
ANALYSIS OF THE IMPLEMENTATION OF THE WAKALAH AGREEMENT IN SHARIA BANKING OPERATIONS

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Abstract

A deep understanding of the application of the Wakalah contract in the increasingly developing Islamic banking operations in Indonesia is the basis of this study. The purpose of this study is to analyze the application of the Wakalah contract in Islamic banking products and services, and to identify the benefits and obstacles faced in its implementation. The Wakalah contract, which is the granting of authority from one party to another party to carry out an action or transaction, has a significant role in Islamic banking transactions. This study uses a qualitative method, namely library research, which uses information from books and other written sources. An analytical normative approach is used, namely by studying and analyzing the Fatwa of the National Sharia Council on wakalah. The results of the study indicate that the wakalah contract is widely used in various types of banking services such as financing, investment, and fund management. Its advantages include transparency, compliance with Islamic principles, and efficiency of fund management. However, the problems include customers who do not fully understand the Wakalah mechanism and regulatory inconsistencies that hinder optimal implementation. Based on the results, it can be concluded that the implementation of Wakalah contracts in Islamic banking offers great potential for the development of more innovative products. However, a better understanding and stronger regulatory support are needed to reduce the existing challenges.

Keywords: Challenges, Islamic banking, Operations, Regulations, Wakalah agreement.

INTRODUCTION

Islamic banking in Indonesia continues to experience rapid development along with increasing public awareness of the importance of a financial system that is in accordance with Islamic sharia principles. This system offers alternative solutions in financial services that are not only oriented towards material profit, but also emphasize the values of justice, transparency, and blessings. One of the key instruments in Islamic banking operations is the wakalah contract, which is an agreement that authorizes a certain party to act on behalf of another party in carrying out an activity.

In the context of Islamic banking, the wakalah contract has various applications, ranging from managing customer funds to representing in certain transactions. The flexibility of this contract makes it an important element in Islamic banking products, such as financing, investment, and fund administration services. However, the implementation of the wakalah contract in the field often faces legal and operational challenges. This is due to various interpretations of the contract, including differences in understanding regarding the costs or rewards received by the authorized party, as well as the extent to which the principle of sharia equality is applied in practice.

Disputes related to the implementation of the wakalah contract reflect the gap between theory and practice. Several cases show that the implementation of this contract does not fully comply with sharia principles, which has the potential to harm both customers and financial institutions. For example, the lack of clarity in the implementation of the wakalah contract can lead to conflicts regarding the rights and obligations of each party, especially in terms of profit sharing or risk management.

Although there have been many studies discussing the wakalah contract in Islamic banking, most of them are still limited to theoretical studies. Research that examines the practical dimensions and their impact on the relationship between banks and customers is still relatively rare. Several studies, such as those conducted by Zainudin (2016), highlight the inconsistency between the principle of sharia equality and the practice of the wakalah contract, while Rahman (2018) emphasizes the importance of strict supervision to ensure sharia compliance. However, this study has not explored in depth how errors in the implementation of the wakalah contract can affect customer trust and the effectiveness of bank operations.

This study aims to analyze the implementation of the wakalah contract in Islamic banking, identify the problems that arise, and assess how customers understand and respond to the contract. Through a qualitative approach and case analysis, this study is expected to provide a significant contribution in bridging the gap between the theory and practice of wakalah contracts, as well as providing recommendations to improve the quality of Islamic banking products that are more transparent, efficient, and in accordance with Islamic principles. Thus, this study is not only relevant in the development of science, but also provides practical benefits in supporting the sustainability of the Islamic banking system in Indonesia. The results of this study are expected to be able to provide solutions to the challenges faced, so that wakalah contracts can be implemented more effectively and provide added value for all parties involved.

LITERATURE REVIEW

Research on the implementation of the wakalah contract in Islamic banking shows that this contract has a strategic role in supporting the operations of Islamic banks. Fauzi and Suryadi (2019) in a study entitled "The Effectiveness of Wakalah as a Supporting Contract for Islamic Bank Operations" showed that the wakalah contract is used in various Islamic banking products, such as wakalah savings, wakalah current accounts, and wakalah-based financing. This study emphasizes the flexibility of the wakalah contract in meeting customer needs and supporting the operational efficiency of Islamic banking.

Despite its many benefits, the implementation of the wakalah contract in Islamic banking faces various challenges. Rahman (2021) in his study "Challenges of the Implementation of the Wakalah Contract in Islamic Banking Operations in Indonesia" identified the main obstacles in implementing this contract.

Previous research has provided a strong foundation for understanding the role, benefits, and challenges of implementing the wakalah contract in Islamic banking. This study continues previous research by focusing on the implementation of wakalah contracts in Islamic banking operations in Indonesia, especially from the perspective of maqashid sharia and customer satisfaction. Therefore, it is expected that this study can offer practical solutions to problems related to the implementation of wakalah contracts in Islamic banking.

RESEARCH METHOD

This study uses a qualitative approach with a descriptive research design. Descriptive research aims to provide a comprehensive and detailed picture of the management of wakalah contracts in Islamic banking operations. This study aims to clearly understand the practice and implementation of wakalah contracts in Islamic financial institutions and to analyze various factors that influence the success and failure of the implementation.

One type of data used in this study is qualitative data, namely descriptive and factual information. Data is obtained from relevant summaries related to the implementation of wakalah contracts in Islamic banks. The primary data sources in this study are documents related to Islamic banking regulations and practices, such as laws governing wakalah, operational procedures, challenges and implementations related to the research topic. This second data is very important to

provide more detailed information regarding the implementation of wakalah contracts in Islamic banking

Data collection was carried out using document analysis as the main technique. Document analysis is a method of systematic data collection by collecting and analyzing various relevant documents to obtain the information needed in this study. The documents collected include:

Law on the implementation of wakalah: A number of regulations governing the implementation of wakalah such as the Qur'an, hadith and fatwas and the Indonesian Ulema Council.

Sharia Bank Operations: Internal documents that include procedures and explanations of how the wakalah contract is carried out in Islamic banking services.

Challenges and implementation of wakalah: the implementation of wakalah in Islamic banking and the challenges it faces in bank operations.

Related Literature: Books, journal articles, and other studies that discuss wakalah and its application in Islamic banking

Analysis of the collected data will be carried out using content analysis. This technique is carried out by identifying and classifying relevant themes or information found in the submitted documents. Researchers will examine these texts to understand how the wakalah contract is implemented in Islamic banking and to look for issues that arise related to regulations, challenges, and operational procedures. Content analysis will help in establishing the relationship between existing theory and practice and provide insights into the challenges and successes faced by Islamic banks in implementing wakalah contracts.

RESULTS AND DISCUSSION

In terms of language, wakalah is the delegation of responsibility from one person as the main party to another person as the second party in matters that are delegated. Etymologically, Al-wakalah or al-wikalah, which means al-Tafwidh (surrender, delegation, and granting of mandate), as in the following sentence: "I submit my affairs to Allah." In terms, wakalah means helping each other between individuals in a particular problem when someone is unable to act according to the law or does not have the means to carry out their duties. Wakalah according to the Malikiyah Ulama is the act of a person representing himself to another person to carry out actions that are his rights which cannot be carried out by himself after he dies, because if it is associated with actions after death, then it indicates that wakalah has been formed. (Rizal, 2022) According to the Fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) NO.10/DSN-MUI/IV/2000, wakalah is defined as "the delegation of responsibility from one party to another party in matters that may be delegated." The wakalah contract is essentially a type of contract used by humans when they need other people or need to do something that cannot be done by themselves and want someone else to do it. Meanwhile, according to the Compilation of Sharia Economic Law (KHES), wakalah is "giving power to another person to do a job." The granting of power of attorney during this period is carried out because the first party cannot carry out his duties, so it is deferred to the second party to do so. (Harahap & Sudiarti, 2022)

From the several things above, it can be concluded that wakalah is a significant transfer of responsibility from one party to another to carry out tasks or problems that cannot be carried out by the first party, either due to limited abilities or resources, thus exemplifying the process of helping each other between individuals in dealing with certain problems. Wakalah includes actions that can even continue after the death of the grantor of power of attorney, wakalah also applies to matters that are permitted to be delegated.

Based on the scope of wakalah, fiqh distinguishes wakalah into three types, namely:

- 1) Wakalah al-mutlaqah, which means absolutely, without time limits, and for all purposes.
 - 2) Wakalah al-muqayyadah, which is giving time to reflect on the name of the subject in the matter concerned.
 - 3) Wakalah al ammah, or broader than al-muqayyadah, but simpler than al-mutlaqah.
- According to the rules of Islamic jurisprudence, "The original law of muamalat is that everything is permitted unless there is evidence that prohibits it (in the Qur'an and Al-Hadīth)". (Maulidizen, 2019)

Legal basis for wakalah

Al-Qur'an

QS Al-Kahfi (18:19).

لَبِئْتُمْ فَأَبْعَثُوا أَحَدَكُمْ بِوَرِقِكُمْ هَذِهِ إِلَى الْمَدِينَةِ فَلْيَنْظُرُوا أَيُّهَا اللَّهُ الَّذِي بَعَثْنَاهُمْ لِيَنْسَأَلُوا بَيْنَهُمْ ۖ قَالَ قَائِلٌ مِنْهُمْ كَمْ لَبِئْتُمْ ۖ قَالُوا لَبِئْنَا يَوْمًا أَزْكَىٰ طَعَامًا فَلْيَأْتِكُمْ بِرِزْقٍ مِنْهُ وَلْيَتَلَطَّفْ ۚ وَلَا يُشْعِرَنَّ أَحَدًا ۚ ١٩

"And so We raised them up to ask each other among themselves. One of them said: 'How long have you been (here)?' They answered: 'We have been (here) a day or half a day.' be gentle, and never tell anyone about yourself."

Hadith

Hadith of the Prophet narrated by Tirmidhi from 'Amr bin 'Auf:

"Peace can be made between Muslims unless it is a peace that forbids what is halal or makes lawful what is haram; and Muslims are bound by their conditions except conditions that prohibit what is halal or make lawful what is haram."

Fiqh rules:

God willing, God willing, God willing, God willing, God willing. God bless you

"Basically, all forms of muamalah are permissible to do unless there is an argument that forbids it."

Implementation of Wakalah Contract in Sharia Mortgage Murabahah Financing

Murabahah is one of the financing available in Islamic banks. It is defined as the sale of goods or services at the price of the goods then added with an agreed margin or profit (Antonio, 2001).

Karim also said that murabahah is the sale of goods or services at the price of the goods then added with an agreed margin or profit (Karim, 2007).

Islamic banking in Indonesia, murabahah financing is the largest part of the portfolio. Sharia Home Ownership Credit is one example. According to the school of thought that permits murabahah buying and selling, the buyer has the right of khiyar, or the right to choose whether to continue the transaction or not. Thus, there is no agreement between the two parties stating that the purchase must occur and continue (Az-Zuhaili, 2006).

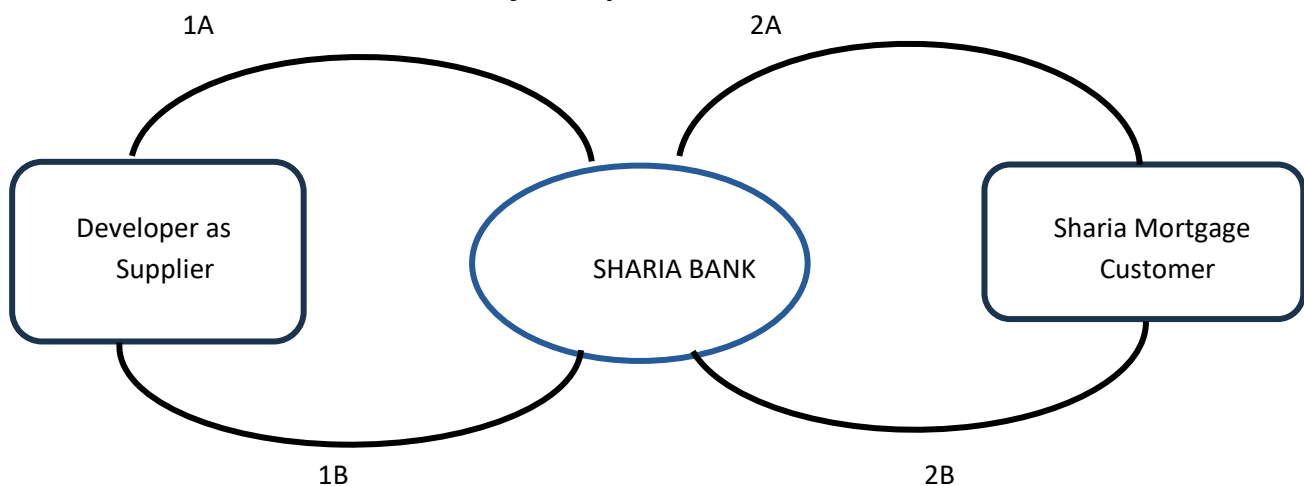
In general, KPR, also known as Home Ownership Credit, is financing to build or renovate a house through a credit scheme offered by banks to their clients through loans (Hardjono, 2008). According to (Hadi et al., 2019) KPR is financing provided by banks to buy a house with a bank credit concept. In addition, KPR financing must be based on an agreement between the bank and the customer,

Sharia KPR is a type of home procurement financing (consumptive) provided by Islamic banks to customers. Customers can pay through installments with a note of the amount, and the amount

of the installment must not change because it has been agreed upon at the time of the agreement (Lesmana *et al.*, 2021)

In murabahah KPR operations, the bank does not own the house, but provides it to customers to find a house through a wakalah contract. This sharia banking carries out murabahah li al-amir bi al-shira', which is a type of buying and selling where the buyer asks and gives authority to the bank to buy an item with certain characteristics, and then promises to buy the item through a murabahah contract. (Az-Zuhaili, 2006).

Skema Akad Wakalah Pada Pembiayaan Kpr



Information:

1a: Housing builders sell houses to sharia banks for cash,

1b: The builder buys the supplier for cash, and

2a: Sharia banks sell houses to sharia KPR customers on a deferred basis or in installments equal to the principal price, as well as mutually agreed profits.

2b: The customer buys a house from a sharia bank in installments

Challenges of the Wakalah Contract in Islamic Banking

Despite its great potential, the implementation of the Wakalah Contract in Islamic banking transactions also has several challenges, including:

1. Lack of Understanding Many business actors do not yet understand the concept and value of the Contract. People who do not fully understand the benefits of the contract may be reluctant or unable to apply it in their business operations. Therefore, a more comprehensive approach is needed to increase understanding and awareness of the Wakalah bil Ujah Contract through training, seminars, or outreach campaigns. (Marlina & Rahmat, 2018)
2. Unclear Regulations Currently, there are no clear and comprehensive regulations regarding the Wakalah bil Ujah Contract in Indonesia. Specific and precise regulations regarding the procedures, standards, and conditions governing the implementation of the contract can result in violations of the law for business actors. (Ziqhri et al., 2023)

Without clear regulations, business actors may feel forced to use the Wakalah bil Ujah Contract in their transactions due to the possibility of legal conflicts or non-compliance with sharia principles. Therefore, regulators need to provide clear and comprehensive regulations or guidelines on the Wakalah Contract to establish legal requirements for business actors. (Ferdiana, 2024)

3. According to (Maulana, 2020) Lack of Supporting Infrastructure such as wakalah organizations and integrated information systems can help implement the Wakalah bil Ujah Contract.

The infrastructure needed to support the contract implementation process, such as in the fields of documentation, maintenance, and transaction reporting. Without adequate infrastructure, the operation of the Wakalah bil Ujah Agreement can experience difficulties in terms of efficiency, transparency and accountability. Therefore, investment is needed in developing infrastructure that supports the implementation of the Wakalah bil Ujah Agreement, such as studying the wakalah organization and developing an integrated information system. (Dr. Azharsyah & Anna F, 2022)

4. According to (Maulana M, 2018) the lack of supporting facilities such as wakalah institutions and integrated information systems can help implement the Wakalah Agreement. Therefore, investment is needed in developing facilities that support the implementation of the Wakalah Agreement, such as the establishment of wakalah institutions and the development of integrated information systems. reduce the risk of abuse and ensure compliance with sharia principles and applicable laws.

CONCLUSION

Wakalah contract is the delegation of responsibility from one party to another party to carry out tasks or affairs that cannot be carried out by the first party due to lack of ability or resources. Islamic banking, especially murabahah KPR Syariah financing, uses the wakalah contract to allow banks to act on behalf of customers in the process of searching for and purchasing property, in accordance with previously agreed conditions.

However, the implementation of the Wakalah contract in Islamic banking faces several challenges, such as the lack of understanding of business actors, the unclear regulations governing its implementation, and limited infrastructure and supporting facilities. Therefore, it is necessary to increase understanding of the contract through training and socialization, as well as the development of regulations and infrastructure that can help smooth its implementation.

Overall, although the Wakalah contract offers many opportunities in the world of Islamic banking, there are several challenges that must be overcome so that its implementation can be carried out properly and in accordance with sharia principles.

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