

INTERNALIZING VALUES OF JUSTICE IN MUDHARABAH FINANCING PRACTICES AND MUDHARABAH DEPOSITS

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Abstract

This study aims to explore and analyze the forms of fairness values in the practice of mudharabah financing and mudharabah deposits. This type of research is a type of qualitative research with case study approach. The results of this study indicate that this bank has not fully applied the five elements of justice in the practice of mudharabah financing. Of the five principles, BPRS only runs the two principles of justice, namely the form of prohibition of haram and maysir. In order to fulfill these five principles of justice, should the BPRS Asri Madani Nusantara apply pure mudharabah financing practices, where the profit sharing calculation is done after the project has been realized, the shari'ah education has been intensively to mudharib, the management supervises it intensely on the mudharib-run business, As well as Islamic business ethics that must be owned by human resources banking. While in practice mudharabah deposit, BPRS ASRI Madani Nusantara Jember has applied the five elements of justice that is the form of prohibition of riba, gharar, maysir, dzulm and haram in mudharabah deposit transaction.

Keywords:

*mudharabah,
mudharabah deposit,
justice*

Introduction

Today the economic and business development of shari'ah is seen increasing rapidly, especially in countries where the majority of the population is Muslim including in Indonesia. The proliferation of several financial institutions of banks and non-bank financial institutions based on syari'ah is evidence that the prospect of syari'ah banking in Indonesia still has a large market share (www.ojk.co.id). This is caused by public awareness of the main Islamic values of the prohibition of riba practice as something that is forbidden and must be abandoned by economic actors. In Islamic economics, the prohibition of riba is a very fundamental thing, because as described in the Qur'an Surah Al-Baqarah [2] verses 275-281 which in essence Allah and His Messenger have strictly prohibited the Muslims in terms of riba by taking The principal amount of the loan and exempt if the borrower has difficulty. Riba not only destroys the economic system, but in practice there will certainly be parties who are treated unfairly or under dzalimi, on the basis of that many Muslim communities who want an Islamic financial institution (bank) that operates based on the principles of shari'ah, Both in transactions and operations. In 1992 the Muamalat bank was first established in Indonesia and developed since Law no. 10 Year 1998 concerning banking that recognize existence of conventional bank and syari'ah bank side by side or known by dual banking. The role of syari'ah banking in economic activity in Indonesia is not much different from conventional banking. The fundamental difference between the two lies in the principles of financial or operational transactions. Implementation of profit sharing and risk is one of the principles in shariah banking operations so that sharia banks are also referred to as profit-sharing banks. Many conventional banks open syari'ah branches, either as syari'ah business units, or directly established as syari'ah banks through the conversion of conventional branches. Conventional banks that open sharia branches have tremendous appeal to the Muslim community despite the fact that, basically, sharia banks are conventional banks shaping their operational techniques unchanged. Kamla (2009) states that sharia banks disguise only the term interest by simply changing its name only and substantively Islamic banking is still far from the values of syari'ah namely the sustainability of the value of justice and welfare to the community. Broadly speaking there is no such thing as a prominent difference in the two banking systems, even if there is a difference may be due to differences in the physical appearance of syari'ah banks, which are characterized

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by Islamic attributes in sharia bank buildings. Criticism is based on the failure of sharia banks in realizing the creation of public welfare and realize sharia banking is more emancipatory that all forms of suppression of one party over only oriented to the optimization of profit or profit oriented solely. In Shariah principles, the suitability between operations and practices is a basic tool in sharia banking that should be run on the basis of shari'a principles and is in a position to uphold the value of justice in accordance with the fundamental aspects of the Islamic economy (Antonio, 2002). The principle of profit sharing is the financing product that becomes the core business of syari'ah banking. Syari'ah banking serves as an intermediary or intermediary institution as the basis for collecting funds from the community and to be distributed to the community in the form of financing and equity participation (Hadi, 2011). The mudharabah contract is a contract of cooperation of an enterprise in which the first party (shahibul maal) provides the whole capital and the second party (mudharib) acting as the fund manager by dividing the profit of business in accordance with the ratio agreed in the contract, while the loss is borne entirely by sharia bank, unless the second party commits a deliberate mistake or omission, or violates the agreement set forth in the contract (PSAK, 105). Mudharabah currently in Indonesia is not merely a replication or modification of a conventional bank in which the margin or interest is still hidden. Not emphasizing the social dimension and without considering the values of justice and honesty. Currently in the practice of mudharabah financing there are some imbalances between the owners of funds and fund managers, so on this basis mudharabah financing marginalized. The Bank does not want to bear the risk of loss so that in practice the risk of loss is levied or charged to the fund manager (mudharib). The imbalance also occurs in the profit-sharing calculation. One of the theoretical concepts that distinguishes between conventional banks and syari'ah banks is the distribution of rewards to the owner of funds from business results developed by fund managers. The fact that there is a field shows that syari'ah banks do not use the profit and loss sharing system (Kamla, 2009), but apply the interest system exactly as applied by conventional bank, where the interest rate is set at the beginning of the contract, regardless of the possibility of managed business. Fund managers will incur losses. The calculation of profit sharing using the method of profit sharing or revenue sharing will have different consequences. The method of calculating revenue sharing will be relatively easy because the syariah financial institution only calculates the revenue received then the results are distributed to the customer according to the contribution of each party's funds. If the bank uses a profit-sharing system where profit sharing is calculated from net income after deducted by bank fees, then the likelihood is that the revenue earned by the owners will be less.

According to Rahmanti et al. (2013) in his research concluded that the concept of net revenue sharing was not more fair compared with the profit sharing system such as bank unfairness seen from the bank did not bear losses when the business managed by mudharib suffered losses, this is because the operational burden borne by mudharib and in the ratio for The results of the bank get much larger than the customer, whereas customers who bear the loss of capital in case of loss. The other role of syari'ah banking is as a collector of funds. The function of syari'ah banking as a collecting of third party funds or mudharib in carrying out its operations must be adjusted with the MUI Fatwa No.03 / DSN-MUI / IV / 2000 and under supervision by Bank Indonesia or the Financial Services Authority. In the profit sharing system, Funds (mudharabah financing) as well as fund raising (mudharabah deposit) in a shari'ah business, businessmen are required to be trustworthy, fair and do not do wrongdoers who practice based on the principles of shari'ah. The principles of AAOIFI (Accounting and Auditing Organization of Islamic Financial Institutions) sharia transactions are based on five principles. First, the principle of fraternity (ukhuwah), which means that the form of social interaction with the aim to obtain benefits based on the spirit of help helps in carrying out its transactions. This principle is based on the principle of know each other (ta'aruf), mutual understanding (tafahum), mutual help (ta'awun), mutual guarantee (takaful) and synergize (tahaluf). Secondly, justice ('is) implies that always puts something only on the right and according to the portion realized in the muamalah frame that prohibits the element of riba / interest, tyranny (dzulm), masysir (gambling element and speculative attitude), gharar (element Unclear), and the use of illicit elements in goods, services and operations. Third, the benefit (maslahah) implies that all forms of kindness and benefit that dimensionally worldly and ukhrawi, material and spiritual, as well as individual and collective, and must meet the elements that the goal of the provision of shari'ah (maqasyid syari'ah) Maintenance of religion (dien), reason (aql), descendants (nasl), soul (nafs), and property (maal). Fourth is the balance (tawazun) which means a balance that emphasizes the value of benefit that is not directed only to shareholders, but its usefulness must be balanced between material and spiritual aspects, between private and public aspects, between the real sector and the financial sector and between business and social sectors. The fifth principle is universalism (syumuliyah) which means that shari'ah transactions can be done by, with and for all parties without distinction of tribe, religion, taste, and class (rahmatan lil'alamin). Mardani (2012) said that in bermuamalah must meet the principles of justice. The principle of justice is a very important value in the ethics of business and social life and is a value inherent

in human nature (Muhammad, 2002), so it can mean that every human being has the capacity to do justice in every aspect of his life which leads to one goal with How not to eat fellow treasure in a cheat or vanity. From the above description can be concluded that the values of justice is one of the fundamental values in the principle of Shari'ah transactions that must be applied to the system for good results on the distribution of funds and in raising funds. The reason researchers do research in BPRS Asri Madani Nusantara with the topic of mudharabah financing and mudharabah deposits because the BPRS has experience in mudharabah financing transactions and mudharabah deposits. Based on the description on the above background, the researcher focuses this research on the form of fairness values in the practice of mudharabah financing and mudharabah deposits on BPRS Asri Madani Nusantara.

Shariah Enterprise Theory

According to Triyuwono (2006) the concept of shariah enterprise theory is generally developed based on the metaphor of zakat which basically has the character of balance between masculine value and feminine value. Shariah enterprise theory (SET) balances the egoistic (masculine) value with altruistic value (feminine), material value (masculine) with spiritual value (feminine) and so on. The concrete form of balance in Islamic shari'ah is zakat which is metaphorized into zakat which has egoistic-altruistic, spiritual-material values and individual-jama'ah (Triyuwono, 2006).

Stewardship Theory

Stewardship theory by Donaldson and Davis (1989, 1991) was designed by researchers to examine situations where the executives inside the company as servants can be motivated to act in the best possible way with the principal. This theory describes a situation in which managers are not motivated by individual goals but rather aimed at their primary outcome goal for the benefit of the organization. Stewardship theory has a psychology and sociology base that has been designed in which executives act as stewards motivated to act in accordance with the wishes of the principal, in addition steward behavior will not leave the organization because the steward strives to achieve the goals or goals of the organization. The core concept of the stewardship theory is the co-work that is built together to maintain the existence of entities. The application of stewardship theory in this research is considered that in the contract cooperation contract for the shareholders (shahibul maal) with the fund manager (mudharib) in understanding the profit sharing system in the product Mudharabah, namely: first, maintain confidence in improvement efforts. Mudharabah share products. Second, keep the promise / trust to the customer in mudharabah financing in terms of distribution of business results realized based on agreed contract. Furthermore, the third, sharing equitably where the bank as the owner of the bridging fund between shahibul maal (bank) and the user of funds (mudharib) through the effort to collect or channel funds through the principle of profit sharing by sharing the results in accordance with previous agreements, and provide information honestly To the shahibul maal in the absence of engineering elements so that both parties no one felt tarnished because of the form of injustice.

Justice In Islam

Literally, *adl* comes from a meaningful word; First, straighten or sit straight, to amend or change; Second, fleeing, departing or dodging from one (wrong) path to another (right) path; Third, equal or equivalent or equal; Fourth, balancing or compensating, comparable or in a balanced state. While etymological, justice in Arabic and Al Quran is derived from Adl word meaning soul or istiqomah. The principle of justice ('is) based on Basic Framework for the Preparation and Presentation of Shari'ah Financial Statements 2007: Paragraph 17 essentially puts something in its place and gives something only to the right and treats something in its position. Implementation of justice in business activities is a rule of principle muamalah which prohibits the existence of elements: first, riba is any addition to the principal of receivables required in lending and borrowing transactions and derivation and other non-cash transactions and any additional required in transactions between rare goods including money exchange (Money exchange) of the same kind in cash or tough and not the like in cash. Secondly, tyranny (an element that harms oneself, others, or the environment). The essence of tyranny (dhulm) is to put something out of place, to give something not of its size, quality and tempo, to take something that is not right and to treat something inconsistent with its position. The third, maysir (gambling and speculative elements). The essence of maysir is any transaction that is speculative or gambling. The fourth, gharar (element of obscurity). The essence of gharar is any transaction that has the potential to harm one party. This is because it contains elements of vagueness or manipulation, and the exploitation of information and the lack of certainty of contract implementation. The fifth, haram (the haram element in goods and services as well as related operations activities) has been affirmed in the Qur'an and As Sunnah. The principle of fairness in berakalah must meet the values of justice between the parties who commit

beradalah eg justice in the distribution of the results between Owner of capital (shahibul maal) with capital manager (Mardani, 2012). Ismanto (2009) also states that in the principle of justice the values developed are the responsibility of each individual, both to himself, others and his God.

Research Method

The type of research used in this study is to use qualitative research methods. Type of research used by case study method (case study). The approach used in this study by using interpretive paradigm. According Triyuwono (2009) in the interpretive paradigm is not used to explain (to explain) and predict (to predict), but to interpret (to understand). By using interpretive paradigm we can see the phenomenon and explore the experience of the object of research because of the involvement of researchers directly and intensively in the case of the object of study as something important to note so as to find the deepest meaning of a phenomenon. The interpretive paradigm in this study intends to understand the form of problems or cases in the practice of mudharabah financing and mudharabah deposits in syari'ah banking based on the phenomenon that occurs in the field through interviews with the actors (informants) who are directly involved in the process. The selection of informants and the perceived background capable of providing in-depth information about the principles of shariah in banking, adjusted to the job desk became the main consideration in the selection of informants in this study. This research will be conducted at BPRS Asri Madani Nusantara in Jember. The reason for choosing the object of this study is due to having experience in mudharabah and mudharabah financing transactions and is the only in Jember. The type of data used in the study is divided into two, among others, primary data. Primary data is data obtained from Researchers directly from the source who have relevance to the focus of research in the form of words and actions observed through the process of interviews or direct interviews. Primary data sources were obtained and collected by direct interviews with the five informants: head of finance, head of operations, mudhabah financing customers, mudharabah deposit customers, customer service handling mudharabah deposits. While secondary data of mudharabah deposit contract and mudharabah deposit deposit. In the research data collection method is done through two stages, among others, interviews are conducted directly to informants related to research that is informants who have direct involvement that has been adjusted to the job desk in the practice of mudharabah financing and mudharabah deposits. While the documentation is done by collecting data related to research that is related to the contract of mudharabah deposit and mudharabah deposit deposit. In this study using triangulation to test the degree of trust (credibility). Triangulasi used in this research, among others, triangulation of sources and triangulation techniques. Data analysis technique used in this research is using Miles and Hubberman (1984) include data reduction, display data, and clonclusion

Result And Discussion

Implementation of Mudharabah Financing at BPRS Asri Madani Nusantara

In mudharabah financing at BPRS Asri Madani Nusantara uses profit sharing system. This profit-sharing system is done by mudharib with shahibul maal as outlined in the financing contract. Implementation of mudharabah financing at BPRS Asri Madani Nusantara is determined on the basis of an agreement between the partner and the bank. Profit sharing is determined by the ratio agreed upon at the beginning of the financing contract. The profit-sharing ratio is one of the mudaraba constituencies that reflects the reward entitled to receive by both parties determined in percentage terms. Type of business financed by BPRS Asri Madani Nusantara is a type of business in the agricultural sector, with a tenor or maximum financing period of one year. Negotiations of profit sharing ratio are made between the customer and the SRB Asri Madani Nusantara by analyzing the profit projection of the project or business that will be financed. The profit-sharing calculation and profit-sharing ratio are adjusted to the customer's business analysis and the fund transparency of what the client's business expenses, installment ability, expected business return, and profit earned. The amount of ratio used by BPRS Asri Madani Nusantara is 40:60. The return of capital is made by way of customer repayment every month in accordance with the margin determined by the bank. The bank makes cash flow as a basis for projecting the profits of the business so that later can be calculated mudharib installments regularly every month. Installment payments are made monthly in accordance with the terms of the financing contract. If there is a customer in arrears, the bank will make a customer visit and make a field visit report submitted to the branch head. The process of collecting bad debts will be done by the collection team by negotiating with customers. Problem solving can be done through profit sharing reduction, where the customer only pays the loan principal only. If there is wan achievement then the settlement can be through the dispute court of shari'ah ie religious court. Mudharabah financing is a type of financing based on trust and honesty, but to

avoid the risk of financing, the SRB requested certain collateral to mudharib. In the context of business risk, mudharabah financing is a type of high risk financing, so in this case the bank is allowed to request collateral to customers who are used as collateral in case of.

Implementation Mudharabah Deposit At BPRS Asri Madani Nusantara

Deposits is one of the products in Sharia banking to raise third party funds from the community. Fatwa MUI DSN No. 03/DSN-MUI/IV/2000 states that the form of a justified deposit in a syari'ah bank is a mudharabah deposit. Application in the principle of mudharabah, depositor or depositor acts as the owner of capital, and the bank as mudharib (manager). The funds are used by banks to be channeled through mudharabah financing. The bank in its capacity as mudharib can perform mudharabah financing which is not contrary to sharia principles. Deposit products at BPRS Asri Madani Nusantara are a time-specific investment product. The term of deposit at BPRS Asri Madani Nusantara is flexible between 1, 3, 6 or 12 months. In mudharabah deposit products, the bank will issue a proof of deposit deposit in the form of bilyet deposits. Deposits that have matured can be availed or automatically renewed by the ARO system (Authomatic Roll Over) where the customer is not required to without a new contract agreement of course with any provision that does not deviate from the principles of shari'ah. The profit or return on mudharabah deposits depends on profit earned from mudharabah financing. Profits derived from the channeling of these funds are not fixed or fluctuate this also causes the depositor to get the results of a fluctuative profit ratio. The fluctuations in the ratio of the revenue share distributed to depositors are influenced by the profits gained from the management of such funds through various businesses in accordance with the principles of shari'ah by the bank. The method of calculation for the results of BPRS Asri Madani Nusantara using the method Revenue sharing. The share of the proceeds granted to the depositor depends on the term of the deposit. The portion of the ratio stipulated by the parties is 1 month deposit of 28% : 72%, 3 month deposit by 30% : 70%, 6 month deposit by 32% : 68% and 12 month deposit by 36% : 64%. There are two mechanisms in the payment of the profit-sharing ratio for mudharabah deposits for shahibul maal, the first for the proceeds being transferred to a savings account in the name of shahibul maal, for this first mechanism, the shahibul maal is required to have a savings account, while the second mechanism for the proceeds is added to the principal of the deposit . The revenue share is paid by the bank at the end of each month. Deposit disbursement process can be done at the end of the maturity. However, for the convenience of customers, BPRS Asri Madani Nusantara has been using ARO system (Authomatic Roll Over) system which will automatically extend the maturity of deposit, without the customer must come to the bank and make new contract. Withdrawal of deposits before maturity in BPRS Asri Madani Nusantara can be done with the provisions of shahibul maal exempted from the cost of fines or penalties, but the profit-sharing ratio that appears before the maturity period is not given to shahibul maal.

Analysis Shape Values of Justice In Mudharabah Financing Practices At BPRS Asri Madani Nusantara

Based on the results of research on the practice of mudharabah financing and mudharabah deposits at BPRS Asri Madani Nusantara has not been fully done kaffah or comprehensive. The form of fairness values in the practice of mudaraba financing at BPRS Asri Madani Nusantara which researcher studied is, firstly, prohibits the element of riba in transactions on mudharabah financing. The definition of riba formulated by Imam Sarakshi in Mabsur Juz XII on page 109 that riba is the addition required in business transactions without any equivalent (iwad) justified by the Shariah over the addition. The calculation of profit sharing in BPRS Asri Madani Nusantara is by using revenue sharing method. This is in accordance with the fatwa of DSN MUI No.15/DSN-MUI/IX/2000 which states that basically LKS is allowed to use profit sharing principle (NRS) and profit sharing in the distribution of business result with partner (customer). The basis of the calculation is derived from the income received before deducting the expenses in which the ratio shall be distributed to the bank and depositors in accordance with the agreement. The profit sharing process in the Net Revenue Sharing (NRS) concept shows that the operational costs incurred by mudharib are not taken into account, this may mean that the operational costs will be borne by the mudarib. The disadvantage of the method of revenue sharing, if the undertakings suffered losses, then the mudharib will Bear the losses, so this method is considered less provide justice for the mudharib. Ideally profit sharing more reflects the real profit, because it is derived from the calculation of income after deducting the expenses. However, the profit sharing method is difficult to implement, because it opens the opportunity for the mudharib to assymmetric information that can harm the other side. The results of field research shows that the mechanism of profit-sharing calculations performed by the bank that is by making projected profits that have been set at the beginning of the contract (pre fixed profit), the percentage of profit sharing based on expected return, and payment

of profit-sharing fixed every month. The calculation of the results has not been done in accordance with PSAK 105 point 22 that is the recognition of mudharabah business income in practice it can be seen that based on profit sharing report on the realization of business income from the fund manager. Not allowed to recognize revenue from business projections. Setting fixed revenue-sharing payments indicates that mudharib-run businesses are always profitable, while revenue generated on mudharabah financing is volatile. Early profit setting and the percentage of regular revenue-sharing indicates that the bank still has not pursued a genuine revenue-sharing system where the bank has marginalized its profit share regularly so it indicates that the ribawi transaction still appears in the transaction. This is in accordance with research conducted by Kamla (2009) which states that when the shari'ah bank does not implement the system of profit and loss sharing but apply a system of interest of the amount set at the beginning of the contract so that the same as the concept adopted by conventional banks. Transaction of riba course contrary to the Quran which became the source of the law ie QS Al-Baqorah 275-289. From the description of the prohibition of riba above, it can be concluded that the essence of the value of justice that contains the prohibition of riba has not been done in mudharabah financing transactions on BPRS Asri Madani Nusantara. Therefore, the bank is expected to be able to perform all mudharabah financing transactions in accordance with shari'a principles where the profit sharing system is determined not based on profit projection, but based on the results obtained after the project is completed. Thus the value of justice can be obtained for both parties, namely mudharib and shahibul maal. Second, it prohibits the existence of gharar elements in mudharabah financing transactions. The prohibition of gharar element in mudharabah financing transaction is shown in giving clear and transparent information between both parties namely shahibul maal and mudharib. The results of this study indicate that the bank has not provided complete information to mudharib such as the mechanism of profit sharing. This is evident from the mudharib's lack of understanding of the profit-sharing mechanism, whereby mudharib assumes that the distribution of business proceeds will be made by the bank at the end of the contract (tenor or term). So it is important for management to educate syari'ah to mudharib about mudharabah financing product. Furthermore, the existing constraint is the bank considers that mudharib is less transparent or manipulates in reporting the profit sharing of the undertakings that result in one party will be disadvantaged. According to Harahap (2008) that in order to keep one party from being harmed in the agreement of good debts, mudharabah or musyarakah cooperation agreement then the record is an important thing to do. Similarly, this is not in accordance with the basic principles of the concept of mudaraba ie openness, trust and honesty both from the shahibul maal and mudharib, so the essence of the value of justice that contains the ban of gharar elements has not been done in transactions on mudharabah financing practices in BPRS Asri Madani Nusantara. To that end, the management, need to verify and select the candidate mudharib who has a trustful character in running the project. Third, the ban maysir in the implementation of mudharabah financing The jurisprudence of muamalah prohibits the existence of maysir elements (speculative) in every business transaction. In other words, maysir can be said to be lucky because the result can be a profit can also be a loss. The results showed that BPRS Asri Madani Nusantara in distributing financing Mudharabah to the type of business that is real (real) and not contrary to the shari'ah ie on the agricultural sector, contractors and trade. This can be interpreted that in obtaining profit, the bank has made transactions with the type of business permitted. Therefore, the essence of justice value containing the prohibition of maysir element has been done in mudharabah financing transaction. Fourth, dzulm prohibition in the implementation of mudharabah financing in BPRS Asri Madani Nusantara, that is in the distribution of business risk. The results of this study indicate if mudharib suffered losses and resulted in the mudharib unable to pay the bank will provide waivers to mudharib only by paying the principal of the capital that has been channeled banks (mudharib not obliged to return the capital as a whole). The results of this study also indicates that the Uncertainty in the financing process whereby the mudharabah financing facility that has not expired its term is transferred to another party with the type of business is different from the previous contract. In addition, the collateral used in the financing is a guarantee not on behalf of the respective customer. Such conditions are the case that many occur in the banking world. The impact of such deviation, if the customer is in a condition of achievement, then the bank will legally difficulties in the process of execution of the guarantee. Irregularities in such transactions will also have an adverse effect on customers who are legally performing the mudharabah financing agreement.

This condition will give birth to a form of injustice for customers who are legally legal in the contract, that is, when in a condition of the customer who gets the transfer of the financing facility has difficulty in performing its obligation to the bank or wan of achievement, then legally the bank law will keep doing the billing action process A customer who is legally engaged in a contract with the bank, even though the de facto customer has settled all of his obligations to the bank. From the description above, it can be concluded that the essence of the value of justice containing dzulm ban has not been done in

mudharabah financing transaction. Thus the management in improving the quality of the financing process should be done in accordance with the policies and procedures apply, while maintaining Islamic business ethics both mudharib and shahibul maal. The results of the study against dzulm restrictions on the determination of profit sharing and business risk sharing. Revenue-sharing mechanism in Asri Madani Nusantara BPRS is done mudharib with the percentage determined by the bank. The fixing of fixed or flat revenue-sharing payments indicates that the bank does not consider whether the project is experiencing a profit or a loss so that the policy is considered unfair to mudharib. Likewise, if the business runs profit, then the profit paid by mudharib to a fixed bank. So this is not in accordance with the concept of profit sharing in the Islamic economic system where the determination of profit sharing depends on the real profit projects that are run and fluctuate. Thus the concept of profit loss sharing in BPRS Asri Madani Nusantara has not been implemented in practice level. The results of this study also shows that if mudharib suffers losses due to force major then the bank will bear 100% of the loss. The information obtained by researchers through interviews where there is a case the bank bear 100% loss of business results. The policy of the bank, in accordance with the DSN fatwa. 07/DSN-MUI/IV/2000 stating that "LKS (Sharia Financial Institution as the provider of funds, bears all losses due to mudharabah unless the mudharib commits a deliberate, negligent or covenantal mistake." From the description of the above dzulm prohibition, It is concluded that the essence of the value of justice which contains the prohibition of dzulm element has not been done in mudharabah financing transaction, so that the management should implement ideal profit-sharing system where the shahibul maal party besides contribute their fund, also do the supervision or monitoring intensively to the business run mudharib so it can minimal. The extent of the risk that occurred. Furthermore, the fifth, the prohibition against transactions containing goods or services that are prohibited both on the acquisition and its element at BPRS Asri Madani Nusantara is that does not distribute financing on the type of business that is unlawful its element. Examples include the illicit food and beverage processing, pig farming, prostitution business, businesses that contain pornographic content. However, it is channeled through the agricultural sector, contractors and trade in accordance with the provisions of shari'a. From the description of the prohibition of haram, it can be concluded that the essence of the value of justice which contains the prohibition of illicit elements has been done in mudharabah financing transactions. From the above description it can be concluded that to fulfill the five principles of justice the bank is expected to be able to perform all mudharabah financing transactions in accordance with the principles of syari'ah where the profit sharing system is determined not based on the profit projection, but based on the results obtained after the project is completed. And the bank is required to be more thorough in choosing and verifying both in terms of business feasibility and from the aspect of mudharib candidate character, in addition the bank must also be able to consistently run all transactions in a trustful, fair and transparent. Similarly, mudharib as business manager is also required to have Islamic business ethics that uphold the value of honesty and justice. With these efforts, it is hoped that fairness values in mudharabah and mudharabah financing practices at BPRS Asri Madani Nusantara can be applied, thus improving performance.

Analysis of Forms of Values of Justice in Mudharabah Deposit Practices at BPRS Asri Madani Nusantara

The results of further research on the values of fairness in the practice of mudharabah deposit at BPRS Asri Madani Nusantara is to prohibit the existence of transactions containing elements of riba, dzulm, maysir, gharar, and the use of illegal elements in goods, services and operating activities. The first, prohibits the element of riba in transactions on mudharabah deposits. Implementation of profit sharing of mudharabah deposits at BPRS Asri Madani Nusantara, the form of profit or profit sharing is fluctuating (not in the form of fixed interest). This indicates that Asri Madani Nusantara BPRS in practice mudharabah deposit especially in the calculation of profit sharing, where the bank does not provide a definite benchmark of profit to be obtained by depositors because real income can be known after the business project has been running (realized). So the application of profit sharing in mudharabah deposits is different from the application of interest that exist in conventional banks that avoid transactions that contain elements of riba. Secondly, prohibits the existence of dzulm elements (dzalim) in transactions on mudharabah deposits. The results of this study indicate that BPRS Asri Madani Nusantara in its role as fund raising institution, especially in the form of mudharabah deposits, where the profit will be divided according to the agreement of both parties whereas if the conditions of loss then both parties will bear the loss. This is certainly different from existing practices in the conventional bank system, where the profits will be determined at the beginning of the agreement and are fixed rate. The application of interest to a conventional bank will still be paid regardless of the condition of the bank experiencing profit or loss. This is what distinguishes between the system of profit sharing in syari'ah bank with the application of interest in conventional banks. From the description of the ban dzulm above, it can be concluded that the essence

of the value of justice that contains the prohibition of dzulum element has been done in mudharabah deposit transaction. Thirdly, the prohibition of maysir ban in the implementation of mudharabah deposit at BPRS Asri Madani Nusantara, that BPRS has been managing mudharabah deposit funds in accordance with the provisions of shari'ah is to invest in the real sector where the type of business financed real and not speculative (business that is not Real and make money as a commodity that can be traded) and put the funds to the bank syari'ah in the form of savings, deposits and demand deposits. This indicates that the essence of justice value containing maysir ban has been done in mudharabah deposit transaction. Fourthly, the ban on gharar in the implementation of mudharabah deposit at BPRS Asri Madani Nusantara, the bank has not fully informed the depositor regarding the determination of the profit sharing principle, but the bank only informs about the amount of profit sharing ratio and does not provide information about the number of returns to be obtained by the customer. As a guideline of expected return, banks use data equivalent rate from previous month's data because real income can only be known after the realization of the investment return. This suggests that the essence of fairness values containing gharar prohibitions has been made in mudharabah deposit transactions. Further to the fifth, the illegal prohibition in the implementation of mudharabah deposit at BPRS Asri Madani Nusantara that in managing the fund. Further the fifth, the prohibition of unlawful implementation of mudharabah deposits in BPRS Asri Madani Nusantara that in managing third party funds, especially mudharabah deposits, the funds are played or distributed in the form of real (real) financing. The real financing made by BPRS Asri madani nusantara is on the agricultural and commercial sectors justified. The second is in the form of investments in syari'ah banks in the form of savings, deposits and current accounts. This indicates that the essence of the value of justice that contains illegal prohibition has been done in mudharabah deposit transaction.

Conclusions

Based on the results of research and discussion that have been described, it can be concluded among others:

1. The form of fairness values in the practice of mudharabah financing prohibiting the existence of illegal elements is seen where the bank only distributes mudharabah financing on the type of real business (real) and not contrary to the shari'ah ie on the agricultural sector, contractor and trade. This can be interpreted that in obtaining profit, the bank has made the distribution of financing on the type of business is legalized and the gain is not speculative. Thus, the prohibition of transactions containing haram and maysir elements has been done in mudharabah financing transaction at BPRS Asri Madani Nusantara.
2. The form of justice values in the practice of mudharabah deposit at BPRS Asri Madani Nusantara indicated by the bank does not provide a definite benchmark of profit to be obtained by depositors because real income can be known after the business project has been running (realized), thus the application of revenue sharing in Mudharabah deposit is different from the application of interest that exist in conventional banks that avoid transactions that contain elements of riba. Furthermore, other forms of justice values in the practice of mudharabah deposits in this SRB is the revenue share is not expressed in the fixed rate form which is determined at the beginning of the contract, because as we know, third party funds are also distributed in various business sectors which certainly does not conflict with the principles of shari 'Ah, and in every distribution of financing even this has a fixed profit in each month, therefore the revenue sharing for depositors will always fluctuate. The results of this study also shows that BPRS Asri Madani Nusantara in its role as fund raising institution, especially in the form of mudharabah deposits, where the profit will be divided according to the agreement of both parties whereas if experiencing loss condition then both parties will bear the loss. Thus, transactions containing prohibited elements of haram, maysir and dzulm have been done in mudharabah deposit transactions at the SRB. Furthermore, restrictions containing gharar elements have been carried out on mudharabah deposit transactions. This is indicated in the provision of information to depositors, where the bank only informs about the size of the profit-sharing ratio and does not provide the promise of the profit sharing that will be obtained by the customer. As a guideline of expected return, banks use data equivalent rate from previous month's data because real income can only be known after the realization of the investment return. This suggests that the essence of fairness values containing gharar restrictions has been made in mudharabah deposit transactions.
3. The results show that mudharabah financing transaction at Asri Madani Nusantara BPRS has not fully contain the values of justice. As is known the value of justice contains five principles namely the prohibition of riba, gharar, dzulm, maysir, and the prohibition of haram in every transaction. From these five principles, BPRS Asri Madani Nusantara only implements two principles: transactions that prohibit the existence of maysir and haram elements. This can be seen from the SRB has channeled the

financing to the real sector that is justified in its substance that profit is not speculative. The form of justice value yag contains elements of prohibition of riba, gharar and dzulm not done by the bank. To fulfill the five principles of justice the bank is expected to be able to perform all mudharabah financing transactions in accordance with shari'ah principles where the profit sharing system is determined not based on profit projection, but based on the results obtained after the project is completed. And the bank is required to be more thorough in choosing and verifying both in terms of business feasibility and from the aspect of mudharib candidate character, in addition the bank must also be able to consistently run all transactions in a trustful, fair and transparent. Similarly, mudharib as business manager is also required to have Islamic business ethics that uphold the value of honesty and justice.

4. The results show that mudharabah deposit transaction at BPRS Asri Madani Nusantara has contained the values of justice. This can be interpreted that bank has run the five principles of justice value is a form of prohibition that contains elements of riba, maysir, gharar, dzulm and haram in mudharabah deposit transaction.

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