	Th
ت	T	ظ	Dh
ث	Ts	ع	'(comma facing up)
ج	J	غ	Gh
ح	H	ف	F
خ	Kh	ق	Q
د	D	ك	K
ذ	Dz	ل	L
ر	R	م	M
ز	Z	ن	N
س	S	و	W
ش	Sy	ه	H
ص	Sh	ي	Y

Hamza (ء) which is often symbolized by alif, if it is located at the beginning of a word, then in its transliteration it follows the vowel, not symbolized, but if it is located in the middle or end of words, then denoted by a apostrophe (’), comma facing up (‘) to replace the symbol “ع”.

### C. Vocal, Long-pronounce, and Diphthong

Every Arabic writing in the form of Latin vowels, *fathah* is written with “a”, *kasrah* with “i”, *dlommah* with “u”, while each long pronounce is written in the following way:

Long (a) Vowel = â for example قَالَ become qâla

Long (i) Vowel = î for example قِيلَ become qîla

Long (u) Vowel = û for example ذُونُ become dûna

Especially for *ya’ nisbat*, then it can't be replaced with “i”, but still written with “iy” in order to describe *ya’ nisbat* at the end. Likewise for the diphthong sound, *wawu* and *ya’* after *fathah* is written with “aw” and “ay”. Consider the following example:

Diphthong (aw)= و for example قَوْلُ become

qawlun

Diphthong (ay) = ي for example خَيْرُ become khayrun

### D. Ta’ marbûthah (ة )

*Ta’ marbûthah* transliterated with “t” if in the middle of a sentence, but if *ta’ marbûthah* is at the end of the sentence, then transliterated with “h”, for example الرسالة المدرسة become *alrisalat li almudarrisah*, or if it is in the

middle of a sentence consisting the arrangements of *mudlaf* and *mudlaf ilayh*, then transliterated with “t” which is connected by the next sentence, for example *فِي رَحْمَةِ اللَّهِ* become *fi rahmatillâh*.

#### E. Auxiliary Verb and *Lafdh al-Jalâlah*

Auxiliary verb “al” (ال) written with lowercase form, except if it located at the beginning of word, while “al” in *lafadh al-jalalah* wick located in the middle of two words or being or become *idhafah*, it removes from the writing. Study the following:

1. Al-Imâm al-Bukhâriy said ...
2. Al-Bukhâriy explains, in the prologue of his book ...
3. *Masyâ’ Allâh kâna wa mâ lam yasya’ lam yakun.*
4. *Billâh ‘azza wa jalla.*

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## ABSTRAK

Karisma Nur Zannati, 15220061, 2019. *Opini Dosen tentang Bunga Kredit di Bank Konvensional (Studi di UIN Maulana Malik Ibrahim Malang)*. Skripsi. Jurusan Hukum Bisnis Syariah, Fakultas Syariah, Universitas Islam Negeri Maulana Malik Ibrahim Malang. Pembimbing: Dr. Burhanuddin Susanto, S.HI., M.Hum.

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Kata Kunci: Bunga, Kredit, Riba

Kebutuhan dalam kehidupan sehari-hari terkadang tidak sejalan dengan pendapatan yang diraih. Untuk menutupi kebutuhan tersebut, tak lepas dari peran lembaga keuangan, khususnya bank yang hadir untuk menawarkan berbagai produk jasa, salah satunya yaitu kredit. Yang menjadi perdebatan banyak tokoh Islam mengenai bunga ini adalah bunga berupa biaya tambahan yang ditanggung kepada nasabah ketika mengambil kredit.

Dalam penelitian ini terdapat rumusan masalah sebagai berikut: 1) Bagaimana opini dosen UIN Maulana Malik Ibrahim Malang tentang bunga kredit di bank konvensional? 2) Bagaimana opini dosen UIN Maulana Malik Ibrahim Malang tentang bunga kredit di bank konvensional berdasarkan hukum Islam? Penelitian ini menggunakan metode yuridis empiris, dengan pendekatan yuridis sosiologis dan beberapa data tabulasi akan ditambahkan. Penelitian dilakukan di UIN Maulana Malik Ibrahim Malang. Data diperoleh dengan menggunakan metode wawancara dan responden merupakan dosen UIN Maulana Malik Ibrahim Malang yang dipilih berdasarkan teknik *random sampling*.

Hasil penelitian yang diperoleh adalah dosen UIN Maulana Malik Ibrahim Malang memiliki respon berbeda terhadap sistem bunga kredit di bank konvensional. 50% dosen setuju dengan sistem bunga di bank konvensional, 17.5% kurang setuju, dan 32.5% tidak setuju dengan sistem bunga. Adapun 55% dosen berpendapat bahwa bunga berbeda atau bukan termasuk riba, sedangkan 10% dari mereka masih ragu-ragu, dan 35% menyatakan bahwa bunga itu riba. Menurut hukum Islam, diambil dari pendapat ulama yang mengatakan bahwa bunga bank itu sama dengan riba, maka pendapat 55% dosen UIN Malang yang setuju dengan bunga bank tidak sesuai dengan hukum Islam, 10% kurang sesuai, dan 35% sesuai. Sedangkan apabila mengacu pada ulama yang mengatakan bahwa bunga bank itu tidak sama dengan riba, maka respon dari 55% itu sesuai dengan hukum Islam, 10% kurang sesuai dan 35% tidak sesuai.

## ABSTRACT

Karisma Nur Zannati, 15220061, 2019. *Lecturers' Opinions of Credit Interest in Conventional Bank (Study at Universitas Islam Negeri Maulana Malik Ibrahim Malang)*. Thesis. Islamic Business Law Department, Sharia Faculty, Maulana Malik Ibrahim State Islamic University Of Malang. Supervisor: Dr. Burhanuddin Susanto, S.HI., M.Hum.

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Keywords: Interest, Credit, Usury

The needs in daily life are sometimes not in line with the income achieved. To cover these needs, it cannot be separated from the role of financial institutions, especially bank that presents to offer a variety of service products, one of which is credit. What many Islamic scholar debate about this interest is that interest in the form of additional costs borne to the customer when taking credit.

In this study there are problem formulations as follows: 1) How is the opinion of UIN Maulana Malik Ibrahim Malang lecturers' about credit interest in conventional bank? 2) How is the opinion of UIN Maulana Malik Ibrahim Malang lecturers' about credit interest in conventional bank based on Islamic law? This study uses an empirical juridical method, with a sociological juridical approach and some tabulation data will be added. The study is conducted at UIN Maulana Malik Ibrahim Malang. Data obtained using the interview method and the respondent is lecturers at UIN Maulana Malik Ibrahim Malang selected based on random sampling technique.

The research result obtained is that the lecturers of UIN Maulana Malik Ibrahim Malang have different responses to the credit interest system in conventional bank. 50% of lecturers agree with the interest system in conventional bank, 17.5% of them less agree, and 32.5% disagree with the interest system. The 55% of lecturers think that interest is different or not including usury, while 10% of them are still doubtful, and 35% stated that interest is usury. According to Islamic law, based on the opinion of scholars who say that bank interest is the same as usury, then the opinion of 55% of UIN Malang lecturers who agree with bank interest is not in accordance with Islamic law, 10% less shar'i, and 35% of the opinion is in accordance with Islamic law. Whereas when referring to scholars who say that bank interest is not the same as usury, then the response of 55% is in accordance with Islamic law, 10% less shar'i and 35% is not in accordance with Islamic law.

## الملخص

كاريزما نور زياتي ، 15220061 ، 2019. آراء المحاضرين حول الفائدة بالائتمان في المصرفية التقليدية (الدراسة الحالية في جامعة مولانا مالك إبراهيم الحكومية الإسلامية في مالانج). بحث جامعي. بقسم الحكم الإقتصادي الإسلامي، في كلية الشريعة ، بجامعة مولانا مالك إبراهيم الحكومية الإسلامية في مالانج. المشرف: برهان الدين سوسامتو الدكتور الماجستير.

### الكلمة الرئيسية: الفائدة ، الائتمان ، الربا

لا تتماشى الاحتياجات في الحياة اليومية مع الدخل المحقق أحيانا. لتغطية هذه الاحتياجات ، لا يمكن فصلها عن دور المؤسسات المالية ، وبخاصة البنوك الموجودة لتقديم المتنوعة من منتجات الخدمات ، أحدها الائتمان. ما يناقشه العديد من القادة المسلمين حول هذا الفائدة هو في شكل التكاليف الإضافية يتحملها العميل عند أخذ الائتمان.

في هذا البحث عنده صيغ المشكلة على النحو التالي: 1) ما آراء المحاضرين بجامعة مولانا مالك إبراهيم الحكومية الإسلامية في مالانج عن حول الفائدة بالائتمان في المصرفية التقليدية؟ 2) ما آراء المحاضرين بجامعة مولانا مالك إبراهيم الحكومية الإسلامية في مالانج عن حول الفائدة بالائتمان في المصرفية التقليدية على الشريعة الإسلامية؟ يستخدم هذا البحث بطريقة القانونية الميدانية، مع اتباع نهج القانوني الإجتماعي. وقد أجريت هذا البحث في جامعة مولانا مالك إبراهيم الحكومية الإسلامية بمالانج. نلت البيانات التي قد تمت الحصول عليها باستخدام طريقة المقابلة والمجيب هو المحاضرين في مولانا مالك إبراهيم الحكومية الإسلامية مالانج اللذين تُختر بناءً على تقنيات أخذ العينات العشوائية. ثم تتم معالجة البيانات باستخدام طريقة التحليل الوصفي والميداني. نتائج البحوث التي تم الحصول عليها كانت من المحاضرين في جامعة مولانا مالك إبراهيم الحكومية الإسلامية مالانج الذين يملكون استجابة إيجابية لنظام الفائدة على القروض في البنوك التقليدية. 50% من المحاضرين يوافقون على نظام الفائدة في البنوك التقليدية ، و 17.5% يختلفون،

و 32.5% لا يتفقون مع نظام الفائدة. يعتقد 55% من المحاضرين أن الفائدة هي مختلف أو لا يشمل الربا ، في حين أن 10% منهم لا يزالون موضع الشك ، وذكر 35% أن الفائدة هي ربا. وفقاً للشريعة الإسلامية ، مأخوذة من رأي العلماء الذين يقولون إن الفائدة المصرفية هي نفس الربا، فإن رأي 55% من المحاضرين في جامعة مولانا مالك إبراهيم الحكومية الإسلامية مالانج الذين يتفقون مع الفائدة المصرفية هو رأي غير شرعي ، و 10% أقل من الشريعة ، و 35% شريعة 'ط. في حين أنه عند الإشارة إلى العلماء الذين يقولون إن الفائدة المصرفية ليست هي نفس الربا ، فإن استجابة 55% يتم تضمينها في فئة الشرعيين ، و 10% أقل من الشريعة و 35% ليست من الشريعة.





## CHAPTER I INTRODUCTION

### A. Background of Research

In today's modern world, the need to fulfill daily life is increasing. Both in terms of rising prices, or because of changing lifestyles. The increasing need for life has an impact on increasing transactions between human beings that have developed into various types, ranging from simple buying and selling to complex cooperation agreements. Basically all types of economic transactions are allowed as the word of Allah Almighty in the surah Al-Baqarah verse 275, which reads:

وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا

*But Allah has permitted trade and has forbidden interest. (QS. Al-Baqarah: 275)*

From the verse above, it can be seen that Islam does not only regulates the relationship between human and God, but also the relationship between human beings. The Quran as a human guide contains guidelines for Muslims in living life. The specialty of the Quran with its distinctive language usage sometimes often results in many interpretations in practice. It takes an explanation through the hadith and *ijtihad* to understand its meaning.

As the verse above that contains a prohibition on usury. Many interpretations of usury, both from the type of usury itself and activities that included to usury. The definition of usury, technically, according to the scholars is taking extra from basic assets or capital in vanity, both in debt and selling transaction.<sup>1</sup>

In the current context, the fulfillment of life is sometimes not in line with the income achieved. To cover these needs, cannot be separated from the role of financial institutions, especially bank that presents to offer variety of service products. Bank is business entity that collects funds from the public in the form of deposits and distributes them to the public in the form of credits and/or other forms. What is meant by credit is the provision of money or bills that can be equated with that, based on a loan agreement between the bank and another party that requires the borrower to repay the debt after a certain period

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<sup>1</sup> Abu al-Walid Muhammad ibn Ahmad ibn Muhammad ibn Ahmad ibn Rusyd al-Qurtubi, *Bidayah al-Mujtahid wa an-Nihayah al-Muqtasid*, Juz II, (Beirut: Dar al-Ma'rifah, 1981), h. 128.

of time with interest.<sup>2</sup> Bank interest can be interpreted as reciprocal services provided by bank based on conventional principles to customers who buy or sell their products.<sup>3</sup>

What has been debated by many Islamic figures regarding this interest, is the interest in the form of additional costs borne by customers when borrowing funds from bank. This is similar to usury. Then there are two opinions on this matter. Some argue that bank interest is included in the usury category, and there are also those who argue that bank interest does not include usury. But most scholars argue that all forms of bank interest include the usury category.

Scholars who argue that the additional cost of loans whether it is a little or a lot included to usury, are Al-Jhassas, Al-Qurthubi, As-Syaukani, Sayyid Qutb, Abu A'la Al-Maududi, Nejatullah As-Shiddiqie, and Yusuf Al-Qardhawi. Whereas At-Thabari, Al-Maraghi, and Muhammad Rasyid Ridha, differed in their views. They argue that, only usury type *jahiliyah* or *nasi'ah* are forbidden, while other types of *riba (fadhl)* are not forbidden. They base their opinion on the argument, that the sentence multiplied (*adh'afan mudhaafatan*) contained in the surah Ali Imran verse 130, is a requirement for usury, so if there are additions that do not multiply, the law does not prohibited

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<sup>2</sup> Act Number 7 of 1992 concerning Banking.

<sup>3</sup> Kasmir, *Bank dan Lembaga Keuangan Lainnya*, (Jakarta: Raja Grafindo, 2002), h. 121.

it, such as addition to buying and selling for example, both paid immediately and suspended.<sup>4</sup>

Agreed with At-Thabari, as stated by A. Hasan quoted by Hendi Suhendi that bank interest as in this country is not prohibited usury, with the argument that bank interest does not multiply, as stated in the previous paragraph.<sup>5</sup> Muhammad Syahrur also believes that bank interest does not include usury as long as it has not reached 100% of capital.<sup>6</sup>

Based on the opinion that bank interest is included in the riba category, world Islamic leaders innovated to develop financial institutions that are in line with Islamic law. Likewise in Indonesia, bank that based on Islamic law is called sharia bank. The basic concept of sharia bank is based on the Quran and hadith. All products and services offered must not contradictory with the contents of the Quran and the hadith of the Prophet.<sup>7</sup> The first sharia bank in Indonesia was Bank Muamalat Indonesia which was established on November 1, 1991.<sup>8</sup> Since the enactment of Act Number 10 of 1998 concerning changes to Act Number 7 of 1992 concerning Banking, Indonesia has begun to implement a dual banking system. The dual banking system is a conventional banking system with interest, and a banking system based on sharia principles.<sup>9</sup>

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<sup>4</sup> Wartoyo, "Bunga Bank: Abdullah Saeed vs Yusuf Qaradhawi (Sebuah Dialektika Pemikiran antara Kaum Modernis dengan Neo-Revivalis)," *Jurnal Ekonomi Islam La\_Riba*, 1 (Juli, 2010), h. 117-118.

<sup>5</sup> Hendi Suhendi, *Fiqh Muamalah*, (Jakarta: Rajawali Press, 2005), h. 282.

<sup>6</sup> Muhammad Syahrur, *al-Kitab wa al-Quran: Qira'ah Mu'asirah*, (Damaskus: al-Halli li al-Tiba'ah, 1990), h. 466.

<sup>7</sup> Ismail, *Perbankan Syariah*, Edisi Pertama, (Jakarta: Kencana, 2011), h. 29.

<sup>8</sup> Bank Muamalat. "Profil Bank Muamalat," <https://www.bankmuamalat.co.id/profil-bank-muamalat>, accessed April 3, 2019.

<sup>9</sup> Ahmad Kamil dan M. Fauzan, *Kitab Undang-Undang Hukum Perbankan dan Ekonomi Syariah*, (Jakarta: Kencana, 2007), h. v.



Since the establishment of sharia bank for the first time in Indonesia in 1991, the government inaugurated the Islamic banking system in 1998. The Indonesian Ulema Council (MUI) also issued a fatwa on bank interest on December 16, 2003. In the fatwa, it was stated that the practice of raising money now had fulfilled the criteria of usury which occurred at the time of the Prophet, namely *riba nasi'ah*. Thus, the practice of lending money is one form of usury, and *riba* is unlawful. Until the enactment of Act Number 21 of 2008 concerning Sharia Banking on July 16, 2008. Sharia banking has a clear legal protection.

There have been many breakthroughs that made by developers of Islamic economic concepts, all of which aim to advance Islamic banking in Indonesia. Starting from the MUI which has issued a fatwa on the interest of conventional bank. Then followed by several policies issued by BI (Bank Indonesia), through its Sharia Banking Directorate, including issuing office channeling policies for conventional bank that have opened Sharia Business Units (UUS) to provide sharia transaction services to the wider community. The above conditions are real evidence of support for the development of the Islamic banking industry in Indonesia.<sup>10</sup>

Unfortunately, in practice, Islamic banking is still not quite competitive with conventional bank. It can be seen from the market share of the Indonesian Islamic banking industry as of June 2018, which is still 5.7% of the total market share of the national banking industry. Which means, 94.3% of the

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<sup>10</sup> Qurratul A'yun Nailufarh, "Sistem Perbankan dan Persoalan Riba dalam Islam (Menuju Sistem Perbankan dan Perbuatan Masyarakat yang Bebas dari Unsur Riba)," *Management and Accounting Journal*, 9 (Juni, 2008), h. 8.

national banking industry's market share is still dominated by conventional banking. One thing that is ironic. First, because the majority of the population of Indonesia is Muslim, which should be a potential market that can support the development of Islamic banking in Indonesia. Second, the existence of the Islamic banking industry has been running for more than 27 years. It means that the existence of Islamic bank is no longer like a child whose movements are not agile, but has become a young man who is expected to move more agile and responsive to the conditions of the times.<sup>11</sup>

The tendency of people to choose to transact in conventional bank also occurs in Maulana Malik Ibrahim State Islamic University Malang (UIN Maulana Malik Ibrahim Malang). In receiving funding, the lecturers and academic staff of UIN Maulana Malik Ibrahim Malang are directed to receive credit from one of the conventional bank located in the university, namely BTN Bank. Likewise with new students at UIN Maulana Malik Ibrahim Malang, who are required to make a new bank account bank when re-registering for university. Opening the bank accounts were done in a conventional bank. In the 2015 school year with BRI Bank, where student ID cards can function as ATM cards. In 2016, new students also opened bank accounts at BTN Bank, and in 2017 and 2018 UIN Maulana Malik Ibrahim Malang returned to collaborating with BRI Bank.

Islamic University which has a role as the spreader of Islamic missions and develops Islamic civilization, in fact the people in the university

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<sup>11</sup> Qurratul A'yun Nailufarh, "Sistem Perbankan...", h. 8.

environment are still involved in conventional bank. Which UIN Maulana Malik Ibrahim Malang should be as a place where an Islamic scholar provides an example for the wider community to take part in developing Islamic bank.

As stated in the MUI Fatwa Number 1 of 2004, in dealing with conventional financial institutions. For those whose area has an office or network of Islamic Financial Institutions and is easily accessible, it is not permissible to make transactions based on interest calculation. In Malang itself, there are eight Islamic banking institutions with 24 branch offices spread around Malang. Among them are Muamalat Bank, BRI Syariah, BNI Syariah, Mandiri Syariah Bank, BTN Syariah, Panin Islamic Bank, Mega Syariah Bank, and Jatim Syariah Bank. Which means that the Maulana Malik Ibrahim State Islamic University of Malang and its academic community should have conducted transactions with Islamic bank.

From the information above, the author feels it is important to know the opinions of UIN Maulana Malik Ibrahim Malang lecturers about this phenomenon.

## **B. Problem Formulation**

From the background of the research described above, problem formulations can be formulated as follows:

1. How is the opinion of UIN Maulana Malik Ibrahim Malang lecturers' about credit interest in conventional bank?
2. How is the opinion of UIN Maulana Malik Ibrahim Malang lecturers' about credit interest in conventional bank based on Islamic law?

### **C. Objective of Research**

From the formulations of the problem proposed above, the objectives of writing the results of this study are as follows:

1. To determine the opinion of UIN Maulana Malik Ibrahim Malang lecturers' about credit interest in conventional bank.
2. To compare the opinion of UIN Maulana Malik Ibrahim Malang lecturers' about credit interest in conventional bank based on Islamic law.

### **D. Significance of Research**

This research is expected to provide both theoretical benefits and practical benefits.

#### **1. Theoretical Benefits**

Theoretically, the results of this study are expected to be useful as an additional material for knowledge about the relation of credit in conventional bank with usury to all parties and also can be used as a reference source for all parties who wish to conduct further research.

#### **2. Practical Benefits**

Adding information about the opinions of the lecturers and improve the scientific thinking patterns of the author, so that later it can be practiced in the life that the author occupies and could give benefit to the community.

### **E. Discussion Structure**

In compiling the results of this study, a systematic writing is needed. Broadly speaking, the systematic writing in this study consists of five chapters and each chapter has several sub chapters, as follows:

## **CHAPTER I: INTRODUCTION**

This chapter contains an initial description of the research and the main points of the research. The systematic discussion includes the background of the problem that explains the reasons for the author choosing this discussion. Then the formulation of the problem, research objectives, the significance of research and discussion structure.

## **CHAPTER II: LITERATURE REVIEW**

To obtain the maximum results, the author includes literature review as a foundation of this research. The literature review contains the previous research and literature review. Previous research contains information about three studies that have been conducted by previous researchers, which have relevance to research problems. It is used to avoid plagiarism, repetition, and duplication. Then the literature review contains material about conventional bank credit, Islamic bank financing, and discussion of usury and its correlation with interest. The material described is sourced from books, journals and scientific articles, news, and from other supporting sources.

## **CHAPTER III: RESEARCH METHOD**

This chapter describes the research methods used. An explanation of the research method used includes the type of research used in this study, which is in the form of empirical juridical research and use the socio legal approach with some tabulation data added in the

discussion. This chapter also include the information of research location, data sources, data collecting technique and data processing technique that used.

#### **CHAPTER IV: RESEARCH RESULTS AND DISCUSSION**

This chapter explains the general information about research location and the results of the research which conducted in the form of the results of field data obtained, as well as analysis of the data obtained. The explanations are explained in two points. The first point is explaining the answer from respondents and calculate it based on likert scale. The second point is compare the opinion based on Islamic law.

#### **CHAPTER V: CLOSING**

This chapter consists of conclusions and suggestions. Conclusions are the essence of the overall results of the research and suggestions are the implications of this study. Conclusions are the results of the analysis that has been briefly described in chapter IV which is the answer to the formulation of the problem mentioned in the first chapter. In addition, some suggestions from author also included for several parties regarding the object of this research.



## CHAPTER II

### LITERATURE REVIEW

#### A. Previous Research

Previous research contains information about research conducted by previous researchers, which has relevance to this research's problem. Previous research functions is as a reinforcer and supporter in the research that the author will do, which is then used to avoid plagiarism, repetition, and duplication. The following are previous studies that have relevance to this study.

1. Asma Nur Lailal Fahriyyah, student of Syari'ah and Law Faculty, Walisongo State Islamic University Semarang, 2018, "*Bunga Bank Dalam Perspektif Dr. KH. MA Sahal Mahfudh*"<sup>12</sup>

This thesis concludes that bank interest has various definitions and legal interpretations between scholars. This thesis focuses on the opinion of bank interest by K.H. Sahal Mahfudh who stated that bank interest law is *mubah* or permissible. K.H. Sahal Mahfudh even established a Rural Bank without followed by sharia and used the term interest in the operation of the Bank. The law "permissible" become the choice for the application of the principle of prudence, and not choosing *haram* or unlawful as the law, because of seeing the emergency conditions and considering the benefits that exist.

The opinion of Kyai Sahal about bank interest is not *haram* (*mubah*) is contrary to Islamic law regarding usury which is clearly said to be unlawful. Likewise with the Fatwa of MUI Number 1 in 2004 which has prohibited bank interest. Kyai Sahal Mahfudh considered *masalah* by using the fifth *maqasidu* (purpose) of sharia approach, namely safeguarding property as a basis for determining the status of bank interest laws.

The similarity between our research lies in the researching of bank interest law. The difference between this thesis and the research conducted by the author is that the author's research is empirical legal research by

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<sup>12</sup> Asma Nur Lailal Fahriyyah, *Bunga Bank Dalam Perspektif Dr. KH. MA Sahal Mahfudh*, *Skripsi*, (Semarang: UIN Semarang, Fakultas Syari'ah dan Hukum, 2018).



taking several opinions from several lecturers while the above thesis is a library research by only taking K.H Sahal Mahfudh's opinion.

2. AI Irma, student of Syari'ah and Law Faculty, Sunan Gunung Djati State Islamic University Bandung, 2017, "*Pendapat Syafruddin Prawiranegara tentang Bunga Bank*"<sup>13</sup>

This thesis concludes that bank interest according to Syafruddin Prawiranegara is not including usury, because basically bank interest is a service that is issued or collected from and for financing the bank's administration. The criterion or measure for usury is not a profit obtained from a loan of money, or from another credit. Usury is all profits obtained based on transactions or agreements where one party misuses its strong economic position to take advantage of the weaknesses of its weak opponent.

The similarity between this research and research conducted by the author is examining the bank interest law. While what distinguishes this research from the above thesis is that this research is empirical legal research that takes data from the field, and takes some opinions from the lecturers.

3. Farida Sulistiana, student of Syari'ah and Islamic Economics Department, State Islamic College (STAIN) of Ponorogo, 2015, "*Persepsi Para Tokoh Nahdlatul Ulama (NU) Kabupaten Ponorogo Terhadap Bunga Bank*"<sup>14</sup>

<sup>13</sup> AI Irma, *Pendapat Syafruddin Prawiranegara tentang Bunga Bank*, Skripsi, (Bandung, UIN Bandung, Fakultas Syariah dan Hukum, 2017).

<sup>14</sup> Farida Sulistiana, *Persepsi Para Tokoh Nahdlatul Ulama (NU) Kabupaten Ponorogo Terhadap Bunga Bank*, Skripsi, (Ponorogo, STAIN Ponorogo, Fakultas Syariah dan Ekonomi Islam, 2017).

This thesis concludes that the bank interest law according to the perceptions of the leaders of the Nahdlatul Ulama (NU) Ponorogo Regency is divided into three types, namely *halal*, *haram*, and *tafsil*. The reason allowing bank interest is because the bank interest is used for bank operational costs. Forbidden because bank interest is always required in each transaction, so that it is considered as usury. Whereas *tafsil*, which is distinguished between productive and consumptive loans, and associated with the amount of interest is whether in controlled or multiplied limits.

The law for transacting with conventional bank according to the perceptions of the leaders of the Nahdlatul Ulama (NU) in Ponorogo Regency is divided into three types, those are permitted unconditionally, permitted on condition and *tafsil*. The reason for being unconditional is because the existence of bank is an emergency need and interest is not always usury. Then the reason is permitted with conditions, when the conditions are emergency and the contract must be clear. While *tafsil*, which is *haram* when it is required interest in the contract, *makruh* when not requiring interest in the contract but expect profits, dan permissible when does not expect interest and profits.

The similiarity between this thesis and what the author does, lies in the discussion of bank interest and the type of research that is both legal empiric research. The difference lies in the informant who is the source of the data and the location of the study.

**Table 1:**  
**Similarities and Differences with Previous Research**

No	Researcher's Identity	Research Title	Similarity	Difference
1	Asma Nur Lailal Fahriyyah, 2018, Walisongo State Islamic University of Semarang	<i>Bunga Bank Dalam Perspektif Dr. KH. MA Sahal Mahfudh</i>	Researching Bank Interest Law by using perspective of person as an object	Type of research was library research and only use one perspective of person
2	AI Irma, 2017, Sunan Gunung Djati State Islamic University of Bandung	<i>Pendapat Syafruddin Prawiranegara tentang Bunga Bank</i>	Bank Interest Law as an object	Type of research was library research and only use opinion of one person
3	Farida Sulistiana, 2015, State Islamic College (STAIN) of Ponorogo	<i>Persepsi Para Tokoh Nahdlatul Ulama (NU) Kabupaten Ponorogo Terhadap Bunga Bank</i>	The object is Bank Interest Law and the type of research is legal empiric	The location was in Ponorogo and the respondents were the Leader of the Nahdlatul Ulama (NU) in Ponorogo Regency

## B. Literature Review

### 1. The Theory of Conventional Bank Credit and Sharia Bank Financing

#### a. Conventional Bank Credit

##### 1) Definition

The bank comes from the word *banque* (French) and from the word *banco* (Italian) which means a chest or a cupboard or a bench. Chest, cupboard or bench explain the basic functions of commercial bank. *First*, provide a place to deposit money safely (safe keeping

function). *Secondly*, provide a means of payment to buy goods and services (transaction function).<sup>15</sup>

The bank is one of a kind of financial institution, which collects funds from the community in the form of deposits and distributes them to the public in the form of credit funds or other forms. Since 1998, Indonesia has begun to implement a dual banking system. The dual banking system is a conventional banking system, and a banking system based on sharia principles. Based on Act Number 21 of 2008 concerning Sharia Banking, “Conventional bank is bank that carries out their business activities conventionally and based on their type consisting of Conventional Commercial Bank and Rural Credit Bank.”

Conventional bank has several types of businesses, one of which is giving credit. Credit comes from the word *creditus* which means “trust”.<sup>16</sup> Thus, credit has the main element of trust even though credit itself is not just trust, the meaning of trust here means, the party who gives credit (creditor) believes that the recipient of the credit (debtor) will be able to fulfill everything that has been agreed.<sup>17</sup>

The term credit is not a stranger in daily life in the community, because often found members of the community who transact the sale and purchase of goods with a credit system, buying and selling is not

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<sup>15</sup> M. Syafi'i Antonio, *Dasar-Dasar Manajemen Bank Syariah*, (Jakarta: Pustaka Alfabeta, 2006), h. 2.

<sup>16</sup> Munir Fuady, *Hukum Perkreditan Kontemporer*, (Bandung: Citra Aditya Bhakti, 1996), h. 5.

<sup>17</sup> Muhammad Djumhana, *Hukum Perbankan di Indonesia*, (Bandung: Citra Aditya Bhakti, 2000), h. 217.

done in cash, but by installments, in addition there are also many community members who accept credit from cooperatives and bank to meet their needs. They generally interpret credit as debt, because after a certain period of time they have to pay in full.<sup>18</sup>

According to Act Number 10 of 1998 concerning Amendment to Act Number 7 of 1992 concerning Banking, "Credit is the provision of money or equivalent claims based on a loan agreement between the bank and another party requiring the borrowing party to pay off the debt after a certain period of time with interest."<sup>19</sup>

It can be concluded that credit is an agreement between the bank as the party that lends money (creditor) to the customer as the party that receives the money (debtor). In this agreement the bank believes that the customer is able to repay the principal debt with additional interest as agreed.

Credit activities are a very basic and very conventional activity from a bank, even while experts say that the traditional function of bank is to collect funds from the public and channel funds to the public. Funding is generally carried out in the form of credit.<sup>20</sup>

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<sup>18</sup> Gatot Supramono, *Perbankan dan Masalah Kredit Suatu Tinjauan Yuridis*, (Jakarta: Penerbit Djambatan, 1996), h. 44.

<sup>19</sup> Article 1 section 11 Act Number 10 of 1998 concerning Amendment to Act Number 7 of 1992 concerning Banking.

<sup>20</sup> Neni Sri Imaniyati, *Pengantar Hukum Perbankan Indonesia*, (Bandung: PT Refika Aditama, 2010), h. 139.

## 2) Types of Credit

In principle, there are two kinds of credit, bank money borrowed by customers and will be returned to a counterpart in the form of interest. But based on various business needs as well as various economic elements that affect the business fields of the customers, the types of loans are diverse, based on: the nature of usage, order, duration, method of use and collateral for loans given by bank.<sup>21</sup>

In current practice, in general there are two types of loans given by bank to their customers, namely credit in terms of their intended use and credit in terms of the time period. Credit in terms of its intended use can be in the form of:<sup>22</sup>

a) Productive Loans, which are loans given to businesses that produce goods and services as contributions rather than their business. This credit has two possibilities, namely: working capital credit and investment credit. Working capital credit is loans given to finance business needs, including to cover production costs in order to increase production or sales. While investment credit, namely credit is given to procure capital goods and services intended to produce an item or service for the business concerned.

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<sup>21</sup> Mustofa, "Mark Up, Bai' Bi Tsaman Ajil dan Kredit Menurut Manajemen Keuangan Islam," *Jurnal Al-Ulum*, 1 (Juni, 2010), h. 151.

<sup>22</sup> Hasanuddin Rahman, *Aspek-Aspek Hukum Pemberian Kredit Perbankan di Indonesia (Panduan Dasar Legal Officer)*, (Bandung: PT Citra Aditya Bakti, 1998), h. 97-98.

b) **Consumptive Credit**, as the name implies, this credit is used by borrowers for consumption purposes, meaning that the credit will be used up or all will be used to meet their needs. Thus this is not valuable if we look at it in terms of money utilities. But only to help someone to fulfill their life needs. Of course, it is understandable that basically this credit is burdensome to the concerned because the holes of life will deepen, so to get out of trouble in the sense of returning credit will be heavy if the income is small. Popular consumer loans are such as: Mortgages (Public Housing Loans), motorized vehicle loans, and so on.

Credit in terms of time period can be in the form of Short-Term Loans, Medium-Term Loans, and Long-Term Loans. Short-term loans are loans given not exceeding one year. Medium-term loans are loans given for more than one year but not more than three years. The long-term credit is credit extended with a period of more than three years.<sup>23</sup>

### 3) **Interest**

As stated earlier, credit is the provision of debt which must be returned according to the specified time with additional interest. In Dutch, interest is *rente*. Bank interest can be interpreted as reciprocal

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<sup>23</sup> Hasanuddin Rahman, *Aspek-Aspek Hukum...*, h. 98.

services provided by bank based on conventional principles to customers who buy or sell their products.<sup>24</sup>

According to Adam Smith and David Ricardo, interest is compensation paid by someone who borrows money from the owner of the money for his benefit, if the person who borrowed the money used the money. Then, according to N.W. Senior: capital formation requires savings, that is holding or sacrificing income that is not used for consumption, and who forms capital hold deposits, give a sacrifice, "Interest" is considered as a substitute for the sacrifice and interest is the price paid for abstinence. Abstinence means not using money for a while, because it is lent to someone else. Furthermore, according to Vohm Bohm Bawenk, interest is agio (added value) per unit of time from the value given to current usage, for future use.<sup>25</sup>

In general in economics, interest arises from a sum of money, which is commonly referred to capital in the form of money. Interest can also be called the term rent. According to Goeghart, interest or rent is a difference in value, depending on time differences based on economic calculations.<sup>26</sup>

In the case of credit, interest is charged on money loans, which are usually expressed as a percentage of money lent. So in addition to the principal debt of borrowed money, there is additional debt as a

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<sup>24</sup> Kasmir, *Bank dan Lembaga Keuangan Lainnya*, h. 121.

<sup>25</sup> Buchari Alma dan Donni Juni Priansa, *Manajemen Bisnis Syari'ah*, (Bandung: Alfabeta, 2009), h. 278-279.

<sup>26</sup> Syahrin Harahap, *Bunga Uang dan Riba dalam Hukum Islam*, (Jakarta: Pustaka al-Husna, 1993), h. 18-19.



remuneration for borrowing money provided by the bank to customers.

Interest usually expressed as% per agreed time unit (day, month, year or other time unit) and is called the interest rate. For example, someone borrows money worth IDR 1 million for a period of 1 year with an interest of 12% per year, then at maturity, he must pay a total of IDR 1 million (1 + 12%), which is IDR 1,120,000. In that case, interest of 12% per year was IDR 120,000.<sup>27</sup>

High and low interest rates generally depend on the high and low demand for money, as the process of forming prices on goods and services in general. When the number of fund offers is greater than the demand (need), then the interest tends to decrease, and vice versa.<sup>28</sup> According to Bank Indonesia, interest rates that occur in the community are influenced by various factors: public liquidity, inflation expectations, foreign interest rates, expectations of exchange rate changes and premiums on risk.<sup>29</sup>

Western economists put forward several reasons for interest. Among them because the lender has sacrificed his desire to use his money, so he asked for compensation in the form of additional money. The lender also loses the opportunity to use the money. Then,

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<sup>27</sup> Muhammad Ghafur W., *Memahami Bunga dan Riba Ala Muslim Indonesia*, (Yogyakarta: Bina Ruhani Insan Press, 2008), h. 5.

<sup>28</sup> Muhammad Ghafur W., *Memahami Bunga...*, h. 5.

<sup>29</sup> Muh. Zuhri, *Riba dalam Al-Qur'an dan Masalah Perbankan (Sebuah Tilikan Antisipatif)*, (Jakarta: PT. Raja Grafindo Persada, 1996), h. 146.

economic development shows that the price of goods tends to increase (inflation) over time.<sup>30</sup>

## **b. Sharia Bank Financing**

### **1) Definition**

Sharia Bank is Bank that carry out their business activities based on sharia principles and according to their types consist of Sharia Commercial Bank and Sharia People Financing Bank.<sup>31</sup> The definition of Islamic bank or Islamic bank in his book Edy Wibowo is a bank that operates in accordance with Islamic sharia principles. This bank procedures for operation refer to the provisions of the Quran and hadith.<sup>32</sup> Whereas according to Sutan Remy Shahdeiny, sharia bank is an institution that functions as an intermediary, which is to mobilize funds from the community and redistribute these funds to the people in need in the form of financing without the principle of interest, but based on sharia principles.<sup>33</sup>

Financing in Act Number 21 of 2008 concerning Sharia Banking is defined as the provision of funds or equivalent claims in the form of: profit sharing transactions in the form of *mudharabah* and *musyarakah*; lease transactions in the form *ijarah* or rent purchase in the form of *ijarah muntahiya bittamlik*; buying and selling transactions in the form of *murabahah*, *salam*, and *istishna*; lending

<sup>30</sup> Muhammad Ghafur W., *Memahami Bunga...*, h. 10-11.

<sup>31</sup> Article 1 section (7) Act Number 21 of 2008 concerning Sharia Banking.

<sup>32</sup> Edy Wibowo, et. al., *Mengapa Memilih Bank Syariah?*, (Bogor: Ghalia Indonesia, 2005), h. 33.

<sup>33</sup> Sutan Remy Sjahdeini, *Perbankan Islam*, (Jakarta: PT Pustaka Utama Grafiti, 2007), h. 1.

and borrowing transactions in the form of *qardh*; and services leasing transactions in the form of *ijarah* for multi-purpose transactions, based on an agreement or agreement between a sharia bank and/or UUS and other parties requiring parties to be financed and / or given a fund facility to repay the fund after a certain period of time in return for *ujrah*, without compensation, or profit sharing.

## 2) Financing Products

From the deliberation (international *ijma*) result of muslim economists, fiqh experts, and fiqh academy in Mecca in 1973, it can be concluded that the basic concept of Islamic relations based on sharia in Islamic economic systems can be applied in the operations of financial institutions, bank, and non-bank financial institutions.<sup>34</sup>

Broadly speaking, economic relations based on Islamic sharia are determined by the relation of *'aqad* which consists of five concepts of *'aqad*. Based on these five concepts, it can be found that Islamic banking financial institutions and non-Islamic financial institutions are operational products. The five concepts are: deposit system (*al-wadi'ah*); profit sharing (*syirkah*); buying and selling (*at-tijarah*); rent (*al-ijarah*); services/fees (*al-ajr wal umullah*).<sup>35</sup>

Financing products in Islamic bank can be developed with the following models:<sup>36</sup>

<sup>34</sup> Muhammad, *Manajemen Bank Syariah*, (Yogyakarta: UPP AMP YKPN, 2002), h. 83.

<sup>35</sup> Muhammad, *Manajemen Bank Syariah*, h. 85-99.

<sup>36</sup> Neni Sri Imaniyati, *Pengantar Hukum Perbankan Indonesia*, h. 53-56

a) Buying And Selling (*Al-Bai'*)

Financing products that generally use the principle of buying and selling are of three types, namely *murabahah*, *salam* and *istishna*. *Murabahah* comes from the word *ribhu* which means profit. The Bank is domiciled as a seller and customer as a buyer. Goods are delivered immediately and payments are made in a formidable manner. *Murabahah* financing has been arranged in Fatwa of DSN No.04/ DSN-MUI/IV/2000.

The second is *salam*. In Islamic law, *Salam* means buying and selling items that do not yet exist, or can usually be called by order. Cash payment but the item is delivered in a formidable manner. In this transaction there is certainty about quantity, quality, price and time of delivery. Bank acts as buyers and customers as sellers. Considering that the bank does not make goods purchased or ordered as inventory, the bank may make a greeting contract to a third party (second buyer). Regulated in Fatwa of DSN No. 05/DSN-MUI/IV/2000.

The third is *istishna*, buying and selling like a *salam* contract but the payment is made by the bank in several payments. *Istishna* is applied to manufacturing and construction financing. This financing is regulated in Fatwa of DSN No. 06/DSN-MUI/IV/2000.

b) Rent/Lease (*Ijarah*)

The *ijarah* transaction is based on the transfer of benefits. In *ijarah* transactions, the customer does not have the right to own the item, but only enjoys the benefits of the object being the object. Bank charges rental fees to customers. In the type of *ijarah muntahia bitamlik* (rent followed by transfer of ownership), at the end of the lease period. The rental price and selling price are agreed at the beginning of the agreement. The fatwa of the DSN governing *ijarah* is Fatwa of DSN No. 09/DSN-MUI/IV/2000.

c) Profit Sharing (*Syirkah*)

Profit sharing is the distribution of the results of the business carried out by the parties making the agreement, namely the customer and the Islamic bank. In the event that there are two parties that make a business agreement, the results of the business carried out by both parties or one of the parties will be divided according to the portion of each party that entered into the agreement. Distribution of business results in Islamic banking is determined by using a ratio. *Nisbah* is the percentage agreed upon by both parties in determining the profit sharing for the business cooperated.<sup>37</sup>

The principle of profit sharing for financing products in Islamic bank is operationalized with the *musyarakah* and *mudharabah*

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<sup>37</sup> Ismail, *Perbankan Syariah*, h. 95-96.

patterns. *Musyarakah* is cooperation in an effort by two parties. All capital is put together to be used as project capital and managed together.

Whereas *mudharabah* is a collaboration between bank and customers. The bank as *shahibul mal* (capital owner) who provides 100% funds to customers as *mudharib* (business manager). The results of management of *mudharabah* financing capital can be calculated by means of business results divided according to the agreement in the contract every month agreed upon.

## 2. Usury (*Riba*)

### a. Definition

Etymologically, usury means additional (*ziyadah*) or means to grow. In terms of *fiqh*, that is, a special addition that belongs to one of the two parties involved in the transaction without any particular reward.<sup>38</sup>

According to Muhammad Abduh, usury is an addition that is required by people who own property to people who borrow their property (money) because of the withdrawal of the promise of payment by the borrower from a specified time.<sup>39</sup>

Badruddin al-Ayni said that the main principle of usury is additions, according to *syara'* usury is the addition of basic assets without real business transactions. According to Imam Sarakhsi, usury is

<sup>38</sup> Sholah Ash-Shawi and Abdullah al-Muslich, *Fikih Ekonomi Islam*, (Jakarta: Darul Haq, 2001), h. 339.

<sup>39</sup> Sohari Sahrani dan Ru'fah Abdullah, *Fikih Muamalah*, (Bogor: Ghalia Indonesia, 2011), h. 56.

an additional requirement in business transactions. According to Abu Sura'i Abdul Hadi, what is called *riba* is an addition given by the debtor to the creditor for the principal loan, in return for the payment tempo that is not required. Usury is basically an interest on additional principal loans. In classical doctrine, the meaning extends includes many additional benefits that are obtained as a result of transactions and are not determined exactly when making transactions.<sup>40</sup>

According to Abu Zahrah, usury is any addition in return for a certain period, whether the loan is for consumption or exploitation, it means whether the loan is for getting a certain amount of money for his personal needs, without considering it by exploiting it or the loan is developed by exploiting, because the text (*nash*) is general.<sup>41</sup>

#### b. Usury in Quran and Hadith

The prohibition on usury has been determined in the Quranic verses as follows:

##### 1) The word of Allah swt

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ۗ ذَٰلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا ۗ وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا ۗ فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَىٰ فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ ۗ وَمَنْ عَادَ فَأُولَٰئِكَ أَصْحَابُ النَّارِ ۗ هُمْ فِيهَا خَالِدُونَ ، يَمْحَقُ اللَّهُ الرِّبَا وَيُرْبِي الصَّدَقَاتِ ۗ وَاللَّهُ لَا يُحِبُّ كُلَّ كَفَّارٍ أَثِيمٍ ، إِنَّ الَّذِينَ آمَنُوا وَعَمِلُوا الصَّالِحَاتِ وَأَقَامُوا الصَّلَاةَ وَآتَوُا الزَّكَاةَ لَهُمْ أَجْرُهُمْ عِنْدَ رَبِّهِمْ

<sup>40</sup> Abu Sura'i Abdul Hadi, *Bunga Bank Dalam Islam*, Terj M. Thalib, (Surabaya: Ikhlas, 1993), h.

2.

<sup>41</sup> Muhammad Abu Zahrah, *Buhusu fi al-Riba*, (Bairut: Dar al-Buhus al-Ilmiyah, 1980), h. 38-39.

وَلَا خَوْفٌ عَلَيْهِمْ وَلَا هُمْ يَحْزَنُونَ ، يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَذَرُوا مَا بَقِيَ مِنَ  
الرِّبَا إِن كُنْتُمْ مُؤْمِنِينَ ، فَإِن لَّمْ تَفْعَلُوا فَأْذَنُوا بِحَرْبٍ مِنَ اللَّهِ وَرَسُولِهِ وَإِن تُبْتُمْ  
فَلَكُمْ رُءُوسُ أَمْوَالِكُمْ لَا تَظْلِمُونَ وَلَا تُظْلَمُونَ ، وَإِن كَانَ ذُو عُسْرَةٍ فَنَظِرَةٌ إِلَىٰ  
مَيْسَرَةٍ وَأَنْ تَصَدَّقُوا خَيْرٌ لَّكُمْ إِن كُنْتُمْ تَعْلَمُونَ

*Those who consume interest cannot stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity. That is because they say, "Trade is [just] like interest." But Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah . But whoever returns to [dealing in interest or usury] - those are the companions of the Fire; they will abide eternally therein. Allah destroys interest and gives increase for charities. And Allah does not like every sinning disbeliever. Indeed, those who believe and do righteous deeds and establish prayer and give zakah will have their reward with their Lord, and there will be no fear concerning them, nor will they grieve. O you who have believed, fear Allah and give up what remains [due to you] of interest, if you should be believers. And if you do not, then be informed of a war [against you] from Allah and His Messenger. But if you repent, you may have your principal - [thus] you do no wrong, nor are you wronged. And if someone is in hardship, then [let there be] postponement until [a time of] ease. But if you give [from your right*



as] charity, then it is better for you, if you only knew. (QS. Al-Baqarah: 275-280)

2) The word of Allah swt

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا الرِّبَا أَضْعَافًا مُضَاعَفَةً وَاتَّقُوا اللَّهَ لَعَلَّكُمْ تُفْلِحُونَ

*O you who have believed, do not consume usury, doubled and multiplied, but fear Allah that you may be successful. (QS. Ali Imran: 130)*

3) The word of the Prophet saw

عَنْ أَبِي هُرَيْرَةَ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَأْتِي عَلَى النَّاسِ زَمَانٌ يَأْكُلُونَ الرِّبَا فَمَنْ لَمْ يَأْكُلْهُ أَصَابَهُ مِنْ غُبَارِهِ (رواه النسائي في سننه، كتاب البيع، باب اجتناب الشبهات في الكسب، رقم: 4379)

*From Abu Hurairah r.a., he said, the Prophet said: "Will come to mankind a time when they (used to) eat usury. Whoever does not eat (take) it, he will be affected by the dust." (HR. al-Nasa'i: 4379).*

4) The word of the Prophet saw

عَنْ عَبْدِ اللَّهِ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ الرِّبَا ثَلَاثَةٌ وَسَبْعُونَ بَابًا (رواه ابن ماجه في سننه، كتاب التجارات، باب التغليظ في الربا، رقم: 2266)

*From Abdullah, from the Prophet, he said: "Riba has seventy-three doors (ways, kinds)." (HR. Ibn Majah: 2266).*

### c. Type of Usury

The scholars differed in determining the division or types of usury. But some scholars divide usury into 4 types, they are:

### 1) *Riba Fadhl*

*Riba fadhl* is an addition that is required in exchanging similar items (barter buying and selling) without compensation for these additions. For example, exchanging 10 kg glutinous rice with 12 kg glutinous rice. If the items exchanged are of a different type, then the law is permissible, such as exchanging 10 kg glutinous rice with 12 kg of rice. Six types of goods belonging of *ribawi* group are: gold, silver, wheat, corn, dates, salt. Of the six types of goods which are included in the *ribawi* group are: (1) items that are usually measured (*makilat*), (2) items that are usually weighed (*mauzunat*). Whereas in terms of types, items which are included in the *ribawi* group are: (1) currency group (*nuqud*) which are gold and silver, (2) food groups which are wheat, corn, dates, salt. Both of these type are prohibited because: first, gold and silver are payment instruments or both are prices. Second, these foods are staple foods needed by human.<sup>42</sup>

### 2) *Riba Nasi'ah*

According to Sayid Sabiq, *riba nasi'ah* is the required addition taken by the person who gives the debt from the person receiving the debt in return for the delay in payment. The Hanafiah Ulama classifies a form of barter buying and selling which has no advantages, but the surrender of rewards or prices is terminated, as *riba nasi'ah*. *Riba nasi'ah* is haraam based on the Qur'an and Hadith. *Riba nasi'ah*

<sup>42</sup> Sholah ash-Shawi dan Abdullah al-Muslich, *Fikih Ekonomi ...h.* 264- 265.

known as usury *jahiliyah* because it comes from the habits of ignorant people where they usually give loans to someone and when due, they usually offer it will be extended or not, so that usury is growing. *Riba nasi'ah* at present in financial or banking institutions, that is, with a money lending model whose repayments are repaid at monthly or annual interest rates such as 7%, 5%, etc. Practices like this clearly show usury, which is unlawful.<sup>43</sup>

### 3) *Riba Yad*

*Riba Yad* is buying and selling or exchanging by ending the receipt of goods exchanged or shared without registering the time. Or buying and selling done by someone before receiving the item he bought from the seller and may not be sold to anyone because the item purchased has not been received and is still in the bond of the first sale. In other words, the contract is final, but there is no handover of the items.<sup>44</sup>

### 4) *Riba Qardl*

*Riba Qardl* are all forms of debt practices that have a profit motive (*syarth naf'an*) which returns to the debt lender (*muqaridl*) only or at the same time to the debtor (*muqtaridl*). Essentially *riba qardl* is included in the category of *riba fadhil* because the benefits

<sup>43</sup> Sholah ash-Shawi dan Abdullah al-Muslich, *Fikih Ekonomi...* h. 267-269.

<sup>44</sup> Sholah ash-Shawi dan Abdullah al-Muslich, *Fikih Ekonomi...* h. 267-268.

required in *riba qarḍl* are a form of addition or interest on one of the commodities of ribawi.<sup>45</sup>

Whereas according to Ibn Qoyyim, usury is divided into two types, namely: <sup>46</sup>

- 1) An obvious usury, which is forbidden because of its own circumstances namely *riba nasi'ah* (usury that occurs) because of the delay in payment of debt. This *riba nasi'ah* is allowed in an emergency (forced).
- 2) A vague usury, disguised for other reasons, namely usury *fadhl*. Usury that occurs due to an additional sale and purchase of similar objects. *Riba fadhl* is prohibited because it prevents the emergence of *riba nasi'ah*. So it is preventive.

Muhammad Rasyid Ridha, an Egyptian contemporary interpreter, divided two kinds which are forbidden in religion, those are:<sup>47</sup>

- 1) Forbidden because of the substance. It is not forbidden just because of an emergency for example *riba nasi'ah*.
- 2) Forbidden because of other conditions such as *riba fadhl* which is forbidden, so that it does not become a way or cause for the occurrence of *riba nasi'ah*. Usury is allowed because of an emergency or because there is a need.

<sup>45</sup> Tim laskar Pelangi, *Metodologi Fiqih Muamalah: Diskursus Metodologis Konsep Interaksi Sosial-Masyarakat*, (Kediri: Lirboyo Press, 2013), h. 53.

<sup>46</sup> Masyfuk Zuhdi, *Masail Fiqiyah*, (Jakarta: CV. Haji Masagung, 1989), h. 137.

<sup>47</sup> Abd Shomad, *Hukum Islam: Penormaan Prinsip Syariah dalam Hukum Indonesia*, (Jakarta: Kencana Media Group, 2010), h. 104.

#### d. Relation between Usury and Interest

In the literature of classical fiqh scholars there is no discussion that links between usury and interest. Because banking institutions like the ones that are currently developing are not found in their time. The discussion of interest, including riba or not, is only found in various contemporary fiqh literature.

Whether the interest includes usury, there are two common opinions; *first*, according to the scholars' among all schools of fiqh stated that interest in all forms includes the category of usury. *Second*, the opinion that states that interest does not belong to the usury category.<sup>48</sup> If bank interest includes usury, then Muslims may not transact in bank that apply the interest system. As the word of Allah Almighty in the surah Ali Imran verse 130 which reads:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا الرِّبَا أَضْعَافًا مُضَاعَفَةً ۖ وَاتَّقُوا اللَّهَ لَعَلَّكُمْ تُفْلِحُونَ

*O you who have believed, do not consume usury, doubled and multiplied, but fear Allah that you may be successful. (QS. Ali Imran: 130)*

The verse above explains that the word usury in terms of language means excess. So if it only stops the meaning of excess, this will not have much effect in understanding the meaning or essence of usury which is forbidden in the Quran, because as stated above, surah Ali Imran verse 130 which uses strict editorials against believers not to practice usury that multiplied (*adl'afan mudla'afah*). This letter gives an

<sup>48</sup> Ummi Kalsum, "Riba dan Bunga Bank dalam Islam (Analisis Hukum dan Dampaknya Terhadap Perekonomian Umat)," *Jurnal Al-'Adl*, 2 (Juli, 2014), h. 71.

understanding that in muamalah transactions may not take multiple profits or usury that multiplies.<sup>49</sup>

The term usury is used in the Quran twenty times. In the Quran the term usury can be understood in eight kinds of meanings, namely growth, enhancement, increase, become base, become large, large, and also interpreted as a small hill. Although the term usury appears in several meanings, conclusions can be drawn, namely increasing, both concerning quality and quantity.<sup>50</sup> According to Sayyid Sabiq, usury is an addition to capital, both additions are few or many.<sup>51</sup>

There are two common opinions regarding usury. First stating that usury is all the excess of the capital lent. The second is the prohibition of usury related to the element of exploitation, which can economically have a very detrimental impact on society. The element of this exploitation is likely to be in the interest of the bank, which then suggests that bank interest is illegal/haram.<sup>52</sup>

In this case, there are some interpreters, who explicitly forbid all types of usury, both usury that multiplies (*adh'afan mudha'afatan*), or a little or small amount of usury, whether it is *riba nasi'ah* or *riba fadhl*. In their view, *riba nasi'ah* or *riba jahiliyah*, is prohibited based on the definite order, while *riba fadhl*, is prohibited because it can be a way, for creating *riba nasi'ah*. Interpreters included in this group include Al-

<sup>49</sup> Quraish Shihab, *Membumikan al-Quran*, (Bandung: Mizan, 2003), h. 260.

<sup>50</sup> Abdullah Saeed, *Bank Islam dan Bunga (Studi Kritis Larangan Riba dan Interpretasi Kontemporer)*, (Yogyakarta: Pustaka Pelajar, 2003), h. 34.

<sup>51</sup> Sayyid Sabiq, *Fiqh Sunnah*, Vol. 12, (Bandung: PT al-Ma'arif, 1987), h. 125.

<sup>52</sup> Abdullah Saeed, *Bank Islam dan Bunga...*, h. 27.

Jhassas, Al-Qurthubi, As-Syaukani, and Sayyid Qutb. This view, then followed and reinforced again by the opinion of Islamic thinkers afterwards, such as Abu A'la Al-Maududi, Nejatullah As-Shiddiqie, and others. They generally argue that, any additional amount of the primary loan, a little or a lot is prohibited, because that is usury.<sup>53</sup>

Wabhah al-Zuhailiy discussed bank interest law using the classical fiqh theory point of view. According to him, bank interest is included in *riba nasi'ah*. Because the bank's interest includes the excess or additional collected with no compensation, but solely because of the delay in payment.<sup>54</sup>

Agreed with this, Yusuf Al-Qardhawi also stated that the aspect of prohibiting usury in the Quran is not limited to what some people understand about usury which is multiplied, because it is only a language style of the Quran in describing how usury in the time of ignorance has been so bad that it has multiplied.<sup>55</sup>

Also as stated by Al-Jazairi quoted by Ismail Nawawi about loan law (*al-qardhu*). A creditor is forbidden to take benefit from *al-qardhu* by increasing the loan amount or requesting a better loan repayment, or other benefits that come out of the loan agreement if all this is required, or based on the agreement of both parties. But if the addition of loan

<sup>53</sup> Wartoyo, "Bunga Bank: Abdullah Saeed vs Yusuf Qaradhawi (Sebuah Dialektika Pemikiran antara Kaum Modernis dengan Neo-Revivalis)," *Jurnal Ekonomi Islam La\_Riba*, 1 (Juli, 2010), h. 117

<sup>54</sup> Ghufon A. Mas'adi, *Fiqh Muamalah Kontekstual*, (Jakarta: PT. Raja Grafindo Persada, 2002), h. 166.

<sup>55</sup> Wartoyo, "Bunga Bank: Abdullah Saeed vs Yusuf Qaradhawi...", h. 128.

repayment is a form of good faith from the debtor, it is allowed,<sup>56</sup> as the hadith below:

عَنْ أَبِي رَافِعٍ رَضِيَ اللَّهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ اسْتَلْفَ مِنْ رَجُلٍ  
بَكْرًا فَقَدِمَتْ عَلَيْهِ إِبِلٌ مِنْ إِبِلِ الصَّدَقَةِ فَأَمَرَنِي أَنْ أَقْضِيَ الرَّجُلَ بَكْرَهُ فَقُلْتُ: لَمْ أَجِدْ  
فِيهَا إِلَّا خِيَارًا رَبَاعِيًّا فَقَالَ: أَعْطِيهِ إِيَّاهُ إِنَّ خِيَارَ النَّاسِ أَحْسَنُهُمْ قَضَاءً

*“From Abu Rafi’ r.a. that Rasulullah SAW once owed a female camel (age 3 years) to a man, then brought to him an ordinary camel for alms, so I was told by the Messenger of Allah to pay for the man (who had given the debt earlier), with female camel. I answered, ‘I didn’t get it at the time, but a better camel and four years old.’ Then Rasulullah SAW. said, ‘Give him the camel, in fact the best human beings are better at paying debts.’” (HR. Bukhari and Muslim)<sup>57</sup>*

Some other contemporary scholars, such as Syaikh Ali Jum’ah, Muhammad Abduh, Muhammad Sayyid Thanthawi, Abdul Wahab Khalaf, and Mahmud Syaltut, stressed that bank interest is legal and is not included in usury. This opinion is in accordance with the fatwa issued by *Majma’ al-Buhus al-Islamiyyah* on 23 Ramadhan 1423, coinciding on November 28, 2002. They hold on to the word of Allah on Surah an-Nisa verse 29.<sup>58</sup> s

<sup>56</sup> Ismail Nawawi, *Fikih Muamalah Klasik dan Kontemporer*, (Bogor: Penerbit Ghalia Indonesia, 2012), h. 179.

<sup>57</sup> Ibnu Mas’ud, *Fiqih Madzhab Syafi’I (Edisi Lengkap) Buku 2: Muamalat, Munakahat, Jinayat*, (Bandung: Pustaka Setia, 2007), h. 67.

<sup>58</sup> Husnul Haq, “Ragam Pendapat Ulama tentang Hukum Bunga Bank,” <https://islam.nu.or.id/post/read/92420/ragam-pendapat-ulama-tentang-hukum-bunga-bank>, accessed August 9, 2019.



يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ  
مِنْكُمْ

*O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful.*

Whereas At-Thabari, Al-Maraghi, and Muhammad Rasyid Ridha, differed in their views. They argue that, only usury type *jahiliyah* or *nasi'ah* are forbidden, while other types of *riba* (*fadhl*) are not forbidden. They base their opinion on the argument, that the sentence *adh'afan mudhaafatan* is a prohibited condition of usury, so if there are additions that do not multiply, the law is not prohibited, such as additions to buying and selling for example, whether paid immediately or formally.<sup>59</sup>

Agree with At-Thabari, as stated by A. Hasan quoted by Hendi Suhendi that bank interest as in this country is not prohibited usury, with the argument that in bank interest does not multiply, as stated in the previous paragraph.<sup>60</sup> Muhammad Syahrur also believes that bank interest does not include usury as long as it has not reached 100% of capital. So, Muslims do not need to hesitate to transact with bank that apply interest, as long as the interest has not reached 100% of the invested capital.<sup>61</sup>

<sup>59</sup> Wartoyo, "Bunga Bank: Abdullah Saeed vs Yusuf Qaradhawi...", h. 117-118.

<sup>60</sup> Hendi Suhendi, *Fiqh Muamalah*, (Jakarta: Rajawali Press, 2005), h. 282.

<sup>61</sup> Muhammad Syahrur, *al-Kitab wa al-Quran: Qira'ah Mu'asirah*, (Damaskus: al-Halli li al-Tiba'ah, 1990), h. 466.

Abdullah Saeed sees in practice, the current interest system in conventional banking is not included in the type of interest that causes injustice, let alone the occurrence of oppression and persecution carried out by creditors to the debtor. Therefore, such bank interest is not included in usury which is prohibited, because it does not have a bad effect, which is the main objective in the aspect of prohibiting usury in Islam.<sup>62</sup>

The possibility of interest bearing loans at conventional bank, according to Abdullah Saeed is based on several reasons. The current bank interest does not cause injustice, bank interest has great benefits in encouraging the achievement of a society's progress, borrowing transactions in the banking system are carried out clearly, openly and protected by law, so as not to allow the creditors to oppress debtor, and at this time, a person who will apply for a loan to the bank, has carefully calculated whether he will be able to return the loan capital and interest.<sup>63</sup>

Quraish Syihab analyzing many things related to usury verses, he concludes that the basis for establishing the prohibition law (*illat*) of usury is injustice (*al-dzulm*), as implied in surah al-Baqarah verse 279. According to him, which is forbidden are interest or extras that are collected by oppression or extortion (*dzulm*), not all interest.<sup>64</sup>

Differences of opinion about interest law which are classified as *ijtihad* problems are also described by Abdul Rahman Ghazaly et al. The

<sup>62</sup> Abdullah Saeed, *Bank Islam dan Bunga...*, h. 75.

<sup>63</sup> Abdullah Saeed, *Bank Islam dan Bunga...*, h. 51-52.

<sup>64</sup> Ghufroon A. Mas'adi, *Fiqh Muamalah Kontekstual*, h. 167.

author divides into four groups of scholars. First, the *muharrimun*, which is a group of scholars who believe that bank interest is absolutely forbidden. Second, groups that forbid if consumptive. Third, *muhallilun* is a group of scholars who justify or think that interest is allowed. Fourth, the group considers it is *syubhat* (doubtful).<sup>65</sup> More details will be described in the following description:<sup>66</sup>

- 1) Abu Zahra, Abu A'la al-Maududi, M. Abdullah al-Araby and Yusuf Qardhawi, Sayyid Sabiq, Jaad al-Haqq Ali Jadd al-Haqq and Fuad Muhammad Fachruddin, said that the bank's interest is *riba nasiah* the absolute prohibition. Therefore, Muslims cannot associate with bank that uses the interest system, except in an emergency. But Yusuf Qardhawi does not compromise bank interest. He forbids bank interest absolutely.
- 2) Mustafa A. Zarqa argues that usury which is forbidden is consumptive as applies to the era of ignorance as a form of extortion to the weak consumptive people. Unlike productive loans, it is not illegal/*haram*. The same thing was also stated by M. Hatta. He distinguishes between usury and rente/interest. According to him usury is consumptive and extorts the borrower who needs a loan of money for his basic needs. As for rente/interest, it is productive, funds that lent to borrowers are used for business capital that produces profits.

<sup>65</sup> Abdul Rahman Ghazaly, et. al., *Fiqh Muamalat*, (Jakarta: Kencana, 2010), h. 224.

<sup>66</sup> M. Ali Hasan, *Masail Fiqhiyah*, (Jakarta: Gema Insani Press, 2000), h. 49.

- 3) A. Hasan argues that bank interest (rent) as applicable in Indonesia does not include usury that is prohibited because it does not multiply as referred to in surah Ali Imran verse 130. In the verse contains an appeal to Muslims not to eat usury that is multiplied.
- 4) Majelis Tarjih Muhammadiyah in the congress in Sidoarjo 1968 decide that the interest given by the bank to its customers or vice versa includes a *syubhat* case (the prohibition is not clear/doubtful). Because what is forbidden according to Muhammadiyah is usury which leads to extortion, in line with surah al-Baqarah verse 279:

فَإِنْ لَمْ تَفْعَلُوا فَأْذَنُوا بِحَرْبٍ مِنَ اللَّهِ وَرَسُولِهِ وَإِنْ تُبْتُمْ فَلَكُمْ رُءُوسُ أَمْوَالِكُمْ لَا تَظْلِمُونَ وَلَا تُظْلَمُونَ

*And if you do not (leaving the rest of usury), then be informed of a war [against you] from Allah and His Messenger. But if you repent (from taking usury), you may have your principal - [thus] you do no wrong, nor are you wronged. (QS. Al-Baqarah: 279)*

Muhammadiyah still doubts whether there is an element of extortion in bank operations. Therefore, Muhammadiyah considered it is *syubhat*. But Muhammadiyah allowed it if it is urgent.<sup>67</sup> The Nahdlatul Ulama (NU) in the Ulama National Conference in Bandar Lampung in 1992 established three aspirations that developed among scholars regarding bank interest law: (1) the law is *haram* based on

<sup>67</sup> M. Ali Hasan, *Masail Fiqhiyah*, h. 49.

*qiyas* with usury/*riba*. (2) the law is *halal* based on *al-maslahah* and (3) *syubhat*.<sup>68</sup>

#### e. Fatwa of MUI about Interest

On January 24, 2004, the Indonesian Ulema Council (MUI) issued a Fatwa Number 1 of 2004 about Interest. In the fatwa there are three provisions. The first, about understanding interest and usury. Interest is an addition imposed in a money loan transaction (*al-qardh*) which is calculated from the principal of the loan without considering the utilization/yield of the principal, based on the time period, calculated accurately in advance, and generally based on percentage. As for usury, it is additional without compensation that occurs due to suspension in the payment previously agreed upon. And this is what is called *riba nasi'ah*.

The second point is about the law of interest. The current practice of taking interest of money has fulfilled the criteria of usury that occurred at the time of the Prophet, namely *riba nasi'ah*. Thus, the practice of taking interest of money is one form of usury, and usury is unlawful. The legal practice of taking interest is illegitimate, whether carried out by bank, insurance, capital market, pawnshop, cooperative and other financial institutions or carried out by individuals.

The third point explains the provisions for transacting with conventional financial institutions. For areas that already have Islamic financial institutions offices/networks and are easily accessible,

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<sup>68</sup> Ghufon A. Mas'adi, *Fiqh Muamalah Kontekstual*, h. 167.

transactions are not allowed based on interest calculation. For regions where there are no sharia financial institutions offices/networks, transaction activities in conventional financial institutions are permitted based on the principle of emergency/purpose.





### CHAPTER III

### RESEARCH METHOD

#### A. Type of Research

In this study, the type of research used is empirical juridical research which in other word is a type of sociological legal research and can be referred to as field research, which is to examine the applicable legal provisions and what happens in reality in the community.<sup>69</sup> This research is carried out on the actual situation or the real situation that occurs in the community with the intention to find out and find the facts and data needed, after the required data is collected then lead to the identification of problems which ultimately lead to

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<sup>69</sup> Bambang Waluyo, *Penelitian Hukum Dalam Praktek*, (Jakarta: Sinar Grafika, 2002), h. 15.

problem solving<sup>70</sup> This research is included in empirical research because it is going to find out the opinions of UIN Maulana Malik Ibrahim Malang lecturers' about credit interest in conventional bank.

### **B. Research Approach**

This research uses socio legal approach. The sociological approach in non-legal research is better known as a qualitative approach, so this is a qualitative research but some tabulation data will be added in the discussion. The sociological juridical approach in empirical juridical research focuses on the legal phenomena that exist in society, so it uses observational techniques for certain legal symptoms that arise in society.<sup>71</sup>

### **C. Research Location**

This research is a field research, where data is obtained directly from the field. In conducting this research, author choose UIN Maulana Malik Ibrahim Malang as a source of lecturers' opinions about credit interest in conventional bank. The reason for choosing the location in this study is due to the easy distance to reach, and easy in research licensing and getting the data needed.

### **D. Data Source**

Typically in research, it is differentiated between data obtained directly from the community (primary data) and data obtained from library materials (secondary data).<sup>72</sup> The data used by author is divided into two parts, those are:

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<sup>70</sup> Bambang Waluyo, *Penelitian Hukum Dalam Praktek*, h. 16.

<sup>71</sup> Burhan Ashshofa, *Metode Penelitian Hukum*, (Jakarta: PT Rineka Cipta, 2014), h. 20-21.

<sup>72</sup> Soerjono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: UI-Press, 1986), h. 12.



### 1. Primary Data

Primary data is basic data obtained directly from the first source, namely the behavior of citizens, through research. In this research the author collects data information obtained directly from the relevant resource person to obtain accurate data. Data obtained directly from the first source or informant, they are 40 lecturers at UIN Maulana Malik Ibrahim Malang.

### 2. Secondary Data

Secondary data is data obtained from official documentation, books related to the object of research, results of research in the form of reports, theses, dissertations, and legislation.<sup>73</sup> The secondary data used in this research mostly from books and journal.

## E. Data Collecting Technique

Author can obtain accurate data because it is done by collecting data from data sources, both primary data sources and secondary data. The data collection techniques used are:

### 1. Interview

Interview is a process of interaction and oral communication aimed at exploring certain data. The type of interview used is planning interview, which is an interview accompanied by a list of questions prepared in advance.

In an interview there are two parties who have different positions, namely the information pursuers who are usually called interviewers and

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<sup>73</sup> Zainuddin Ali, *Metode Penelitian Hukum*, (Jakarta: Sinar Grafika, 2016), h. 106.

information givers called informants, or respondents. In this case, the interviewer is the author. While those who acted as informants are lecturers at UIN Maulana Malik Ibrahim Malang.

The author interviewed lecturers from seven faculties at UIN Maulana Malik Ibrahim Malang, each faculty consisting of three to seven respondents. Respondents determined in this study were selected based on simple random sampling techniques. The answers to each question will be classified using the standard Likert scale from 0 to 1 options as follows:

**Table 2**  
**Answer Choices**

Score	Answer
1	Agree
0.5	Less Agree
0	Disagree

## 2. Documentation

The study of documentation in legal research is a form of library data obtained through library research sourced from legislation, books, official documents, publication documents, and research results.<sup>74</sup> In this research, the author documented the research results.

## F. Data Processing Technique

In order to avoid many mistakes and facilitate understanding, the author use data processing technique. Activities carried out by author in processing data through stages: checking data (editing), coding, data classification

<sup>74</sup> Zainuddin Ali, *Metode Penelitian Hukum*, h. 107.

(classifying), verifying data (verifying), tabulating, analyzing data (analyzing) and finally making conclusions.

#### 1. Editing

Editing is the process of research back to the records, files, information that has been collected by the author. The purpose of editing is to find out whether the note is good enough and can be understood and can be prepared immediately for the next process. Through editing, it is expected to be able to improve the quality of reliability of the data to be analyzed.

#### 2. Coding

Coding is giving/making codes on each data which are included in the same category. Answers obtained from respondents are marked with symbols in the form of numbers/codes to make data processing easier.

#### 3. Classifying

Classifying is reducing existing data by compiling and classifying the data obtained into certain patterns or certain problems to facilitate analysis.

#### 4. Verifying

After being classified, the next step is to verify the data, which is to check the collected data again to determine the validity of the data. This stage the author re-examined the validity of the data starting from the respondents to the documentation.

## 5. Tabulating

Tabulating is inserting the data that has been grouped into table form, then calculate it. The formulation to find out the presentation of respondent data is as follows:

$$P = \frac{f}{n} \times 100\%$$

Explanation:

P: Percentage

f : Number of scores obtained

n: Total ideal score overall

From the calculation data, it will be known the percentage of the opinions of lecturers about credit interest in conventional bank.

**Table 3**  
**Score Interpretation Criteria**

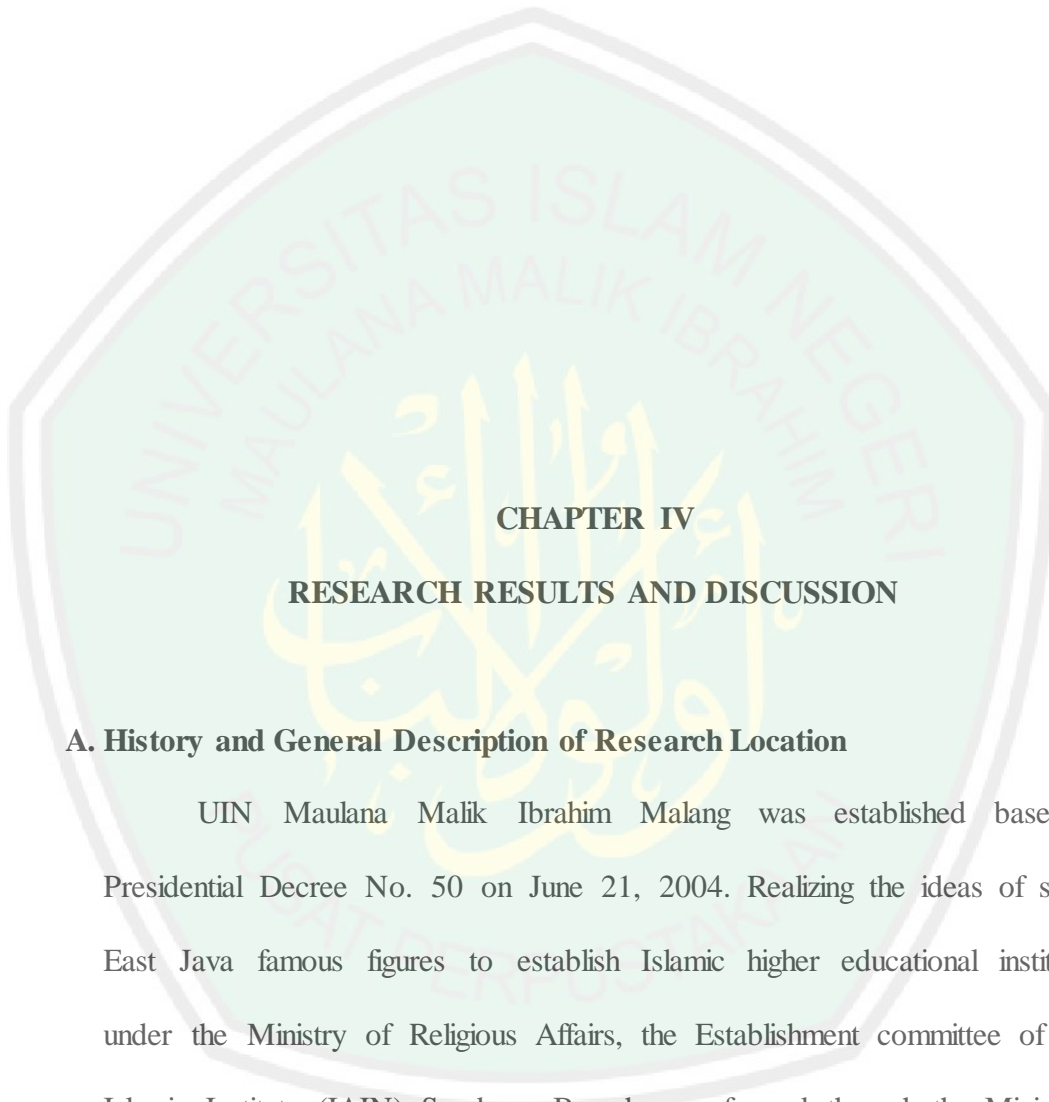
Coefficient Interventions (%)	Response Level
0 – 33.32	Low
33.33 – 66.65	Average
66.66 – 100	High

## 6. Analyzing

Analyzing the data that has been collected from the process of collecting data obtained through interviews. To obtain efficient and perfect results as expected, the analytical method used is descriptive qualitative.

## 7. Concluding

After the analysis process is complete, the conclusions from the analysis are carried out, with the aim of getting an answer from the results of the research that has been done.



## CHAPTER IV

### RESEARCH RESULTS AND DISCUSSION

#### A. History and General Description of Research Location

UIN Maulana Malik Ibrahim Malang was established based on Presidential Decree No. 50 on June 21, 2004. Realizing the ideas of several East Java famous figures to establish Islamic higher educational institutions under the Ministry of Religious Affairs, the Establishment committee of State Islamic Institute (IAIN) Surabaya Branch was formed through the Ministry of Religious Affairs Decree No. 17 of 1961. This committee was assigned to establish the Sharia Faculty in Surabaya and the Tarbiyah Faculty in Malang. Both are branch faculties of Sunan Kalijaga State Islamic Institute of Yogyakarta and was officially inaugurated by the Minister of Religion on

October 28, 1961. On October 1, 1964 Faculty of Islamic Theology (Ushuluddin) was established in Kediri through the Decree of the Ministry of Religious Affairs No. 66/1964.

In its development, the three faculties were merged and structurally administered under the Sunan Ampel State Islamic Institute as established based on the Ministry of Religious Affairs' Decree No. 20 of 1965. Since then, the Tarbiyah Faculty of Malang has become a branch faculty of the Sunan Ampel State Islamic Institute. Through Presidential Decree No. 11 of 1997, the Tarbiyah Faculty of Malang of Sunan Ampel State Islamic Institute changed its status to the State Islamic College (STAIN) of Malang as also experienced by other branches faculty of State Islamic Institutions in Indonesia, 33 Institutes in total. Since that time State Islamic College of Malang had become an independent institute of Islamic higher education apart from Sunan Ampel State Islamic Institute.

In the strategic development plan, as stated in the Strategic Plan of STAIN Malang's Ten Year Development Plan (1998/1999-2008/2009), in the second half period of its development, STAIN Malang transformed its institutional status from an institute into a university. Through earnest efforts, the proposal to change its status into a university was approved by President as manifested in the Presidential Decree No. 50, on June 21, 2004 and was inaugurated by the Minister, Prof. H. A. Malik Fadjar, M.Sc on behalf of the President on October 8, 2004 by the name State Islamic University (UIN) Malang with its main task to conduct a higher education program in Islamic

and general science. Thus, June 21, 2004 is used as the anniversary of the university.

The university had once been named as Indonesia-Sudan Islamic University (UIIS) as the implementation of cooperation between the Indonesian and Sudan government and was inaugurated by the Vice President, Dr. (Hc) H. Hamzah Haz on July 21, 2002 which was also attended by high officials of the Sudanese government. In academic paradigm, the university develops knowledge not only from the scientific methods through logical reasoning such as observation, experimentation, surveys, interviews, and so on, but also from the Quran and Hadith, which is known as integration paradigm. Therefore, the position of Islamic studies subject such as the Quran and Hadith, and Fiqh are very central in the framework of the scientific knowledge integration.

Located in Gajayana Street 50, Dinoyo Malang in 14 hectares campus area, this University modernizes itself physically since September 2005 with the rector's building, faculty, administrative office, lecture, laboratories, student affairs, training, sports, business center, polyclinic, mosques, and dormitory buildings using the funding from the Islamic Development Bank (IDB) through the IDB Approval Letter No. 41/IND/1287 on 17 Agustus 2004.

With magnificent and modern physical performance and through determination, passion, and strong commitment of all members of the academic and by pleading the blessing and guidance of Allah the Almighty, the university aims to be the center of excellence and the center of Islamic

civilization as a step to implement the teachings of Islam as mercy to the world (*al-Islam rahmat li al-alamin*).

The vision of UIN Maulana Malik Ibrahim Malang on 2019 is to become a university of excellence, trustworthiness, competitive and has international reputation. UIN Maulana Malik Ibrahim Malang has four missions. First, organizing superior university tridharma which includes education, research, and community service. Second, organizing higher education in the framework of scientific development, social transformation, and increasing the dignity of a trusted nation. Third, develop innovative research and community service to produce relevant and competitive science, technology and art development. Fourth, transforming the quality management system in the fields of education, research, and community service that meets standards and reputation.<sup>75</sup>

Institutionally, until now the University has 7 (seven) faculties and 1 (one) Postgraduate Program, with a total of 39 study programs. There are 661 lecturers with 7 professors. The faculties in UIN Maulana Malik Ibrahim Malang are:<sup>76</sup>

1. Faculty of Tarbiyah and Teacher Training (FITK) organize 8 departments, they are Islamic Education (PAI), Social Science Education (IPS), Madrasah Ibtidaiyah Teacher Education (PGMI), Arabic Language Education (PBA), Raudlotul Athfal Teacher Education (PGRA), Islamic Education

<sup>75</sup> UIN Maulana Malik Ibrahim Malang, "Profil Universitas," <https://www.uin-malang.ac.id/s/uin/profil>, accessed July 2, 2019.

<sup>76</sup> UIN Maulana Malik Ibrahim Malang, "Beranda," <https://www.uin-malang.ac.id/>, accessed July 2, 2019.



Management (MPI), English Language Education, and Mathematics Education.

2. Faculty of Sharia organize 4 departments, they are al-Ahwal al-Syakhshiyah (Islamic family law), Islamic Business Law, Constitutional Law, and Al-Quran Science and Interpretation.
3. Faculty of Humanities organize 2 departments, they are Arabic Language and Literature, and English Literature.
4. Faculty of Economy organize 3 departments, they are Management, Accounting and Islamic Banking.
5. Faculty of Psychology.
6. Faculty of Science and Technology organize 7 departments, they are Mathematics, Biology, Physics, Chemistry, Informatics Engineering, Architectural Engineering, and Library and Information Systems.
7. Faculty of Medicine and Health Sciences, organizes the Department of Pharmacy, Medical Education and Professional Doctors.

The Postgraduate Program develops 8 (eight) master's study programs, those are:

1. Master of Islamic Education Management.
2. Master of Arabic Language Education.
3. Masters of Islamic Studies.
4. Masters in Madrasah Ibtidaiyah Teacher Education.
5. Master of Islamic Education.
6. Master of al-Ahwal al-Syakhshiyah (Islamic Family Law).

7. Master in Islamic Economics.
8. Masters in Mathematics Education.

While for the doctoral program 3 (three) programs are developed, they are:

1. Doctor of Islamic Education Management.
2. Doctor of Arabic Language Education
3. Doctor of Islamic Education Based on Interdisciplinary Studies.

## B. Research Results and Discussion

### 1. Lecturers' Opinions of Credit Interest in Conventional Bank

The interviews with several respondents were carried out based on the simple random sampling technique. Based on the technique, the author randomly selected three to seven lecturers from each faculty in the undergraduate program. During this study the author interviewed 40 lecturers from seven faculties in the undergraduate program. The respondent's identity below is the personal biodata of the respondents who answered the question the author asked.

**Table 4**  
**Respondent's Identity**

No	Name	Age	Education	Occupation	Address
1	EZ	32	Master's Degree	Tarbiyah Lecturer	Bumi Asri Sengkaling
2	YF	32	Doctoral Degree	Tarbiyah Lecturer	Jl. Simpang Sunan Kalijaga, Malang
3	AN	27	Master's Degree	Tarbiyah Lecturer	Malang
4	DE	28	Master's Degree	Tarbiyah Lecturer	Malang
5	AL	48	Doctoral Degree	Tarbiyah Lecturer	Joyo Grand, Malang

6	ST	31	Master's Degree	Tarbiyah Lecturer	Perum Asrikaton Indah
7	NA	37	Doctoral Degree	Sharia Lecturer	Jl. Tirta Praloyo, Malang
8	DF	28	Master's Degree	Sharia Lecturer	Jl. Lilin Emas, Malang
9	MT	36	Master's Degree	Sharia Lecturer	Ds. Jengglong, Tegalweru
10	AH	43	Doctoral Degree	Sharia Lecturer	Jl. Joyo Utomo, Malang
11	SR	44	Master's Degree	Sharia Lecturer	Jl. Joyosuko Metro, Malang
12	DH	37	Master's Degree	Sharia Lecturer	Jl. Joyo Agung, Malang
13	IN	43	Master's Degree	Sharia Lecturer	Jl. Sunan Kalijaga, Malang
14	RN	42	Doctoral Degree	Humanities Lecturer	Jl. Ambarawa, Malang
15	HR	34	Master's Degree	Humanities Lecturer	Perum Griya Sejahtera
16	RS	44	Master's Degree	Humanities Lecturer	Jl. Kendalsari Barat, Malang
17	AR	45	Doctoral Degree	Humanities Lecturer	Karangploso, Malang
18	SM	50	Master's Degree	Humanities Lecturer	Graha Sejahtera Residence
19	AA	50	Doctoral Degree	Humanities Lecturer	Malang
20	BN	26	Master's Degree	Economic Lecturer	Jl. Sarangan II, Malang
21	GK	29	Master's Degree	Economic Lecturer	Perum Poharin Blok D
22	ES	43	Doctoral Degree	Economic Lecturer	Jl. Gajayana, Malang
23	AS	48	Master's Degree	Economic Lecturer	Sukun, Malang
24	PE	32	Master's Degree	Economic Lecturer	Jl. Terusan Ambarawa, Malang
25	MN	28	Master's Degree	Economic Lecturer	Sanan Bawah, Malang
26	RA	48	Doctoral Degree	Psychology Lecturer	Perum Griya Shanta
27	YR	39	Master's Degree	Psychology Lecturer	Blitar
28	MM	46	Doctoral	Psychology	Jl. Joyogrand AI, Malang

			Degree	Lecturer	
29	MU	33	Master's Degree	Psychology Lecturer	Malang
30	AI	31	Master's Degree	Psychology Lecturer	Sumber Pucung, Malang
31	FL	43	Doctoral Degree	Psychology Lecturer	Jl. Pandan Landung, Malang
32	NM	28	Master's Degree	Science Lecturer	Villa Gunung Buring
33	SN	33	Master's Degree	Science Lecturer	Perum Gasek Tidar Residence
34	EB	56	Doctoral Degree	Science Lecturer	Perum Tambak Asri Permai
35	HB	44	Master's Degree	Science Lecturer	Dinoyo, Malang
36	LH	29	Master's Degree	Science Lecturer	Wagir, Malang
37	AD	30	Master's Degree	Science Lecturer	Jl. Soekarno Hatta, Malang
38	AM	34	Master's Degree	Medical Lecturer	Perum Bumi Meranti Wangi
39	IR	32	Master's Degree	Medical Lecturer	Kayana Regency
40	ER	37	Master's Degree	Medical Lecturer	Jl. Sigura-gura, Malang

Based on the results of interviews that have been conducted, obtained several of opinions about the tendency towards the interest system in conventional bank as explained by the lecturers. The tendency of lecturers to the conventional bank interest system can be seen from two aspects, those are: agree with the interest system and agree that bank interest is different or not including prohibited usury.

From the first aspect, based on questions about the opinions of lecturers on the interest system that applies in conventional bank, especially in credit loan. The answer from each respondent will be given a score in the form of agree=1, less agree=0.5, and disagree=0.

**Table 5**  
**Agree with Interest System**

Score	Frequency	T × Pn	Percentage
1	20	20	50%
0.5	7	3.5	17.5%
0	13	0	33.5%

T : Total number of respondents who voted (frequency)

Pn: Likert score number

The total score of questions about the interest system in conventional bank is 20. The score is calculated based on the formula that has been described in the previous chapter. Based on the criteria that have been categorized before, 50% is a score that is included in a average response category. This means that half of lecturers have a positive response or agree with the interest system in credit on conventional bank.

All three opinion groups have reasons why respondents chose to agree, less agree, or disagree. There are 20 lecturers who agree with the conventional bank's interest system. They are EZ, YF, NA, DF, MT, RN, HR, RS, RA, NM, EB, ER, SR, DH, AI, AN, AA, LH, AD, and ST. EZ believes that:

*“Saya mengutip pendapatnya, salah satu pendapat, karena semua orang itu sebenarnya kan tafsiran to, pendapat, nah kan gitu. Kalau misalnya Cak Nun gini, misalnya aku pinjam uang ya, misalnya aku pinjam uang sampean 100 ribu, aku nanti akan mengembalikan 120 ribu. Kenapa? Bukannya riba, engga, karena saya itu memberikan apaya, memberikan imbalan jasa kepada sampean karena sampean sudah menghutangi saya, seperti itu. Dan saya tidak merasa tertekan dengan itu. Walaupun misalnya begini, ada pendapat MUI tu yang menyatakan begini, setuju ga setuju yang namanya riba tetap riba. Ada yang seperti itu ya. Nah, tapi kalau misalnya menurut saya, ya*

*pendapatnya Cak Nun itu, ya itu yang lebih baik, justru itu lebih baik, saya kalau dipinjami, saya akan mengembalikan lebih.”<sup>77</sup>*

EZ believes that the interest charged to debtors is a remuneration because the bank has made it easy to conduct transaction. Even though there is an MUI Fatwa stating that interest is usury, EZ agree more with the opinion of Cak Nun which states that the interest is for compensation.

YF answers briefly as follows:

*“Bunga ya istilahnya, kalau konvensional kan bunga, kalau syariah kan margin. Ya gapapa.”<sup>78</sup>*

According to YF, as long as no one is harmed and as long as there is benefit from the transaction, it does not matter. This is similar as expressed by HR and EB, which added that as long as in the agreement both parties do not mind and happy.

*“Saya sebenarnya kalau masalah, saya menganggap tidak hanya faktor bunganya tapi dalam akad muamalah pinjam meminjam, saya lebih menekankan pada aspek sama-sama saling rela saja. Kalau kita istilahnya diberikan fasilitas, dan kita sama-sama butuh dan sama-sama rela akan nominal yang disepakati, saya kira tidak begitu masalah lah. Karena kita juga fiqihnya, fiqih kontekstual istilahnya. Kita juga sesuaikan dengan kondisi tuntutan zaman. Selama tidak saling merugikan dan ada akad yang jelas, tidak ada niatan menipu. Atau kita sebagai yang meminjam tidak ada niatan menipu, curang. Itu saya kira sama-sama ridho rodhinnya, itu yang saya tekankan.”<sup>79</sup>*

*“Mikir saya ya gitu, ya ga mungkin minjam 10 rupiah ngembalikannya 10 rupiah. Itu juga sulit. Ya jadi kan intinya itu, harus sama-sama ridho. Jadi tidak ada paksaan. Kalau bapak setuju, ya tanda tangan ngajukan. Dan itu kan kita kemudian nunggu, bank nya setuju ga. Penghasilannya sisa sekian, harus*

<sup>77</sup> EZ, Interview, June 20, 2019.

<sup>78</sup> YF, Interview, June 20, 2019.

<sup>79</sup> HR, Interview, June 25, 2019.

*ngangsur sekian. Banknya acc ga. Banknya bisa saja ngga acc. karena dianggap ga cukup, ga mampu.*<sup>80</sup>

NA also answered firmly, that:

*“Saya setuju. Alasannya begini, Satu: NU itu dalam Bahtsul Masail itu mempunyai tiga jawaban, NU itu. Tiga-tiganya ini diresmikan sama NU, haram mutlak, syubhat, dan boleh mutlak. Sudah ya. NU itu punya jawaban tiga. Saya setuju, kenapa saya setuju? Itu merupakan sebuah sistem yang tidak bisa kita hindarkan. Sesungguhnya bunga bank itu adalah sebuah sistem untuk memudahkan sirkulasi berjalannya uang. Karena kalau, apa ya, tidak ada bunga bank, lalu siapa yang menggaji (yang) nulis, nyatet itu siapa. Lalu nilai uang kan juga sudah berubah. Dan pada masa nabi yang tidak diperbolehkan kan beda dengan sistem yang sekarang. Kalau bank kan tugasnya mutar balikkan uang.”*<sup>81</sup>

NA explained that *Bahtsul Masail* of Nahdlatul Ulama regarding bank interest resulted three answers, those are haram, doubtful (*syubhat*), and permissible. NA agrees with the interest system, because interest is a system that we cannot avoid. The bank is also a structured financial institution whose job is to rotate money, consisting several employees. If there is no interest, how will the bank pay its employees.

Lecturers who agree with the interest system in conventional bank, argue that interest is one way for bank to get profits. As stated by DF and NM as follows:

*“Kalau setiap tambahan-tambahan dikatakan riba berarti bank tidak boleh mencari keuntungan.”*<sup>82</sup>

*“Karena suami saya pelaku usaha, jadinya misal ada kebutuhan di bank. Istilahnya bank itu yang punya uang, kita yang punya skill. Kalau misalnya bekerjasama, akhirnya pasti memang istilahnya bunga, tapi kita menyebutnya itu bagi hasil. Karena semua sudah disepakati di awal bagian yang bank itu sekian persen, bagian kita*

<sup>80</sup> EB, Interview, June 25, 2019.

<sup>81</sup> NA, Interview, June 20, 2019.

<sup>82</sup> DF, Interview, June 20, 2019.

*dari keuntungan itu sekian persen. Kalau di konvensional itu bunga, tapi kalau di syariah itu kan bagi hasil. Ya menurut saya itu istilah. Nah, kalau menurut informasi yang kemarin saya dapat itu, pasti namanya di bank itu membutuhkan biaya operasional untuk itu semua. Jadi dia butuh penghasilan juga.*<sup>83</sup>

MT and RA argue that when compared to the profit sharing system in Islamic bank, the nominal amount charged to the debtor is relatively the same, the difference is only in the contract.

*“Selama ini ya bunga itu menjadi rujukan. Sekarang kalau bank syariah katakanlah, itu tetap rujukannya bunga sesungguhnya. Katakanlah ada nisbah bagi hasil ya, pada akhirnya sama dengan bunga besarnya. Akadnya itu aja yang berbeda, tapi hasil akhirnya tetap sama.*”<sup>84</sup>

*“Karena kalau hitungan nominalnya sama saja, kita pinjam uang ke (bank) syariah, pinjam sekian, keuntungannya relative sama. Memang perbedaannya hanya di akad.”*<sup>85</sup>

Other opinions that agree with the interest system say that interest is a risk of lending. As long as the money is used for business capital and the debtor has calculated that he will be able to repay, it is not a problem.

*“Itu udah resiko. Kalau kata suami saya, kita harus mendahulukan kredit itu dasarnya modal. Jadi kalau itu berdasarkan modal capital, uangnya bergulir maka kita iyakan. Kredit harus diperhitungkan jumlah bunga yang sekian itu masuk akal ga. Terjangkau ga dari kembalinya modal itu.”*<sup>86</sup>

*“Ya kalau saya si pada dasarnya, waktu itu ya saya juga salah satu cara, satu-satunya cara pada saat itu ya di situ. Saya tidak minjam di koperasi, jadi saya langsung ke BTN itu, mengikuti alurnya. Alhamdulillah ngga merasa ada kesulitan apa. Yang penting sudah terpenuhi untuk keperluan pembangunan.”*<sup>87</sup>

<sup>83</sup> NM, Interview, June 25, 2019.

<sup>84</sup> MT, Interview, June 21, 2019.

<sup>85</sup> RA, Interview, June 20, 2019.

<sup>86</sup> RN, Interview, June 21, 2019.

<sup>87</sup> RS, Interview, June 25, 2019.



ER added, although ideally avoiding interest, but now interest is easier and cheaper than the profit sharing system in Islamic bank.

*“Untuk yang syariah pun, yang katanya memakai mudhorobah, ternyata mahal sekali walaupun (bunganya) tetap tidak ada floating-nya, tapi mahal sekali. Jadi untuk kita pelaku usaha yang membutuhkan dana, kok kayaknya agak berat. Jadi kita mungkin menganut yang bunga itu tidak selalu berkorelasi dengan riba. Walaupun sebenarnya, keinginannya pasti menghindari bunga. Cuma saat ini, dengan banyak pertimbangan, kita memilih bunga itu sebenarnya ga masalah.”<sup>88</sup>*

Lecturers who less agree with the interest system are YR, MM, IN, MN, MU, SM, and FL. MM believes that the interest system is not a fair relationship between the customer and the bank. The interest system does not yet represent Islamic corporate principles. They could not choose, because as a lecturer, credit was the only option when they need extra expenses. What is meant here is a credit facility for UIN Maulana Malik Ibrahim Malang lecturers from BTN bank. This facility is recognized by the lecturers of the easier submission process, because the BTN bank has cooperated with UIN Maulana Malik Ibrahim Malang. Both YR and MM also try not to do credit again.

*“Terpaksa karena kualitas hidup kita memang standar, artinya menjadi pegawai itu tidak bisa berlebih-lebihan. Jadi kalau ingin melebihi dari cukup, maka harus menggunakan fasilitas di bank.”<sup>89</sup>*

*“Kurang setuju, tapi saya berusaha hanya untuk kebutuhan dasar dan berusaha untuk tidak kredit lagi. Sistemnya tidak fair, karena belum mewakili prinsip corporate ala muslim. Tidak adanya proses kolaborasi bisnis yang saling memahami. Masih pada tahap jual beli uang.”<sup>90</sup>*

<sup>88</sup> ER, Interview, June 26, 2019.

<sup>89</sup> YR, Interview, June 20, 2019.

<sup>90</sup> MM, Interview, June 20, 2019.

Lecturers who do not agree with the interest system are BN, GK, ES, SN, AM, IR, AH, AS, PE, DE, AL, AR, and HB. Some respondents stated that the floating interest rate provides uncertainty for the debtor, which is stated as follows:

*“Ya kalau dari sisi konsumen, jelas bunga itu sebagai biaya pengembalian. Kalau mengikuti floating, setuju apa engga ya bebas terserah banknya. Tapi harus berhati-hati floating itu ga selamanya turun, ada juga naik. Kalau ditanya pendapat saya gimana tentang yang floating, ya udah konsekuensi ya. Terserah aja. Tapi yang jelas tingkat suku bunga naik terus kita kredit, itu di ekonomi sudah ga masuk akal. Jadi kalau orang ekonomi pasti rasional. Sebagai konsumen dia tidak akan memilih kredit kalau tingkat suku bunga naik.”<sup>91</sup>*

*“Kalau bunga di bank konvensional itu kan akan berubah berdasarkan suku bunga, kemudian patokannya juga kalau konvensional itu dollar. Berbeda dengan bank syariah, itu kan bagi hasil. Sudah disepakati di awal. Dan kesepakatan itu akan tetap terus. Kalau bunga kan berubah terus.”<sup>92</sup>*

*“Bunga itu berdasarkan suku bunga, sehingga dia floating, sehingga memberikan ketidakpastian bagi peminjam. Itu yang saya tahu.”<sup>93</sup>*

GK believes that religion does not teach credit and the interest system is detrimental to the customer.

*“Sepengetahuan saya tentang kredit itu, banyak sekali kasus yang dialami oleh nasabah. Banyak nasabah yang tidak bisa membayarkan bunga karena terjerat bunga kredit yang tinggi. Selain itu juga di agama kita, Islam tidak pernah mengajarkan kredit. Karena merugikan dari salah satu pihak.”<sup>94</sup>*

AM also believes that the interest system is not financially profitable for customers. Not profitable because the interest to be paid is high enough, regardless of the loan amount or loan term.

<sup>91</sup> BN, Interview, June 27, 2019.

<sup>92</sup> SN, Interview, June 25, 2019.

<sup>93</sup> IR, Interview, June 26, 2019.

<sup>94</sup> GK, Interview, June 27, 2019.

*“Kalau menurut saya, sistem seperti itu memang tidak menguntungkan bagi nasabah secara keuangan. Karena yang saya tau bunga bank konvensional, bunganya cukup tinggi. Sehingga misalnya kalau mau ambil kredit, seberapapun jumlahnya baik kecil maupun besar, baik singkat maupun lama, itu bunganya sangat besar. Kalau tidak sangat sangat membutuhkan, saya tidak akan mengambil kredit.”<sup>95</sup>*

ES added, it is likened if a customer wants to go forward, backward, or stop, he will still get hit. It means, if he take the loan he has to pay the interest, if he do not pay the loan and interest he will be fined, and if he pays it off earlier there will be a penalty. According to ES, this is a wrong system.

*“Sistem yang berdasarkan bunga. Artinya apa, mudahnya gini. Kalau sampean ngangsur dapat bunga, kalau ngga bayar kena denda, kalau kita lunasi kita kena pinalti. Artinya apa, maju kena, mundur kena, berhenti ketabrak. Kalau seperti itu kan dzolim.”<sup>96</sup>*

**Table 6**  
**Agree that interest is different from usury**

Score	Frequency	T × Pn	Percentage
1	22	22	55%
0.5	4	2	10%
0	14	0	35%

Judging from the similarities with usury, interest is often equated or categorized as usury because of an additional in loan, but there are those who argue otherwise. There are two general opinions, first is opinion that assume that interest includes usury and opinion that assume that interest is different from usury. From these two general opinions, in this study, there

<sup>95</sup> AM, Interview, June 26, 2019.

<sup>96</sup> ES, Interview, June 27, 2019.

were also groups that were still in doubt during the interview, taking a middle ground whether the interest was included from usury or not usury.

From 40 respondents, 22 respondents think that the interest is different or not including usury, 4 respondents included in the group who are hesitant or took the middle option, and 14 respondents think that the interest is usury, regardless of the type. With a 55% percentage, it means that more than half of the lecturers of UIN Maulana Malik Ibrahim Malang think that interest is different or not included from usury.

Lecturers who argue that interest is not considered usury, i.e. EZ, YF, NA, MT, RN, HR, ES, RA, YR, MM, NM, EB, SR, DH, MN, MU, AI, AN, SM, AA, FL, and ST. According to EZ, interest is not usury as written above. EZ considers interest as a remuneration because the bank has made it easy to get what she wants, in this case the house and EZ does not feel pressured by the interest. YF believes that:

*“Titik awalnya tidak boleh langsung membahas riba. Tapi harus membahas sebuah proses. Kalau kita langsung membahas riba, itu yang menjadikan transaksi itu menjadi haram. Makanya jangan sampe kita itu bertransaksi dengan bank konvensional itu langsung membahas riba. Itu pasti indikasinya tidak bagus. Sehingga yang pertama kali dibahas itu prosesnya. Proses interaksinya seperti apa di bank itu. Ada yang dirugikan atau tidak. Selama tidak ada yang dirugikan dan selama ada manfaatnya maka pembahasan itu belum sampai kepada pembahasan riba. Kalau pinjaman berarti qordun. Kalau pinjaman tanpa bunga itu namanya qordun hasan. Kalau kita membahas riba, maka itu sudah kacau semuanya. Tidak sah semuanya. Kalau saya melihatnya, istilah riba masih belum boleh kita pake untuk realita yang seperti itu. Karena apa, kalau kita mengatakan itu riba, padahal semua yang kita lakukan itu prosesnya lewat bank konvensional. Sehingga kita jadi riba semuanya. Jadi bagaimana bank mengelola keuangannya itu, kalau kita udah mengatakan pinjamannya itu riba, maka pengelolaan keuangannya secara keseluruhan itu menjadi riba. Kalau pendapat saya, tidak ada*

*unsur riba dalam pinjam meminjam bank konvensional. Riba itu yang paling sensitif dalam jual beli. Makanya dalam al-quran ada ayat wa ahalla allahul bai'a wa harromarriba, sehingga riba itu disangkut pautkan dengan al bai bukan dengan pinjam meminjam.*<sup>97</sup>

So, as long as there are no parties who are disadvantaged and there are benefits for both parties, then there is no element of usury in credit in conventional bank. If we consider that interest is usury, then all transactions made at the bank are usury. YF also added that usury is more sensitive if it is linked to buying and selling transactions, because in the usury text it is coupled with buying and selling term that read:

وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا

*But Allah has permitted trade and has forbidden interest. (QS. Al-Baqarah: 275)*

Regarding this matter, NA also answered that:

*“Menurut saya tidak. Karena apa, dasarnya adalah ayat yang tadi ya, allah itu mengharamkan riba yang mudhoafah. Yang kedua, sesungguhnya kredit ini bukan termasuk dalam riba. Karena ini apa, bagian daripada jual beli yang berkembang. Saya membeli sepeda motor sekarang harga 10 juta, kalau kredit 5 tahun menjadi 13 juta. Besok tiga tahun kedepan harganya sudah segitu atau lebih mahal lagi. Jadi sesungguhnya kalau kredit itu lebih enak. Dan jumhur, imam nawawi membolehkan. Dan itu bukan termasuk riba. Pada masa nabi, yang tidak diperbolehkan kan beda dengan sistem yang sekarang. Yang ga boleh itu dia tugasnya bukan tempat pinjem uang, kalau ada uang yang pinjem dinaikkan, lalu kalau ga bisa bayar ‘tak hutangi lagi ya nanti separuh buat nyaur.’ Itu kan mencekik. Kalau orang mengharamkan bunga bank, mestinya dia juga mengharamkan uang karena uang itu nyatanya di bank juga. Uang kan dibuat di bank. Kalau dia gamau bunga bank ya mestinya gausah pake uang kita, pake uang logam aja. Kalau dia make kaidah fiqhiyah ma la yudroku kullahu la yudraku kulluh. Menurut saya, sesuatu itu, satu kesatuan yang tidak bisa dipisahkan maka itu*

<sup>97</sup> YF, Interview, June 20, 2019.

*menjadi sesuatu yang dhoruri. Zaman sekarang ga bisa lepas dari bank, gaji lewat bank, pembangunan-pembangunan, bahkan sumbangan juga lewat bank.*<sup>98</sup>

Based on the answer from NA, bank interest is not usury because it is included in usury if it multiplies (*mudhoafah*). Usury which was not allowed during the time of the Holy Prophet. different from the current interest system. What is not allowed is if an individual creditor who is not the place to lend money but imposes additional costs to the debtor. When the debtor cannot repay the debt when it is due, the creditor lends more money until the debtor is always in debt. The bank is in charge of turning money circulation, structured work. If someone forbids bank interest, then he should also forbid money because money is made in the bank. If the group that forbids interest uses fiqhiyah rules (*kaidah fiqhiyah*):

مَا لَا يُدْرِكُ كُلُّهُ لَا يُتْرَكُ كُلُّهُ

*What can not be achieved by all, should not be abandoned by all.*

According to NA, interest, bank, and money are an inseparable unit, then it becomes something *dhoruri* (must). Because today all transactions are done through bank, such as salaries, construction, donations, and others. Interest is not considered usury because as a substitute for the value of money that falls due to inflation. Usury is when an individual creditor makes a debtor dependent or strangled by debt or when interest is very high.

MT and RA are of the opinion that interest is not included from usury. Interest is intended to adjust the value of money in the future.

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<sup>98</sup> NA, Interview, June 20, 2019.

*“Kalau Pak Saad Ibrahim itu sampai detik ini masih no problem terhadap bunga. Begini umpamanya, sampean pinjam uang sekarang, 10 juta. Sekarang 10 juta itu dapat Tupperware ini. Kemudian uang 10 juta itu, pada tahun yang akan datang, itu nilainya sudah tidak bisa membeli ini. Sehingga ya harus ada bunga, sehingga menambah nilai dari pinjaman pokok itu, sehingga dapat membeli ini. Sama seperti dalam arisan, arisan itu yang paling bagus dapat pertama kali. Uang 4 juta sekarang dapat beli Oppo dengan spesifikasi yang seperti ini, orang yang dapat arisan di akhir, jika arisan itu durasinya 3 tahun, belum tentu dapat ini, karena nilainya sudah berubah. Kalau saya, bunga itu beda dengan riba. Saya mengikuti bunga itu bukan riba. Pendapat kan, kita bisa berbeda.”<sup>99</sup>*

*“Ya memang ini ikhtilaf ya. Wa ahallalahul bai’a wa harromar riba. Kemudian salah satu pengertian riba, kalau Pak Dawam mengatakan itu harus ada adh’af mudhoaf. Jadi harus berlipat ganda. Kalau misalkan saya analogikan, saya beli itu (rumah) 360 juta, sekarang itu harga asset saya sudah hampir 2M. Berarti justru tidak rugi. Bahkan punya keuntungan hampir empat kali lipat. Kalau memang diartikan seperti itu, saya memahami kelompok yang setuju bahwa itu adalah bukan riba.”<sup>100</sup>*

NM believes that the interest cannot be the same as usury, because it was agreed at the beginning, just the same as the profit-sharing system. According to NM, as long as it does not burden one of the parties and harming, it is not usury. RN also believes that it is categorized as usury when the transaction is carried out strangling the debtor and previously there was no agreement between the two parties.

*“Dibandingkan fin-tech yang banyak kasus menipu dan merampas data. Kalau untuk yang ini (bank konvensional) dia kan ada badan pengawas. Saya pikir dia masih berfungsi, ga adalah istilahnya bunga yang mencekik. Riba itu ketika mencekik, selama mau sama mau dan tau sama tau. Jadi masih fine aja.”<sup>101</sup>*

<sup>99</sup> MT, Interview, June 21, 2019.

<sup>100</sup> RA, Interview, June 20, 2019.

<sup>101</sup> RN, Interview, June 21, 2019.

HR also believes the same, as long as no party is harmed, does not multiply, and the two parties are equally agreed.

*“Ya kalau bunga riba, misalnya sampean minjem ke saya 1 juta misalnya. Nanti saya melipatgandakan uang yang harus sampean kembalikan ke saya. Itu namanya riba. Tapi kalau misalnya sampean, ini karena ada administrasinya, sampean harus membayar administrasinya, dia melibatkan karyawan yang harus digaji dan itu masuk pada sarana yang mempermudah kita dalam mendapatkan pinjaman. Saya kira bukan riba. Tapi kalau semata-mata saya pinjam 1 juta nanti kembalikan nanti kembalikan 2 juta ya itu masuk pada kategori riba. Dan bank ini memang sesuatu yang bukan saja sekedar riba, dia adalah suatu bentukan sosial yang memang didirikan berdasarkan saling memberikan manfaat. Selama akadnya jelas, terbuka di depan, saya kira ga masalah.”<sup>102</sup>*

EB states that interest is not usury, because bank also requires operational costs:

*“Ya, dari sisi yang lain ya bisa riba. Tapi dari sisi yang lain artinya, ini bank kenapa kok harus mengambil kelebihan. Berbagai kepentingan. Kalau banknya ga ngambil keuntungan gitu, terus banknya dapet apa.”<sup>103</sup>*

Then ES argues that:

*“Kalau masalah itu, riba itu sudah berbeda denga bunga. Kenapa? Bagi saya riba, emang orang identik riba itu dengan bunga. Bedanya kenapa, kalau kita misalkan, riba itu kan bunga berbunga. Bunganya di bungain, satu. Yang kedua kalau misalkan contoh sampean hutang 100 ribu, sampean nanti 10 kali mengangsur bunganya 10 persen. Berarti 110 ribu. Karena dia tidak bisa mengembalikan 10 ribu itu juga menjadi beban bunga. Itu namanya bunga berbunga, itu namanya riba. Kalau bunga yang di (bank) konvensional, saya kurang begitu anu ya. Biasanya si walaupun kita tidak bisa mengangsur mesti ada namanya Surat Peringatan. Apakah mampu mengangsur ini, tidak bisa tiba-tiba disita. Sejauh yang saya tahu, bank akan melakukan tindakan kooperatif. Kalau mau mengangsur mereka akan diberikan tambahan waktu, penghitungan kembali besarnya kredit dan angsuran. Sebenarnya tidak hanya dalam Islam riba itu. Kenapa dikatakan riba, karena*

<sup>102</sup> HR, Interview, June 25, 2019.

<sup>103</sup> EB, Interview, June 25, 2019.



*uang bukan sebagai komoditas. Tapi yang terjadi, apa uang dijadikan sebagai komoditas? Kalau dia digunakan untuk konsumtif, itu bagi saya sudah tidak boleh. Tau kenapa konsumtif ga boleh? Tidak bisa menghasilkan yang kedua dia akan terbebani oleh angsuran. Tapi kalau sebagian ulama bilang kalau dijadikan investasi boleh, karena hasil investasi digunakan untuk membayar angsuran.*<sup>104</sup>

According to ES the interest is different from usury. Because usury is multiplied interest. For example, someone borrows a sum of 100, with 10% interest, so the debt will be 110. When the borrower cannot repay, the 10 from interest becomes the loan that will be recalculated with interest. So it includes usury when interest that cannot be paid becomes loan and recalculated with the new interest. While at the bank, if the debtor cannot pay, the bank will provide a notification letter which is a cooperative action. After that, the bank will ask whether the debtor able to continue the installments or not. If they are able to pay in installments, they will be given additional time and credit and installment recalculation. If they cannot continue the installment, the guarantee will be auctioned off to pay the debtor's debt. According to ES, credit should not be for consumptive needs because it will not produce and debtors will be burdened by installments. Loans are permitted if the debtor borrows money to be made for an investment, because the investment results can be used to pay debts.

Furthermore, the group of lecturers who are still hesitant are four respondents, they are DF, RS, ER, and AD. DF choosed a moderate opinion, which means she would not say credit interest is usury, she also would not

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<sup>104</sup> ES, Interview, June 27, 2019.

say that credit interest is not usury. Even though she agrees with the conventional bank system but in practice DF only uses Islamic bank.

*“Saya kalau yang riba itu, saya ngambil pendapat yang moderat saja lah. Toh kita kan memang di duniawi ya. Saya lebih mengikuti yang moderat. Meskipun dalam prakteknya saya lebih cenderung untuk melakukan yang syariahnya daripada yang konven.”<sup>105</sup>*

RS and ER admit that they are still doubtful and confused due to various opinions. Although RS and ER use credit for reason of emergency and convenience, RS and ER compensate it with zakat and try to pay it off immediately.

*“Menurut saya, selama saya tetap membayar zakatnya, tidak untuk konsumsi sendiri insyaallah saya merasa nyaman-nyaman saja. Kalau misalkan dilarang udah dari dulu ditutup. Ini juga keterbatasan, mau disimpn dimana lagi. Saya sudah terlanjur nyaman di BTN karena lebih dekat dan gampang.”<sup>106</sup>*

*“Sampe sekarang sih masih gamang sebenarnya. Cuma kita kan juga tanya sama beberapa ustadz. Ada beberapa yang, bukan pro ya tapi gapapa, selama kamu nanti bisa dikalkulasikan. Bukan bunga si kalau itu ya, lebih ke pinjamannya. Pinjaman itu apakah boleh apa engga, karena di pinjaman itu ada bunganya. Kita sebenarnya pinjam di bank itu boleh apa engga. Ada yang bilang ga masalah selama kamu sudah mengkalkulasikan dengan baik. Jadi kalau bunga itu riba ya masih ada. Definisi saya kalau riba tu ketika kita meminjam dengan sejumlah tapi ketika kita harus mengembalikan lebih daripada itu. Kalau kita pikir-pikir, ketika kita komparasi di BCA itu lebih murah dari bank syariah. Kita juga berfikir namanya dunia ini pasti setiap tahun ada yang namanya inflasi, terus kemudian yang kedua, kita sudah menyewa jasa bank kenapa kita juga ga membayar jasa orang-orang karena mereka orang-orang yang mengolah dana kita. Kemudian yang ketiga, yang namanya kehidupan itu pasti dengan bertambah tuanya bumi pasti sesuatu akan bertambah mahal. Jadi sebenarnya kita hanya menginvest untuk masa depan. Itulah yang sebenarnya membuat kita, iyakah ini riba. Kita juga berpikir bagaimana pinjaman itu produktif dan sebisa mungkin menyelesaikan itu secepatnya.”<sup>107</sup>*

<sup>105</sup> DF, Interview, June 20, 2019.

<sup>106</sup> RS, Interview, June 25, 2019.

<sup>107</sup> ER, Interview, June 26, 2019.

There are 14 respondents who think that interest is usury. They are BN, GK, SN, AM, IR, AH, IN, AS, PE, DE, AL, AR, HB, and LH. BN and GK argue based on studies and theories learned during college.

*“Apakah bunga itu riba? Banyak kajiannya ya. Saya yakin yang dikatakan bunga itu riba sudah sampai tataran alim ulama yang mengkaji itu. Apakah bunga di perbankan sekarang itu riba? Iya. Apakah di bank syariah itu bukan bunga? Wallahu ‘alam, definisinya berbeda. Saya tidak mengkaji secara itu. Karena kalau mau kaji nanti aku dibilang sesat, segala macam, di bank syariah aku ga ngutik ya. Di bank konvensional, apakah bunga itu riba? Iya. Karena bukan aku yang ngomong, banyak kajiannya. Terus apa pendapat saya tentang bunga itu? Ya udah jelas, kenapa didebat lagi.”<sup>108</sup>*

*“Kan udah jelas kalau bunga bank itu riba. Apalagi katakanlah salah satu pihak merasa keberatan, kalau di bank konvensional kan bunga, kalau di bank syariah kan bagi hasil. Meskipun nantinya bukan kredit kalau di bank syariah bagi hasil, salah satu pihak ada yang keberatan, katakanlah bagi hasilnya ga seimbang. Saya yang usaha, dia hanya meminjami, tapi kok bagi hasilnya seperti ini, itu sama saja tidak diperbolehkan. Kalau misalkan sama-sama enak, katakanlah ga ada keberatan dengan bunga bank ataupun bagi hasilnya. Itu ga ada masalah, meskipun bagi hasil kebanyakan lebih menguntungkan bank daripada nasabahnya. Kalau menurut saya, riba itu bukan saat mencekik, atau sedikit banyak. Tapi saat dibebankan kepada debitur. Meskipun tidak merasa tercekik, namanya bunga bank itu riba.”<sup>109</sup>*

GK added, usury when the excess was charged to the customer, either a little or a lot of the amount. SN also believes that bank interest is usury because it could changes because of rates.

*“Riba, karena kalau konvensional dia akan berubah, suku bunganya akan berubah. Kemudian yang kedua, tidak ada kesepakatan di awal seperti bank syariah, ga tetap. Ada bunganya itu riba.”<sup>110</sup>*

<sup>108</sup> BN, Interview, June 27, 2019.

<sup>109</sup> GK, Interview, June 27, 2019.

<sup>110</sup> SN, Interview, June 25, 2019.

IR said the same thing, interest is usury because the interest was uncertain, because it was floating that followed the BI rate, and it inflict a financial loss for the customer. Credit in conventional bank is also like selling money, whereas according to Islamic law, buying and selling money is not allowed.

*“Kalau menurut saya di konvensional riba karena satu ketidakpastiannya. Kedua merugikan peminjam. Dan katanya uang pinjem uang ga boleh. Kita pinjem uang kan ga boleh. Katanya di bank syariah itu, kita tidak meminjamkan uang dengan tidak menganakkan uang. Jadi kita dibelikan barang ini, kemudian mereka menjual ke kita dengan nilai yang mereka tentukan.”<sup>111</sup>*

Lastly, AM believes that interest is usury based on MUI fatwa, but if urgent it is still permissible.

*“Di satu ayat sudah jelas, mengambil riba itu haram. Tapi memang, di beberapa sosialisasi pengumuman dari pemerintah baik dari MUI, lembaga fatwa yang berkepentingan. Selama ini menyebutkan bahwa kalau misalnya memang membutuhkan, tidak bisa menghindari itu, ya memang bisa dilakukan. Kalau menurut saya diperbolehkan kalau urgent.”<sup>112</sup>*

## **2. Lecturers’ Opinions of Credit Interest in Conventional Bank Based on Islamic Law**

From the results of research on lecturers’ opinions of credit interest in conventional bank, the opinions of the respondents will be analyzed based on Islamic law in this section. Lecturers’ opinions about the similarity of the interest system with usury, there are opinions that say interest is different from usury, some are still hesitant and moderate in opinion, there are also some who argue that bank interest is clearly usury.

<sup>111</sup> IR, Interview, June 26, 2019.

<sup>112</sup> AM, Interview, June 26, 2019.

Based on interviews with respondents who say interest is different from usury, there are several points as follows:

a. Interest as remuneration

Respondent who says interest is remuneration, so interest is not considered usury, is EZ. EZ believes that because bank has made it easy to get what she wants, so EZ pays interest purposively and does not feel objected or pressured. EZ already intends to pay more if she is given a loan. EZ also clearly answered that she do not agree with what was stated by MUI, which states that bank interest is usury regardless we pay purposively or without objection. So EZ's opinion is contrary to the MUI Fatwa. On the other hand, the opinion of EZ which states that interest has provided convenience and does not make it depressed so it is not included in usury the same as stated by Abdullah Saeed. According to Abdullah Saeed bank interest is not prohibited because it does not cause injustice. Which injustice is one aspect of prohibiting usury. The current bank interest does not cause injustice, bank interest has great benefits in encouraging the achievement of a society's progress, borrowing transactions in the banking system are carried out clearly, openly and protected by law, so as not to allow the creditors to oppress debtor, and at this time, a person who will apply for a loan to the bank, has carefully calculated whether he will be able to return the loan capital and interest. EZ which already intends to pay more when given a loan, is a good thing, but because interest has been determined at the beginning of the

agreement, the law is haram as stated by Al-Jazairi quoted by Ismail Nawawi concerning loan law (*al-qardhu*). Creditor is not allowed to take benefit from *al-qardhu* by increasing the loan amount or requesting a better loan repayment, or other benefits that come out of the loan agreement if it is required, or based on the agreement of both parties. But if the addition of loan repayments is a form of good faith from the debtor, it does not matter,<sup>113</sup> as the hadith reads:

عَنْ أَبِي رَافِعٍ رَضِيَ اللَّهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ اسْتَلْفَ مِنْ رَجُلٍ بَكْرًا فَقَدِمَتْ عَلَيْهِ إِبِلٌ مِنْ إِبِلِ الصَّدَقَةِ فَأَمَرَنِي أَنْ أَفْضِيَ الرَّجُلَ بَكْرَهُ فَقُلْتُ: لَمْ أَجِدْ فِيهَا إِلَّا خِيَارًا رَبَاعِيًّا فَقَالَ: أَعْطِيهِ إِيَّاهُ إِنَّ خِيَارَ النَّاسِ أَحْسَنُهُمْ قَضَاءً

*“From Abu Rafi’ r.a. that Rasulullah SAW once owed a female camel (age 3 years) to a man, then brought to him an ordinary camel for tithe (zakat), so I was told by the Messenger of Allah to pay for the man (who had given the debt earlier), with a female camel. I replied, ‘I didn’t get it at the time, but a better camel and four years old.’ Then Rasulullah SAW. said, ‘Give him the camel, verily the best man is the better person to pay the debt.’”* (HR. Bukhari and Muslim)<sup>114</sup>

b. As long as it does not multiply

According to NA Allah forbids usury that is *mudhoafah* and according to ES usury if multiplied. According to HR is also not usury as long as it does not multiply. So what is meant by multiplying here is when interest

<sup>113</sup> Ismail Nawawi, *Fikih Muamalah Klasik dan Kontemporer*, h. 179.

<sup>114</sup> Ibnu Mas’ud, *Fiqh Madzhab Syafi’I...*, h. 67.

that cannot be paid is converted into main debt and then added interest again. This is similar to the practice of usury in the jahiliyah era. Many scholars interpret that usury is forbidden when multiplied as above. These scholars are At-Thabari, Al-Maraghi, Muhammad Rasyid Ridha,<sup>115</sup> they stated that the sentence *adh'afan mudhaafatan (doubled and multiplied)* is a condition of prohibited usury, so if there are additions that do not multiply, the law is not prohibited. Bank interest as in this country is not prohibited usury, with the argument that in bank interest does not multiply. Muhammad Syahrur also believes that bank interest does not include usury as long as it has not reached 100% of capital. So, Muslims do not need to hesitate to transact with bank that apply interest, as long as the interest has not reached 100% of the invested capital.<sup>116</sup>

But there are also scholars who firmly state that whether multiplied or not, usury is still forbidden. As stated by Yusuf Al-Qardhawi, that the aspect of prohibiting usury in the Quran is not limited to what some people understand about usury which is multiplied, because it is only a language style of the Quran in describing how usury in the time of ignorance has been so bad that it has multiplied.<sup>117</sup>

c. As long as the creditor is not a private person

NA also added the reason why credit interest in conventional bank is not usury, bank is an institution that works to circulate the money. Inside

<sup>115</sup> Wartoyo, "Bunga Bank: Abdullah Saeed vs Yusuf Qaradhawi...", h. 117-118.

<sup>116</sup> Muhammad Syahrur, *al-Kitab wa al-Quran...*, h. 466.

<sup>117</sup> Wartoyo, "Bunga Bank: Abdullah Saeed vs Yusuf Qaradhawi...", h. 128.

there are employees who must be given salaries and require other development costs. Unlike the private person who lends money and then imposes interest on the debtor. However, some scholars argue that the prohibition of usury only covers individuals or private person. Whereas giving or taking interest from legal entities such as companies, bank, and the government is not including usury. This view also explains that the acceptance of interest by individuals from legal entities such as bank does not include usury because an individual cannot exploit a larger organization such as a bank. Critics reject this argument on the grounds that a crime, whether it is against an individual or an institution, is the same in Islamic law. All legal entities and governments are basically representatives of every individual in the life of society. Every institution can exploit as well as any individual, and the Quran does not make a difference between institutions and individuals in the matter of usury.<sup>118</sup>

d. Interest is intended to adjust the value of the currency

MT and RA stated that interest is also intended to adjust the value of future currencies. Because it has become certain that every year the value of money decreases, while the value of goods increases. It is emphasized that in an inflationary economy, the average interest that would correct the losses suffered by creditors due to inflation could be justified by

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<sup>118</sup> Abdullah Saeed, *Bank Islam dan Bunga...*, h. 81-82.



indexing loans, by allowing extras to be compensated for losses from the power of money.<sup>119</sup>

As discussed in the book of *fiqh*, debt in loans can be in the form of goods or money. When debt is in the form of money, and its value changes, some legal experts take a view even though its value changes, the creditor must receive the initial amount in debt payment. General Hanafi jurists, and renowned Hanbali scholar Ibn Taimiyah, think that the value of money when a debt occurs, which must be paid. According to the opinion of the classical scholars above, then the interest taken to adjust the value of inflation can not be done.<sup>120</sup>

Khalid Mohammed Ishaque, a Pakistani scholar, has the view that the Quran rules that unused deposits (wealth) must be provided for use by others; and the benefits are not desired by the owner of wealth if he himself does not use them. Therefore, as long as it is guaranteed that someone who saves will get back what he has saved (and not paper money of the same denominational value as purchasing power has decreased), he has no reason to complain, if the money is the subject of inflation and deflation, then the party provides benefits with a constant value, that is, the value of the buying power (if it is a money loan) when the loan is made.<sup>121</sup>

Although Khalid Mohammed Ishaque confirmed the adjustment of the purchase value of money, but not the same as in the practice of charging

<sup>119</sup> Abdullah Saeed, *Bank Islam dan Bunga...*, h. 83.

<sup>120</sup> Abdullah Saeed, *Bank Islam dan Bunga...*, h. 84.

<sup>121</sup> Abdullah Saeed, *Bank Islam dan Bunga...*, h. 84-85.

interest in credit at conventional bank. Sometimes the final amount to be paid in full does not match the purchasing power of the loan. Some items can be more expensive such as houses and vehicles, or some items can be cheaper such as electronic devices.

e. As long as there is agreement and does not compound

According to YF as long as there are no parties harmed and there are benefits for both parties, then there is no element of usury in credit at conventional bank. NM also believes that interest is the same as a profit sharing system, as long as it does not burden one party, does not compound and harming. RN added that interest rates at conventional bank still make sense and do not compound compared to online credit made by fin-tech companies. Because when the debtor cannot repay the loan borrowed through the application, the interest will be doubled every day.

This opinion is more towards group of Syaikh Ali Jum'ah, Muhammad Abduh, Muhammad Sayyid Thanthawi, Abdul Wahab Khalaf, and Mahmud Syaltut which stressed that bank interest is legal and is not included in usury. This opinion is in accordance with the fatwa issued by *Majma' al-Buhus al-Islamiyyah* on 23 Ramadhan 1423, coinciding on November 28, 2002. They hold on to the word of Allah on Surah an-Nisa verse 29.<sup>122</sup> In the verse reads that we may conduct transactions with each other as long as both are equally like or the existence of mutual

<sup>122</sup> Husnul Haq, "Ragam Pendapat...", accessed August 9, 2019.

consent. This opinion is also similar to Quraish Syihab, he concludes that the basis for establishing the prohibition law (*illat*) of usury is injustice (*al-dzulm*), as implied in surah al-Baqarah verse 279. According to him, which is forbidden are interest or extras that are collected by oppression or extortion (*dzulm*), not all interest.<sup>123</sup> So according to this opinion, as long as it does not violate the rights of one of the parties, then credit interest in conventional bank is not prohibited.

f. Usury if the loan is for consumptive purposes

ES also added that including usury if the loan for consumptive purposes because it can not produce and creditors will be burdened by installments. But if the loan is in the form of a productive loan or the principal is used as capital for business or investment, then that is okay, because the results of the business or investment can be used to pay installment. This opinion is the same as one of the four groups classified by Abdul Rahman Ghazaly. Those who argue that productive loans are permitted are Mustafa A. Zarqa and M. Hatta. Mustafa A. Zarqa argues that usury which is forbidden is consumptive as applies to the era of ignorance as a form of extortion to the weak consumptive people. Unlike productive loans, it is not illegal/*haram*. The same thing was also stated by M. Hatta. He distinguishes between usury and rente/interest. According to him usury is consumptive and extorts the borrower who needs a loan of money for his basic needs. As for rente/interest, it is

<sup>123</sup> Ghufroon A. Mas'adi, *Fiqh Muamalah Kontekstual*, h. 167.

productive, funds that lent to borrowers are used for business capital that produces profits.<sup>124</sup>

Of the four respondents who are still doubtful about interest, whether interest included usury or not, there are two underlying reasons:

a. Take a moderate position

The purpose of taking this moderate position is that DF does not state that bank interest is usury, because if she says so, then all transactions that we do in conventional bank are haram, whereas transactions in conventional bank are necessity at this time. But she also does not say that bank interest is not usury, because in practice DF is more inclined to make transaction at Islamic bank.

b. Because of an urgency

RS and ER state that they are still unsure of which opinion is more correct. Whether the interest is usury or not, although they believe the statement stating that bank interest is usury, RS and ER still use credit from conventional bank because of the circumstance. The situation referred is the convenience offered by conventional bank. Due to the fact that RS and ER experienced, doing credit in conventional bank is easier and cheaper than in Islamic bank. According to Sanhuri, quoted by Abdullah Saeed in his book, it was emphasized that the prohibition of usury in all its forms boils down to the norm aspect, although the extent of the ban varies. Based on this reason, usury cannot be considered legal

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<sup>124</sup> AbdulRahman Ghazaly, et. al., *Fiqh Muamalat*, h. 224.

according to the law except under forced state (*dharuri*) or really need (*haja*). The interest rate that is not doubled is legal according to the law, if it is pressed by necessity.<sup>125</sup>

The last opinion which states that interest is the same as usury states several reasons, as follows:

a. Usury when the excess is charged to the debtor

According to BN and GK, the interest is clearly usury. Usury is when the excess in the loan is charged to the debtor. Although the debtor does not feel pressured by the imposition of interest. This opinion is similar to the opinion of Al-Jazairi. According to him, a creditor is forbidden to take benefit from *al-qardhu* by increasing the loan amount or requesting a better loan repayment, or other benefits that come out of the loan agreement if all this is required, or based on the agreement of both parties.<sup>126</sup>

b. Because interest rates change

SN and IR are of the opinion that the bank interest is usury because the interest rate varies according to the BI rate. Changes in the amount of debt payments due to interest rates provide uncertainty and harm the debtor because interest rates tend to always rise. As Abdullah Saeed stated, because the use of interest to control inflation would be the peak of using a bigger crime against a smaller one.<sup>127</sup>

<sup>125</sup> Abdullah Saeed, *Bank Islam dan Bunga...*, h. 77-78.

<sup>126</sup> Ismail Nawawi, *Fikih Muamalah Klasik dan Kontemporer*, h. 179.

<sup>127</sup> Abdullah Saeed, *Bank Islam dan Bunga...*, h. 86.

c. Based on Fatwa of MUI

AM replied that the bank interest is usury, but if it is an emergency, it is permissible to carry out transaction based on interest. As stated by MUI in Fatwa Number 1 of 2004 about Interest. The fatwa stipulates that the practice of charging interest in credit in conventional bank has met the criteria of usury and unlawful (*haram*). The fatwa also states that based on the principle of emergency, transactions with conventional bank based on usury calculation are permissible, if in that region there is no office or network of Islamic financial institutions. AM's statement is slightly different in the permission to transact at conventional bank. AM states that if it is urgent, credit is allowed. Urgent is meant by AM here not only if there is no office or network of Islamic financial institutions, but also when there is an urgent need. Whereas based on the fatwa, as long as there is an Islamic bank, it is recommended to transact in an Islamic bank.



## CHAPTER V

### CLOSING

#### A. Conclusions

Based on research that has been done regarding lecturers' opinions of credit interest in conventional bank at UIN Maulana Malik Ibrahim Malang, the author concludes:

1. Lecturers at UIN Maulana Malik Ibrahim Malang have different responses to the credit interest in conventional bank. The percentage of lecturers who agree with the conventional bank interest system is 50%. While 17.5% less agree and 32.5% of lecturers disagree with interest system. Then the percentage of lecturers who think that interest is different from usury is 55%. 15% of the lecturers still doubtful whether interest is usury or not,

while 35% of lecturers strongly argue that interest is usury. This result also shows the consistency of the lecturers in their opinion.

2. According to Islamic law, if based on Fatwa of MUI and the opinion of scholars who say that bank interest is the same as usury, then the opinion of 55% of lecturers who agree with the bank interest is an opinion that is not in accordance with Islamic law. 10% of the lecturers' opinion is less shar'i because their argument is biased to the contrary opinion. While 35% of the lecturers' opinion is in accordance with Islamic law because they also agree that interest is included to usury. Whereas when referring to scholars who say that bank interest is not the same as usury, then the response of 55% respondents is in accordance with Islamic law, 10% of the opinion is less shar'i because they are still doubtful and do not have strong base, while 35% who think that interest is same as usury is not in accordance with Islamic law.

## **B. Suggestions**

Based on the results of the study, suggestions can be given as follows:

1. Suggestion for lecturers of UIN Maulana Malik Ibrahim Malang, as a figure who has a role in building Islamic civilization, lecturers are expected to be able to invent a financial system that is truly based on Islamic law.
2. Suggestion for the public is to learn a new understanding and wider knowledge about interest and usury. So the public is not easily assuming that their opinion is the most correct and the other contrary opinion is wrong.



3. Suggestion for the next researcher, the result of this study can be used as a reference and as a consideration for further research by using the opinion of scholars after the existence of Islamic bank or sharia bank.



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## APPENDIXES



KEMENTERIAN AGAMA REPUBLIK INDONESIA  
**UNIVERSITAS ISLAM NEGERI MAULANA MALIK IBRAHIM MALANG**  
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Nomor : 28/B.II /OT.01.7/02/2019  
Hal : Izin Penelitian

25 Februari 2019

Kepada  
Yth. Wakil Dekan Bidang Akademik  
Universitas Islam Negeri Maulana Malik Ibrahim Malang  
di Tempat

*Assalamu'alaikum Wr. Wb.*

Berkenaan dengan surat dari Wakil Dekan Bidang Akademik Fakultas Syariah nomor: B-670/F.Sy/TL.01/02/2019 tentang permohonan izin penelitian mahasiswa:

Nama : Karisma Nur Zannati  
Nim : 15220061  
Fakultas : Syariah  
Jurusan : Hukum Bisnis Syariah

maka kami memberikan izin untuk melakukan penelitian di UIN Maulana Malik Ibrahim Malang sebagaimana terlampir pada surat permohonan.

Demikian surat ini disampaikan, atas perhatiannya disampaikan terima kasih.

*Wassalamu'alaikum Wr. Wb.*



Kepala Biro Administrasi Akademik,  
Kemahasiswaan dan Kerjasama

Achmad Heru Achadi Hari

Tembusan:

1. Wakil Rektor I sebagai laporan
2. Para Dekan
3. Kabag. Akademik
4. Arsip

BAA BEKERJA DAN MELAYANI DENGAN SEPENUH HATI

## CURRICULUM VITAE



Name : Karisma Nur Zannati  
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### Education

#### A. Formal

2002 – 2009 : Srengseng 01 Public Elementary School

2009 – 2012 : Manbaul Ulum Asshiddiqiyah Junior High School

2012 – 2015 : Manbaul Ulum Asshiddiqiyah Islamic Senior High School

#### B. Non-Formal

2009 – 2015 : Asshiddiqiyah Islamic Boarding School, Jakarta