



الجامعة الإسلامية العالمية ماليزيا
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
بُونَيْرِنْدِي لِنِإَلْ رَانْبَارَا بَغْسَا مِلْقِسِنَا

(Company No. 101067-P)

IIUM INSTITUTE OF ISLAMIC BANKING AND FINANCE (IIiBF)

Date: 16 July 2019

Dr Agus Triyanta
Faculty of Law
Universitas Islam Indonesia

السَّلَامُ عَلَيْكُمْ وَرَحْمَةُ اللَّهِ وَبَرَكَاتُهُ

Dear Sir,

INVITATION AS GUEST SPEAKER

It is a pleasure for us to invite you as a Guest Speaker at the IIUM Institute of Islamic Banking and Finance, International Islamic University Malaysia.

The details of the Guest Speaker session are as follows:

Date/Day	20 th July 2019 (Saturday)
Time	10am
Venue	IIUM Institute of Islamic Banking and Finance International Islamic University Malaysia
Topic	Questioning Legal Policy as The Sole Factor Behind the Development of Islamic Banking Business in Indonesia

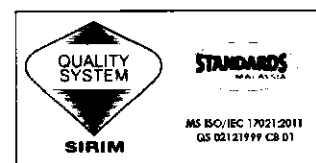
We look forward to having you in our Institute to share your thoughts on the above mentioned topic.

Thank you very much.

Yours sincerely,

PROF. DR. RUSNI HASSAN

IIUM Institute of Islamic Banking and Finance (IIiBF)
International Islamic University Malaysia.



CERTIFIED TO MS ISO 9001:2008

Garden of Knowledge and Virtue

Office Address: IIUM Institute of Islamic Banking and Finance (IIiBF), International Islamic University Malaysia, Jalan Gombak, 53100 Selangor Darul Ehsan.

Mailing Address: IIUM Institute of Islamic Banking and Finance (IIiBF), P.O. Box 10, 50728 Kuala Lumpur, Malaysia



UNIVERSITAS ISLAM INDONESIA FAKULTAS HUKUM

Jl. Tamansiswa 158 PO BOX 1133 Yogyakarta 55151; Telp. (0274) 379178, Fax. (0274) 377043
e-mail: fh@uii.ac.id, Website: www.uii.ac.id

SURAT TUGAS

No : 7.2 /Dek-ST/60/Div.URT/H/VII/2019

Bismillaahirrahmaanirrahiim

Dengan ini Pimpinan Fakultas Hukum Universitas Islam Indonesia Yogyakarta menugaskan saudara yang namanya tersebut dibawah ini sebagai Guest Speaker yang diselenggarakan oleh IIUM Pada tanggal 20 Juli 2019 Pukul 10.00 Wib:

Nama : Drs. Agus Triyanta, M.H., M.A., Ph.D
Jabatan : Lektor
Pekerjaan : Dosen Tetap Fakultas Hukum UII Yogyakarta
Tema : Questioning Legal Policy as The Sole Factor Behind the Development of Islamic Baking Business in Indonesia

Surat Tugas ini disampaikan kepada yang bersangkutan, untuk diketahui dan dipergunakan sebagaimana mestinya.

Yogyakarta, 19 Juli 2019

Dekan,

Dr. Abdul Jamil, SH., MH

QUESTIONING LEGAL POLICY AS THE SOLE FACTOR BEHIND THE DEVELOPMENT OF ISLAMIC BANKING BUSINESS IN INDONESIA

Presented at
International Institute for Islamic Banking and Finance (IIBF), International Islamic University Malaysia, July 20, 2019

by
Dr. Agus Triyanta
Faculty of Law Universitas Islam Indonesia
agustriyanta@uii.ac.id

In per-country distribution, the asset of Islamic finance is not dominated by any country within GCC. It is so surprising because of Malaysia, a country within Southeast Asia, which is also relatively small in population size and in number/ percentage of Muslim citizen, occupies the top of the chart in terms of assets in Islamic finance. Malaysia is ranked no.1 in IFDI (Islamic Finance Development Indicator) - 2016 according to ICD Thomson Reuters Islamic Finance Development Indicator (IFDI). The following figure confirms such statistical proof (Thomson Reuters: 2016):

Figure 1

Thomson Reuters Islamic Finance Development Indicator (IFDI)

Region	Rank	Country	IFDI Value	Move from 2015 Rank
	1	Malaysia	123	
	2	Bahrain	82	
	3	United Arab Emirates	66	
	4	Oman	53	
	5	Saudi Arabia	47	↑
	6	Pakistan	46	↑
	7	Kuwait	45	↑
	8	Jordan	42	↑
	9	Qatar	39	↓
	10	Indonesia	28	↑
	11	Sudan	26	↑
	12	Maldives	25	↑
	13	Sri Lanka	24	↑
	14	Brunei	23	↑
	15	Palestine	23	↑
	16	Bangladesh	21	↑
	17	Tunisia	20	↑
	18	South Africa	20	↑
	19	Iran	19	↓
	20	Singapore	18	↑
	21	Syria	18	↑
	22	United Kingdom	15	↑

Commented [G1]: Inserted: i

Commented [G2]: Inserted: Mu

Commented [G3]: Inserted: of

Commented [G4]: Deleted: p

Commented [G5]: Deleted: mo

Commented [G6]: Deleted: e

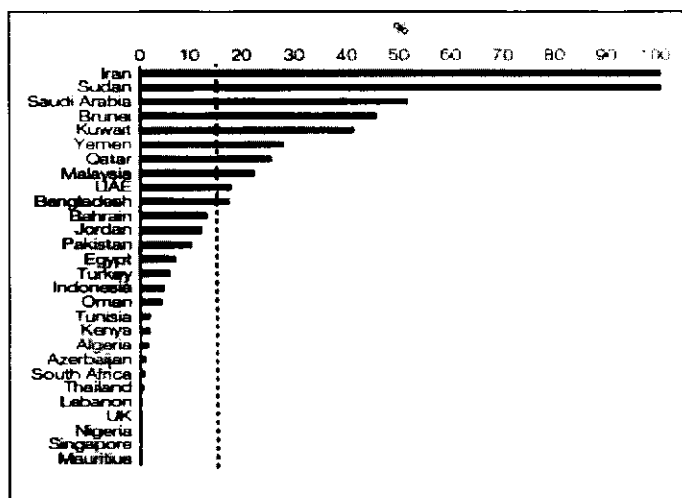
Commented [G7]: Deleted: a

The above table exhibits a very important information. *Firstly*, Malaysia in possession of the total asset in Islamic finance in a very high number of value. It is not just being number one. but also the amount of the asset is far left Bahrain as the second largest. Again, this position has been enjoyed by Malaysia in two years subsequently. *Secondly*, Indonesia, Malaysia's neighbor with the higher Muslim population, is far lower compared to Malaysia. Indonesia only in number ten (10) with the total asset around the quarter compared to Malaysia's.

Islamic banking business is considered as the pioneer or backbone of this Islamic financial business. ~~Thus due to the fact that the most needed by Muslims in an economic transaction is banking, whereas the other financial institution is in secondary or even tertiary level.~~ It is also a matter of fact that Islamic Bank is the first among others, to be established by Muslims. As has been widely known, that the milestone of the emergence of Islamic finance is the establishment of Mit Gamr Local Saving Bank in Egypt by 1967. (Sudin Haron, 1997)

When the discussion is addressed to specifically in Islamic banking business, the feature is not all the same with Islamic financial business above. In terms of asset, Iran is in the first rank compared to the rest of countries. The figure below indicated the position of countries in the level of Islamic banking asset (International Financial Service Board: 2016):

Figure 2
Asset of Islamic banking, according to IFSB



- Commented [G8]: Inserted: the
- Commented [G9]: Inserted: s
- Commented [G10]: Inserted: M
- Commented [G11]: Inserted: the
- Commented [G12]: Inserted: c
- Commented [G13]: Inserted: is
- Commented [G14]: Inserted: B
- Commented [G15]: Inserted: n a
- Commented [G16]: Inserted: M
- Commented [G17]: Deleted:m
- Commented [G18]: Deleted:b
- Commented [G19]: Deleted:v

The above figure shows that Malaysia is at the level of eight (8) whereas Indonesia is in the level of sixteen (16). Again, the facts are so the contrast between Malaysia and Indonesia. It indicates that both in the total asset of Islamic finance and in Islamic banking specifically, Malaysia has moved far above Indonesia. Here, Indonesia is at such a low level close to some small countries.

Based on the above discussion it is interesting to question why Malaysia has moved very forward in the growth of Islamic finance and also in Islamic banking specifically?. Since the area of Islamic financial business is very broad, it will be more possible to question Islamic banking growth. Islamic banking is chosen for two reasons: *first*, it is the first and backbone of Islamic finance, and *secondly*, it is more familiar to people.

The rise of Islamic banking in every country, cannot be separated from the legal policy adopted by each country. This because legal aspect is the most basic framework that enables a certain institution to operate and deliver services and products. Therefore it is important to analyze the legal policy of Malaysia in developing Islamic banking business and then followed by analyzing the similar aspect in Indonesia.

Particular reference should be made to the regulations and their implementation in the Islamic banking in Malaysia and Indonesia since there are few valuable considerations. Malaysia experienced the advanced development of Islamic banking compared to the rest of the Asian Muslim countries in the Southeast Asia region. Malaysia began to embark on the Islamic banking business in 1983 when Bank Islam Malaysia Berhad (BIMB) was incorporated under the Companies Act of 1965. (Kamal Azhari, 1993, Sudin Haron, 2007).

Further development of Islamic banks in Malaysia presents some impressive features. Almost all of the conventional banks offer Islamic financial services. There are two important acts issued as the legal basis for the operation of Islamic banks in Malaysia namely the Islamic Banking Act 1983 (IBA) and Banking and Financial Act 1989 (BAFIA). (Lee Mei Pheng, Ivan Detta, 2007). Compared to Malaysia, the Islamic banking in Indonesia, which started one decade later, has not developed much. The first Islamic bank established was Bank Muallamat Indonesia (BMI) in 1992. (Triyanta: 2016). Though Islamic Banking Act has been issued, but there are some weaknesses are seen as the lack of legal policy for the development of Islamic banking. Hence, a constructive evaluation is strongly needed in order to achieve a better development.

Commented [G20]: Inserted: s

Commented [G21]: Inserted: s

Commented [G22]: Inserted: d

Commented [G23]: Inserted: z

Commented [G24]: Inserted: s a

Commented [G25]: Inserted: o

Commented [G26]: Inserted: y

Commented [G27]: Inserted: k

The development of Islamic banking in Malaysia and Indonesia has brought about the significant increase in terms of assets as well as the number of banks conducting Islamic banking business. A great variety of products are offered in favor of the profit enhancement and to respond to the demands of customers.

Last but not least, these two countries share in their affiliation to the same school of Islamic law, as well as some other traditional backgrounds (MB Hooker, 1984). These two countries are also members of the D-7 countries; a group whose goal is "to promote mutual economic cooperation, build a common market and develop capital market" according to the principles of Islamic law (J. Michael Taylor, 2003). Consequently, the differences in the development of Islamic banking system are among the interesting questions to be answered. Thus, the advanced development of Islamic banks in Malaysia – which is, of course, rich with experiences—is a very valuable contribution to the development of Islamic banks in Indonesia which is still in its crucial stage of development.

Thus the question of why Islamic banking in Malaysia has fast moved forward, what are legal policies has been created, and also, how legal culture of society has been engineered in the context of boosting the growth of Islamic banking and its role in the creation of the welfare of society is one among very urgent topic of the discussion.

In terms of legal or regulatory framework, the legal framework of Islamic banking in Malaysia has been well prepared since its initial step. As benn generally known, Islamic Bank Act has been issued before the first Islamic bank, namely Bank Inslam Malaysia Berhad. Thus at the same time, the specific act on Islamic banking together with the incorporation of the company which would operate in Islamic banking business has been ready. This fact indicates that the government of Malaysia was sos serious in the plan for developing and boosting Islamic banking business.

Since then, various legal and regulatory framework has been passed and enacted for the purpose of enhancing Islamic banking industry. There are also political policies initiated for supporting Islamic banking industry, before and after the establishment of Islamic bank, such as:

- 1) The incorporation of Lembaga Tabung Haji- 1962
- 2) *Rancangan Malaysia* or Malaysia Plan which contains five-years of economic development plan. Starting 1966 to 1970
- 3) 7th Malaysia Plan to 10th Malaysia Plan (1996-2000, 2001-2005, 2006-2009, 2011-2015)
- 4) Involvement of IB in KLLA and LRT Project.

Whereas in Indonesia, there are many regulations has been passed, they are:

- 1) Act no.7 of 1992, First Shariah Bank
- 2) Act no 10 of 1998 Conversion and Window Shariah
- 3) 1999 Est. National Shariah Council
- 4) Act no 3 of 2006 Court for Dispute Settlement
- 5) Act no.21 of 2008
- 6) on IB Act no.19 of 2008 on Sukuk
- 7) Act no.42 Tahun 2009 Tax Incentive
- 8) Qanun Aceh no.8 of 2014 On Shariah Islam
- 9) July 2017 Est. National Committee for Shariah Economics

Thus, it is clear that the development of Islamic banking business in Malaysia has been supported seriously and continuously by the Government. Indonesia, though in terms of regulatory framework finally attract thus support from the government, however, the policy adopted by government and muslims community as well, needs for the improvement.

References

- Azhari, M. Kamal. 1993. *Bank Islam, Teori dan Praktik*. Dewan Pustaka Fajar. Kuala Lumpur.
- Carlson, Terrance L. 1986. Legal Issues and Negotiation. in *Islamic Banking and Finance*. Butterworth. London.
- Chinoy, Shameela. 2005. Interest-Free Banking: The Legal Aspects of Islamic Financial Transactions. *Journal of International Banking Law*. 10 (12) 523. Accessed on June 14, 2017, from Westlaw Database.
- Haron, Sudin. 1997. *Islamic Banking: Rules and Regulations*. Pelanduk Publications. Selangor
- Mei Pheng, Lee, Ivan Detta. 2007. *Islamic Banking and Finance Law*. Pearson Malaysia. Kuala Lumpur.



الجامعة الإسلامية العالمية ماليزيا
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
يُونُسُ بْنُ سَيِّدِي إِسْلَامُ أَيْتَارُ الْيَحْيَا مِلِّيْسِيَا

(Company No. 101067-P)

Garden of Knowledge and Virtue

PREMIER INTERNATIONAL ISLAMIC RESEARCH UNIVERSITY

CERTIFICATE OF APPRECIATION

This is proudly given to

DR. AGUS TRIYANTA

For sharing his valuable knowledge as Guest Speaker during talk on
"Questioning Legal Policy as The Sole Factor Behind the Development of Islamic Banking
Business in Indonesia" on 20th July 2019 at Seminar Room E, IliBF

PROF. DR. RUSNI HASSAN

IIUM Institute of Islamic Banking and Finance (IliBF)