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A Literature Review on Islamic Banking Law: A Comparison with Conventional Banking Law

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Abstract

Islamic banking and conventional banking have fundamental differences in their principles and operations. Islamic banking focuses on justice, transparency, and risk-sharing, while conventional banking prioritizes efficiency and profitability. This research aims to analyze the comparison between both banking systems, the challenges faced, and their impacts on social welfare and economic stability. Based on the findings, Islamic banking offers a more ethical and sustainable solution, although it is still limited by public understanding and insufficient regulations. On the other hand, conventional banking, while more practical and accessible, often overlooks social and ethical values.

Keywords: *Islamic Banking; Conventional Banking; Riba, Risk-Sharing; Sustainability; Social Welfare*

Introduction

Islamic banking is currently among the fastest expanding part of the international financial sector, especially among the nations with large Muslim populations. Islamic Financial Services Board (IFSB, 2021) reports that the estimated assets of worldwide Islamic banking are over USD 3 trillion and show stunning growth compared with earlier years. This growth reflects the increased demand for money services that conform to Islamic ethics, as well as increased awareness among people of the importance of ethics in monetary transactions. It is in this sense that Islamic banking offers a viable alternative to the conventional banking system, which has been accused of its overly strong focus on profitability and neglect of the social implications of its policies (Munfaqiroh & Nugrahanti, 2025). With growing awareness of social responsibility and sustainability, Islamic banking has gained wider popularity among individuals and enterprises that seek a more ethical alternative suitable to their beliefs. This reflects that Islamic banking not only acts as a bank, but as a force for social change to create the well-being of society at large.

The simplest difference between Islamic and conventional banking is in the underlying principles. Islamic banking is founded on Islamic law, which prohibits riba (interest), gharar (uncertainty), and maysir (gambling), while conventional banking is based on the more flexible principles of a market economy (Usmani, 2010). In Islamic banking, products such as mudharabah (partnership) and musyarakah (cooperation) are designed to share risks and profits between the bank and the customer. This approach aims to create a fairer and more sustainable financial system, where all parties involved benefit equally. Thus, Islamic banking does not only focus on financial profit, but also on achieving broader social and economic goals, such as poverty alleviation and improving community welfare.

Although Islamic banking offers many advantages, the challenges it faces cannot be ignored. One of the main challenges is the lack of public understanding of the principles of sharia and the products offered. Many people still consider Islamic banking to be something complicated and difficult to understand (Zainordin et al., 2021). In addition, existing regulations in many countries do not fully support the development of Islamic banking, thus hampering its growth. In many cases, Islamic financial institutions must operate within a regulatory framework designed for conventional banking, which can limit innovation and the development of new products. Therefore, greater efforts are needed to improve public financial literacy and strengthen the regulatory framework that supports Islamic banking, including better training and education on Islamic products.

On the other hand, conventional banking also faces challenges, especially in terms of public trust after the global financial crisis that occurred in 2008. The crisis showed that the conventional banking system can pose significant risks to economic stability and public welfare (Mian & Sufi, 2024). Many individuals and companies have lost trust in traditional financial institutions, prompting them to seek safer and more transparent alternatives. In this context, Islamic banking has emerged as a safer and more sustainable alternative, which can provide solutions to the problems faced by the conventional banking system. With a more ethical and community-oriented approach, Islamic banking has the potential to attract customers who were previously skeptical of the traditional banking system.

With this background, this study aims to provide a better understanding of Islamic banking law and its comparison with conventional banking law. This study is expected to provide a significant contribution to the development of science in the field of banking law and provide insight for stakeholders in the financial industry. By analyzing the advantages and disadvantages of each system, this study also aims to provide recommendations that can help develop more effective and sustainable Islamic banking in the future.

Problem Formulation

Based on the background above, the problem formulation in this research is as follows:

1. What are the fundamental principles underlying Islamic banking law and conventional banking law?
2. How do the products and services offered by both banking systems compare, along with the associated risks and benefits?
3. What are the challenges and opportunities faced by Islamic banking in the context of regulation and public understanding?
4. What is the impact of both banking systems on societal welfare and economic stability?

Research Objectives

The objectives of this research are to:

1. Identify and analyze the fundamental principles underlying Islamic banking law and conventional banking law.

2. Compare the products and services offered by both banking systems, along with the associated risks and benefits.

3. Identify the challenges and opportunities faced by Islamic banking in the context of regulation and public understanding.

4. Provide recommendations for the more effective and sustainable development of Islamic banking in the future.

Through these objectives, it is hoped that this research can make a significant contribution to the development of knowledge in banking law and provide insights to stakeholders in the financial industry. This research is also expected to serve as a reference for future studies related to Islamic and conventional banking, as well as provide guidance for policymakers in formulating regulations that support the growth of Islamic banking.

Literature Review

Definition of Islamic Banking Law

Islamic banking law is a set of rules and principles that govern the operations of financial institutions based on Islamic law. The main principles in Islamic banking include the prohibition of riba (interest), gharar (uncertainty), and maysir (gambling). Riba is prohibited because it is considered a form of exploitation that harms the weaker party in financial transactions, while gharar and maysir are forbidden because they can lead to injustice and uncertainty in transactions (Usmani, 2010). In this context, Islamic banking law serves to create a fair and transparent financial system, where all parties involved in transactions have clear rights and obligations. Islamic banking products, such as mudharabah (partnership), musyarakah (cooperation), and murabahah (sales with an agreed profit margin), are designed to adhere to these principles and ensure that all transactions are conducted in accordance with Islamic moral and ethical values (Zainordin et al., 2021).

Furthermore, Islamic banking law emphasizes social responsibility and sustainability. Islamic financial institutions are expected to contribute to the welfare of society and the development of an inclusive economy by providing access to fair and ethical financial services for all segments of society (El-Gamal, 2006). In this regard, Islamic banking not only functions as a financial institution but also as a social change agent that seeks to create overall societal welfare. Thus, Islamic banking law serves not only as a regulatory framework but also as an ethical guide in financial practices oriented towards moral and social values, which in turn can help create a more stable and sustainable financial system.

Conventional Banking Law

Conventional banking law, on the other hand, is based on the principles of market economics and positive law. In this system, interest is a key component of financial transactions, where banks provide loans in exchange for interest that must be paid by borrowers. Conventional banking law is regulated by the laws and regulations applicable in each country, aimed at protecting the interests of customers and maintaining the stability of the financial system (Mishkin, 2007). This regulation encompasses various aspects, from oversight of financial institutions to consumer protection, to ensure that the banking system operates efficiently and transparently. In this context, conventional banking functions to promote economic growth by providing liquidity and access to capital for individuals and businesses, which in turn can enhance investment and job creation.

Although this system has proven effective in driving economic growth, criticism is often directed at the potential risks posed by practices that focus solely on profitability (Mian & Sufi, 2024). Many argue that conventional banking often neglects social and ethical aspects in its practices, which can lead to injustice and dissatisfaction among the public. Additionally, conventional banking is often perceived as less responsive to the needs of society, which seeks more ethical and sustainable financial products, thus prompting the search for alternatives such as Islamic banking that align more closely with social and moral values (Zaher et al., 2001). Therefore, the comparison between these two systems becomes important to understand the strengths and weaknesses of each in the context of a continuously evolving global economy, as well as to explore how both systems can complement each other in creating a more inclusive and sustainable financial system.

Research Methodology

Literature Study Approach

This research employs a literature study method, which is a systematic approach to collecting and analyzing various written sources. This method aims to understand and explore the topic of Islamic banking law and conventional banking law comprehensively. In the literature study, the researcher will identify, collect, and evaluate information from various relevant sources, including books, journal articles, research reports, and legal documents. This approach allows the researcher to gain a broader perspective on the fundamental principles, practices, and challenges faced by both banking systems.

Data Collection

The data collection process is carried out through the following steps:

1. **Source Identification**: The researcher will seek credible and relevant sources, including scholarly articles published in reputable journals, books written by experts in the field of banking law, and legal documents that govern Islamic and conventional banking. These sources will be selected based on their relevance, reliability, and contribution to understanding the researched topic.

2. **Search and Collection**: The researcher will utilize academic databases, libraries, and online resources to access the necessary articles and documents. This search will include keywords related to Islamic and conventional banking law, as well as terms relevant to the underlying legal principles.

3. **Classification and Categorization**: Once the data is collected, the researcher will classify and categorize the information based on specific themes or topics, such as fundamental principles, banking products, and socio-economic impacts. This will facilitate analysis and comparison between the two systems.

Data Analysis

After the data is collected, the next step is to analyze the obtained information in the following ways:

1. **Identification of Differences and Similarities**: The researcher will conduct a comparative analysis to identify the differences and similarities between Islamic banking law and conventional banking law. This includes analyzing the fundamental principles, operational mechanisms, and products offered by each system.

2. **Operational Evaluation**: The researcher will evaluate how each system operates in practice, including how they meet societal needs and their impact on economic welfare. This also includes analyzing the challenges faced by both systems in the context of regulation and public understanding.

3. **Impact on Banking Practices**: This research will also evaluate the impact of Islamic and conventional banking laws on banking practices in society. The researcher will consider how the public responds to the products and services offered by both systems, as well as how both systems contribute to economic stability and societal welfare.

With this systematic approach, the research is expected to provide clearer and deeper insights into Islamic and conventional banking laws, as well as their implications for society and the financial industry as a whole.

Discussion

Basic Principles of Islamic Banking Law

Islamic banking law is based on principles rooted in Islamic teachings, which aim to create a fair, ethical and sustainable financial system. Here are some basic principles that form the basis of Islamic banking law:

1. Prohibition of Usury

One of the main principles in Islamic banking law is the prohibition of usury, which means that any form of interest in financial transactions is prohibited. Usury is considered a form of exploitation that is detrimental to the weaker party, and therefore, is prohibited in Islam. In this context, Islamic banking seeks to create a fair and ethical system, where profits are obtained through cooperation and risk sharing.

The prohibition of usury is not only intended to protect customers from excessive debt burdens, but also to encourage productive and sustainable investment (Rahmawati et al., 2022). By avoiding usury, Islamic banking creates a healthier environment for customers, where they are not burdened by high interest obligations. It also encourages customers to be more active in managing their finances, as they are involved in a more transparent and fair financing process. As stated by Usmani (1999), "Riba is not merely a financial issue; it is a moral and ethical issue that affects the very fabric of society."

2. Principle of Justice

Islamic banking law emphasizes justice in every transaction. Every party involved in the agreement is expected to receive balanced benefits, so that no party is harmed. This principle of justice creates a more harmonious relationship between banks and customers, and increases public trust in Islamic financial institutions (Maimun dan Dara Tzahira, 2022). In practice, this means that Islamic banks must ensure that all terms and conditions in the contract are clear and transparent, so that customers can make informed decisions.

The principle of justice also includes social responsibility, where Islamic banks are expected to contribute to the welfare of society. This can be done through financing social, educational, and health projects that provide direct benefits to the community. Thus, Islamic banking does not only focus on financial profit, but also on the social impact of its business activities.

3. Risk-Based Financing

In Islamic banking, financing is carried out based on the principle of risk sharing. Products such as mudharabah (partnership) and musharakah (cooperation) allow banks and customers to share profits and losses. In mudharabah, the bank provides capital, while the customer manages the business; profits are shared according to agreement, while losses are borne by the bank. In musharakah, both parties contribute capital and share profits and losses according to the proportion of their investment.

This principle of risk sharing creates an incentive for both parties to collaborate effectively. Customers are encouraged to manage their businesses well, because the success of the business will benefit both parties. This is in contrast to the conventional system, where the risk is mostly borne by the borrower, which can lead to a heavy financial burden in the event of default. Thus, Islamic banking does not only function as a provider of funds, but also as a partner in business development.

Basic Principles of Conventional Banking Law

1. Interest as the Main Component

In the conventional banking system, interest is the main component of every transaction. Banks provide loans in exchange for interest that must be paid by the borrower. Although interest is considered an efficient way to raise capital, it can often lead to injustice for borrowers who cannot afford the interest. Reliance on interest can create a cycle of debt that is difficult to overcome for many individuals and businesses, which can lead to greater financial problems (Mishkin, 2007). In this context, interest is not only a cost, but can also be a burden that hinders economic growth.

2. Freedom of Contract

Conventional banking law gives parties the freedom to determine the terms and conditions of the contract. This allows flexibility in transactions, but can also cause uncertainty and risk for less experienced parties. In some cases, customers may be trapped in an unfavorable contract due to a lack of understanding of the terms and conditions set. This shows the importance of financial literacy for customers in order to make better decisions (Lusardi, 2019). This freedom of contract, while providing opportunities, also demands responsibility from both parties to ensure that the agreements made are fair and transparent.

3. Regulation and Supervision

The conventional banking system is governed by laws and regulations that aim to protect the interests of customers and maintain the stability of the financial system. However, challenges arise when regulations fail to keep up with practices that focus solely on profitability. The global financial crisis has shown that a lack of strict supervision can lead to systemic collapse (Acharya & Richardson, 2022). Therefore, it is important for regulators to continuously update and adapt their policies to address the changing market dynamics and protect the public interest.

Comparison of Banking Products: Sharia vs. Conventional Financing

Banking in Indonesia and in various other countries generally offers two main types of services in terms of financing: sharia financing and conventional financing. These two systems have fundamentally different approaches in the contract structure, risk sharing, and legal basis used. Here is a more in-depth comparison between the two.

1. Product Complexity and Customer Understanding

Sharia banking products such as murabahah (buying and selling with a profit margin), mudharabah (business partnership with profit sharing), and musyarakah (capital cooperation) are rooted in the principles of Islamic law that avoid elements of riba (interest), gharar (uncertainty), and maisir (speculation). Because they use a different contract structure from the conventional system, sharia products are generally more complex in their contract preparation and implementation.

This requires customers to have a fairly deep understanding of the principles of Islamic economics in order to be able to choose and use products appropriately. For people who are not familiar with sharia terms or are not used to the concept of risk and profit sharing, this can be a challenge. As a result, the adoption rate of sharia products in certain segments of society can be lower compared to conventional products that are more direct and easy to understand.

In contrast, conventional financing products such as personal loans, motor vehicle loans, or mortgages use a fixed or variable interest mechanism. The procedures and payment schemes are generally uniform and easy to understand, making them more attractive to the general public looking for practical and fast financial solutions (Satino et al., 2025).

2. Risk and Profit Sharing

One of the main advantages of sharia financing is the concept of risk and profit sharing between the bank and the customer. In contracts such as mudharabah or musyarakah, the bank acts as a capital provider and the customer as a business manager, or both parties as partners. The profits obtained are shared according to the initial agreement, while losses are borne together based on the proportion of capital provided. This scheme encourages healthy collaboration and strengthens a fair partnership between the bank and the customer.

On the other hand, in the conventional banking system, the financing structure places a greater risk burden on the borrower. Although interest and installments are still paid periodically, customers are still obliged to pay off the principal and interest, regardless of whether the project or business being financed makes a profit or not. When customers experience financial failure, for example because the business is not running smoothly or is affected by an economic crisis, the burden of payment continues, which can lead to default, asset seizure, or bankruptcy.

The impact of this system can be felt at the macro level, where the high level of bad debt in the conventional system can cause economic instability and disrupt the intermediation function of banking. In contrast, the sharia system based on profit sharing tends to be more adaptive to economic fluctuations and contributes to more sustainable financial stability (Gumilar, 2021).

3. Principles of Ethics and Social Engagement

In addition to technical differences, sharia financing also carries the principles of ethics and social responsibility, which are added value in this system. Sharia products and investments are screened through a process called sharia screening, where funds may not be used for activities that are contrary to Islamic values, such as alcohol, gambling, or the arms industry.

This creates a financial system that is more oriented towards sustainability and social justice. On the other hand, although some conventional banks have adopted the principle of sustainable investment (ESG – Environmental, Social, Governance), the ethical approach in conventional banking is not as integral as the system in Islamic banking.

Overall, Islamic financing products offer a fairer approach and are based on the principles of partnership and ethical values, but require higher education and understanding from customers. On the other hand, conventional financing products excel in terms of simplicity and accessibility, but can pose higher social and financial risks due to unequal risk sharing. The choice between the two depends largely on individual preferences, understanding of the financial system, and desired financing goals. In the long term, collaboration between the two systems through innovation and education can provide broader and more inclusive choices for all levels of society.

Challenges Faced

Islamic banking is faced with a number of structural and cultural challenges that hinder its maximum growth. One of the main challenges is the lack of public understanding of sharia principles and the working mechanisms of sharia products such as murabahah, mudharabah, or musyarakah. Many people still assume that sharia banking is only different in the label "no riba" without understanding values such as fairness, transparency, and risk sharing that are its foundation. This ignorance is often exacerbated by a lack of financial literacy in general, and more specifically, literacy about sharia finance. This causes most potential customers to prefer conventional products that are considered easier to understand and more practical in their application.

In addition, limited regulations and supporting infrastructure are also significant obstacles. Although there are already a number of regulations governing sharia banking, the development of positive laws that accommodate the needs and dynamics of the sharia industry is still relatively slow. Not all financial institutions and policy makers have sufficient capacity to support the growth of a comprehensive sharia ecosystem. Lack of socialization, training of human resources who understand sharia principles comprehensively, and limited innovative products also limit the competitiveness of sharia banking. On the other hand, conventional banking, although well-established, is also not free from challenges, especially concerning the crisis of confidence following various scandals and the global financial crisis that revealed systemic weaknesses, such as poor risk management and unethical business practices (Fauzatul Laily Nisa & Krisna Reswara, 2024).

Available Opportunities

Despite facing various challenges, sharia banking has great opportunities to grow, especially in the context of increasing public awareness of the importance of a fair, ethical, and sustainable financial system. The principles of sharia banking that reject usury, encourage transparency, and prioritize partnerships in business provide their own appeal, especially for the younger generation and segments of society looking for alternatives to the traditional financial system. In addition, with a large Muslim population in various countries, including Indonesia, the potential market for sharia banking is still very large. Innovation in digital products and technology also opens up new opportunities to reach wider customers through online platforms and sharia-based digital financial services (Syafii & Harahap, 2020).

Meanwhile, conventional banking also has great opportunities to strengthen its position by utilizing developments in information technology. Banking digitalization allows for increased operational efficiency, transparency in services, and the provision of more inclusive financial access, especially for people in remote areas. Amidst public demands for accountability and social responsibility, conventional banking can also strengthen ESG (Environmental, Social, and Governance) practices as part of the transformation towards a more responsible financial system. By improving service quality, strengthening internal regulations, and building a more resilient financial system, conventional banking has the opportunity to regain public trust and strengthen its contribution to national economic development.

Contribution to Economic Stability

Islamic banking plays an important role in creating economic stability with its more cautious approach to risk and emphasis on the principle of fairness in transactions. With a profit-sharing model, Islamic banks tend to be more selective in channeling financing and conduct a more comprehensive business feasibility analysis. This reduces the potential for unproductive or speculative financing. When business risks are shared by the bank and customers, pressure on one party can be reduced and the stability of financial relations can be better maintained. This approach is important in creating a financial system that is more resilient to economic shocks, especially during times of crisis where the risk of default increases significantly.

Meanwhile, conventional banking also plays a major role in maintaining the sustainability of economic growth by providing fast liquidity and broader financing schemes for various business sectors. With a wide network and diverse products, conventional banks are the backbone in financing consumption and investment activities, which are two important components of the economy. When managed carefully and under strict supervision of financial authorities, conventional banking is able to maintain capital flows and support strategic sectors, including MSMEs, infrastructure, and the manufacturing industry. Post-crisis reforms and the implementation of international standards such as Basel III have also encouraged conventional banks to strengthen risk management and increase the resilience of the banking system as a whole (Nabila & Thamrin, 2022).

Community Welfare

One of the main missions of a healthy financial system is to improve community welfare through economic empowerment and financial inclusion. Islamic banking can make a major contribution in this regard by providing fairer financing and not burdening customers with fixed interest obligations. Products such as qardhul hasan (financing without compensation), partnership-based microfinance, and zakat or productive waqf can be directed to support poor communities, small entrepreneurs, and other social sectors. This approach helps create a more equitable economic circulation and encourages inclusive economic growth, thereby reducing social and economic disparities in the long term (Andrianti et al., 2024).

Conventional banking, with its large scale of operations and wide reach, also plays an important role in expanding public access to financial services. People's business credit, housing loans, and digital-based savings services are real solutions to improving people's standard of living, especially in areas that have not been reached by formal financial services. In addition, the involvement of conventional banks in CSR (Corporate Social Responsibility) programs and inclusive finance is an important instrument to support social development. With the collaboration and synergy between the sharia and conventional systems, the public can get a more diverse choice of financial products and services that are in accordance with their needs and values.

Closing

Conclusion

This research discusses the fundamental differences between Islamic and conventional banking and their impacts on social welfare and economic stability. Islamic banking offers a more just and sustainable approach with principles such as the prohibition of riba, risk-sharing, and social responsibility, which can benefit society, especially in terms of financial inclusion. On the other hand, conventional banking excels in efficiency and accessibility for the broader population, although it often overlooks ethical and social aspects.

However, both systems face significant challenges, particularly in terms of public understanding and regulatory support. Nonetheless, the opportunities for the development of both systems are vast, especially with the increasing awareness of the need for more sustainable and just financial systems. Collaboration between Islamic and conventional banking can open up opportunities to create a more inclusive and resilient financial system.

Recommendations

1. Greater efforts are needed to enhance public understanding of Islamic and conventional banking products through broader educational programs and training.

2. Governments need to strengthen regulations that support the development of Islamic banking, including providing incentives for innovation in Islamic financial products and services.

3. Further collaboration between Islamic and conventional banking is needed to create a more inclusive financial system that can cater to the needs of all segments of society.

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