

# BANKERS' ATTITUDES TO THE LEGAL POSITION OF BANK INTEREST: New Insights for the Development of Fiqh Wasathiyah Maliyah

Ahmad Dakhoir<sup>1\*</sup>, Jefry Tarantang<sup>2</sup>, & Ghozali Rahman<sup>3</sup>

<sup>1</sup>Institut Agama Islam Negeri Palangka Raya, Central Kalimantan, Indonesia.

<sup>2</sup>Institut Agama Islam Negeri Palangka Raya, Central Kalimantan, Indonesia.

<sup>3</sup>Institut Agama Islam Negeri Palangka Raya, Central Kalimantan, Indonesia.

\*e-mail: ahmad.dakhoir@iain-palangkaraya.ac.id

<b>Received:</b> 09/12/2021	<b>Revised:</b> 14/07/2022	<b>Approved:</b> 03/08/2022
--------------------------------	-------------------------------	--------------------------------

DOI: 10.32332/akademika.v27i1.4085



Bankers' Attitudes to the Legal Position of Bank Interest: New Insights for the Development of Fiqh Wasathiyah Maliyah Licensed Under a Creative Commons Attribution-ShareAlike 4.0 International License

## Abstract

This study explains the phenomena of certain Indonesian bankers' fear regarding bank interest. This anxiety led bankers both of conventional and sharia to extreme attitudes such as the decision of employees to stop working or move to work in Islamic banks, assuming that his position is correct and considers conventional bankers to be illegitimate work. These two understandings and attitudes underlie the authors interested in analyzing and discovering how to build a tolerant and moderate fiqh concept in the world of Islamic banking and finance. This research uses a type of qualitative-descriptive research, with a prophetic approach and fiqh tolerance approach or fiqh wasathiyah in the field of Islamic banking and finance. The theory of maqasid al-sharia al-iqtishadiyyah is used as the ground theory of this paper. The results of this research show that: first, the anxiety of conventional bank employees is caused by factor of understanding and interpretation that bank that uses the interest system is usury system and usury is illegal. Second, that understanding and attitude of extremism can be seen as stopping work suddenly, disappearing without any reason, changing how to dress, easily forbidding something, and finally stop working in conventional banks.

**Keywords:** Bankers attitude, Legal position, Bank Interest, Fiqh Wasathiyah Maliyah

## A. Introduction

Interest is an inseparable part of the practice in bank financial institutions. Bank as a body engaged in services, it is only natural that each bank wants profits, benefits for services provided. Through these rewards, the bank will be able to develop itself and guarantee its existence in the midst of his customers. However, these benefits which are then referred to as "interest" in practice seem to exploit customers, especially in the credit system. Where each credit loan must be accompanied by a percentage of interest, both capital interest and interest are due. So that, the impression that arises

with this practice, that the bank has become one of the institutions that carry out the practice of usury, because the word "usury" in Arabic according to al-Asymawy, is always identified with something that increases, whether it comes from property that is halted or which is forbidden (Hasyim, 2014). The basic essence of prohibiting usury in Islam is to avoid the existence of injustice and injustice in all economic practices. While interest is essentially an imposition of an addition to the debtor. This is contrary to the principles of Islamic teachings that reject the existence of injustice and Unjust (Kalsum, 2014).

According to the conventional economic system, loans with interest systems will be able to help the economy of the people and will increase people's economic growth. This claim has become a strong belief of the capitalists. However, these beliefs are denied by Allah in QS Ar-Rum: 39, "What you give (in the form of loans) in the form of usury so that human property increases, then it does not increase with Allah." This verse conveys a moral message, that loans (credit) with the interest system will not make the community economy grow in an aggregate and fair manner. This view of the Koran is in sharp contrast to the views of the capitalists. They stated that loans with an interest system would improve the economy of the community, while according to Allah, loans with interest systems did not make the economy grow and develop, because usury empirically had a negative impact on the economy, especially when viewed from a macro perspective (Marwini, 2017).

There are two main views regarding usury. First, many Muslims believe that the interpretation of usury as found in fiqh is the right interpretation. This interpretation presupposes that every additional stipulated in a loan transaction is usury. For others, the prohibition of usury is understood in relation to the exploitation of relatively excessive people. While the second view, says that the interpretation of usury in the fiqh literature is inadequate and does not consider the moral purpose of the prohibition of usury as explained or understood in the Koran and Hadith (Abdullah, 1997).

An understanding of bank interest which is considered usury has caused anxiety among some bankers in conventional banks. The anxiety then led to extreme understanding, intolerant attitudes such as stopping work (resign) in conventional banks that he understood to practice usury. (*Interviews with AK, DM, MT and EF Who Are Conventional Bank Employees (Bankers) in Palangka Raya on August 28, 2018.*) At the same time, extreme understanding was also seen in several bankers in the practice of Islamic banks. Islamic bankers state that the practice of Islamic banks is free from the practice of usury. (*Interviews with MF, FZ, AS and RK Which Are Employees (Bankers) of Islamic Banks in Palangka Raya on August 6, 2018.*) This understanding leads sharia bankers to be quick to make verdicts against ribawi practices or policies in conventional bank systems. Whereas in the construction of *fiqh* there are still differences of views regarding bank interest.

Observing the above phenomenon, moderate thinking (*wasathiyah*) seems to be an interesting paradigm to be used as a new perspective in discussing bank interest positions and intolerant attitudes of bankers in conventional banks and Sharia banks. The *wasathiyah* paradigm can be a relevant approach to the empirical reality in the life order of bankers and Muslim societies to develop *fiqh* which always brings mercy, both in the field of *syakhshiyah*, *mu'amalah*, *siyasah*, *jinayah*, including in understanding bank interest and *mu'amalah al-iqtishadiyyah* (Abdad, 2011).

Two models of bankers' attitudes that are anxious about bank interest on the one side, and convictions on the other, have led bankers to extreme attitudes such as employees' decisions to stop or move to work in Sharia banks or other halal places. Other extreme attitudes arise from the part of some Sharia bank employees who

consider that their position is correct and consider conventional bank workers to be illegitimate jobs. These two attitudes underlie the authors interested in analyzing and discovering how to build moderate and tolerant *fiqh* concepts in the world of Islamic banking and finance.

## B. Method

This paper is a qualitative-descriptive study, with 3 methods of approach, namely the prophetic approach, the *fiqh* of *wasathiyah* approach, and the conceptual approach. The theory used in this paper is the theory of *maqasid al-sharia al-iqtishadiyyah* through qualitative content analysis. This paper focuses on bankers' attitude, reinterpreting bank interest in developing tolerant *fiqh* in the banking and financial fields which are divided into several subject matters, namely usury and interest in the monetary financial system, moderate interpretation and review of *maqashid al-sharia* related to prohibition of usury, and *wasathiyah* principles in the development of moderate *fiqh* and tolerant in the financial sector (Dakhoir & Tarantang, 2020).

The data used as references in this study are divided into three ingredients, namely primary, secondary and tertiary data. Primary data includes the results of interviews with bankers, bankers' behavior and anxiety attitudes and about bankers' understanding of usury and bank interest. Secondary sources are books, works or theories that discuss interest, and related laws and regulations. The tertiary sources are things that support primary and secondary sources such as dictionaries and others (Tarantang, 2018).

## C. Findings and Discussion

### 1. The Legal Debate on Usury (*riba*) and Bank Interest in the Islamic Financial System

Islamic jurists and scholars since the time of the Prophet until now it has been agreed that usury is the form of *mu'amalah* which is forbidden until the end of time. The prohibition on *riba* is absolutely recognized by all other shari'ah religions. However, there are those who argue that transactions that occur in banks are a form of modern (new) *mu'amalah* in the Islamic world, so the legal status needs to be explained. In among Islamic scholars there are different points of view since years 1930s until now. This difference is inseparable from the paradigm their thinking, namely textual and contextual thinking. With thus this case can be categorized as a problem of *ijtihad* *khilafiyah* (Hasyim, 2014).

Research conducted by Abdullah Saeed shows that in the 19<sup>th</sup> and 20<sup>th</sup> centuries, the discourse on the polemic of bank interest in the Islamic world was divided into two camps, namely modernists and neo-revivalists. The modernist camp which emerged around the second half of the 19<sup>th</sup> century, according to Mohammad Iqbal, has characteristics including (1) being selective in using *sunnah*; (2) develop a pattern of systematic thinking by eliminating the notion that believes that the door of *ijtihad* has been closed; (3) make a difference between Shari'a and Jurisprudence; (4) Avoid sectarian notions; and (5) change the characteristics of thinking methods. Modernists in understanding a particular phenomenon always pay attention to the situation and conditions behind the emergence of these phenomena, both in terms of morale, religion, and historical social settings (Hasyim, 2014).

The understanding of usury and bank interest, the modernist group emphasizing the importance of refreshing Islamic thought by reviving the waves of *ijtihad*. Therefore, they distinguish bank interest from usury, because according to them the

rational consideration of the prohibition of usury in pre-Islamic times lies in the moral aspect, namely the existence of injustice (exploitation and persecution) of the poor and not merely due to excess factors (Hasyim, 2014).

Regarding the understanding of bank interest from the legal-formal and in terms of inductive, based on a ban on the prohibition on usury taken from text (nash), and does not need to be associated with moral aspects in its prohibition. This paradigm adheres to the concept that every debt required by an additional or benefit from capital is usury, although not double. Therefore, however small, bank interest rates still unclean. Because based on the theory of qiyas, the case that will be revealed (*furu'*) and the case which is qiyased (*ushul*) both must be based on *illat jâli*. And both cases (bank interest and usury) are united by the same *illat*, which is the addition or interest without compensation. Thus, interest the bank is the same as usury (Hasyim, 2014).

There are several opinions of scholars related to the usury debate and bank interest. First, the majority of the salaf and khalaf scholars, including *al-A'immah al-Mujtahidin* from Sunni and *Syi'i* circles. Whereas from neorevevalist groups, such as Abu A'la al Maududi, saw usury in terms of the impact it caused. They agreed that the *riba an-nasiah* law was haram based on QS Al-Baqarah verse 275-278. The type of usury *an-nasi'ah* is the practice of usury which occurred during the pre-Islamic *jahiliyyah* period. Regarding the debate over whether bank interest is the same as usury or not, Al-Maududi stated that bank interest included prohibited usury.

Al-Maududi's statement is in accordance with the Indonesian Ulama, fatwa which argues that bank interest is illegitimate. According to Adiwarmar Karim, bank interest in conventional banking, including *riba an-nasi'ah*. This practice often arises in payment of interest on deposits, savings, current accounts and others. Karim explained further that bank interest was prohibited because banks as creditors required a fixed amount of interest and were determined in advance at the beginning of the transaction. Even though it is possible for the customer to get the loan, it is not necessarily profitable, but he must pay the interest to the bank, and the bank does not know whether the customer is profit or loss. This is where the element of mutual judgment and injustice. Elements like this are not allowed in Islam (Marwini, 2017).

The second opinion, according to modernist scholars, such as Muhammad Abduh and Rasyid Ridha, argued that bank interest could be categorized as usury if the interest doubled. This opinion is based on the verse Al-Qur'an Surat Ali Imran (3): 130. Consequently, Abduh allows bank interest on the grounds that, first, bank interest is not oppressive, it encourages economic progress; second, saving in a bank is basically a partnership (*mudharabah*), even though it is not exactly the same as that formalized in *fiqh*; and third, as a consequence of the first reason, namely banks can encourage progress in other fields, in addition to the economy. This opinion is also the opinion of Ahmad Hasan and Umer Chapra who stated that usury is forbidden because it multiplies and is exploitative. So he argues that the law of interest of modern financial institutions is not unlawful because it is not the same as usury in the Jahiliyyah era which multiplied and was exploitative (Marwini, 2017). According to Abdul Aziz Jawish and Hafni Nasif the term usury is the same as usury, however, they distinguish between usury and interest. According to him, usury is if the addition is equal to or greater than the amount of the loan, while the interest if the addition is more or less than the principal (Abdullah, 1997).

The third opinion, in the opinion of Fazlurrahman, Muhammad Asad, and Said Najjar that usury is said to be haram because of exploitation. They understand the verses of usury more look at the moral aspects of their legal forms. So they argue that bank interest laws are flexible and relative. So bank interest is prohibited which in

practice there is an element of exploitation of the debtor. If not, then bank interest is not prohibited. Douallibi (Syria) distinguishes between productive and consumptive loans. He argued that in productive loans there is allowed interest, whereas in consumptive loans it is not permissible because there is an element of exploitation of weak people (Abdullah, 1997).

When viewed from the concept of interest in the bank, it cannot be separated from the conceptual framework of the bank itself (Thomson,). The development of a medieval bank in the world colored the history of interest development (M. Muhammad, 1994). According to G.M. Verryn Stuart, a bank other than as a body that aims to satisfy credit needs either by means of payment alone or with money obtained from other people or by distributing new exchange instruments demandably, (Thomas, 1993) also a financial institution that provides services, for example raising funds from the public, channeling community funds in the form of credit and facilitating trade transactions with the system of interest calculation (Interest Forgone).

If observed the operational system used by conventional banks is to use a system of calculating interest on loans or loans (invest note), while what is meant by interest is as a service provided by the bank to the customer for buying or selling the product, or in other words that the interest is the price must be paid to customers because they have savings and prices to be paid by the customer to the bank because the customer is the borrower. Regarding the high and low interest rates in the community because it is influenced by various factors, namely: public liquidity, expectations, inflation, the magnitude of domestic interest rates and expectations of changes in exchange rates and premiums on risks (Bank Indonesia, 1990).

Forms of financial systems do exist before Islam, which was later developed in this modern era, such as *al-ijarah*, *al-bai'* can be more advanced, musyarakah or joint venture, borrow with interest or usury. As well as ownership credit or *murabahah* (Warkom, 1997). These forms of trade developed in the Arabian Peninsula because of their strategic location. Like in Mecca, Jeddah and Medina. The Arabian Peninsula which had a trade route between Asia and Africa-Europe was most likely influenced by economic forms of ancient Egypt, ancient Greece and Rome, in 2500 BC. They are familiar with the banking system. Babylonian territory of Iraq also knew the banking system in 2000 BC. In 2633, Islam forbade the practice of ribbons aimed at banking institutions, the prohibition of flowering is not only the religion of Islam which forbids, but the other religions also prohibit such Christians and Jews (Warkom, 1997). As in the exodus of article 22 verse 25 stated if you lend money to one of them, do not apply as a debt collector to him, do not impose interest on him. Likewise, in the book Devtoronotif article 23 verse 19 it is stated that you do not raise money to your brother, either money or food ingredients or anything that can be interest (Warkom, 1997).

The very basic difference between the interest system and profit sharing is the interest system in conventional banks, the determination of interest is made at the time of contract without being guided by mutual agreement (the bank determines) and whether the calculation of the interest system can make it difficult for customers to pay installments or not. Whereas in the profit sharing system, the determination of profit risk based on mutual agreement between the bank and the customer based on the possibility of not burdening the customer in repaying the funds does not harm the bank. In the interest system, the loan rates of conventional banks and deposit interest rates will influence each other. If the high deposit interest rate automatically lends interest rates. Whereas in the profit sharing system this is not the case. In the interest system, the high and low interest is influenced by the profit target desired by the bank,

so if the desired profit is large, the interest will also be large and vice versa, whereas in the system for the results of such absence.

Culturally, each human civilization actually rejects the existence of bank interest. Usury on celestial religions (*samawi*) has been declared unlawful, as stated in the Old Testament Exodus verse 25 article 22: "If you owe someone among your people money, do not act like a lender, do not ask him to benefit money owner." But the Jews thought that usury was only forbidden if done among fellow Jews. But it is not prohibited to be done to non-Jews. This is as contained in the Book of Deuteronomy verse 20 article 23 (Abdul, 2013).

There is no definite record of when humans actually began to practice usury. During the time of Moses the US Jews were prohibited from practicing flowers. This prohibition is in the Old Testament and the Talmud Law. Among other things, the Book of Deuteronomy (Deuteronomy) chapter 23 verse 19: "Do not let your brother, whether money or food, or anything that can be interest (Abdul, 2013). The early days of Islam were not familiar with the modern banking system in the practical sense, so that in response to this phenomenon, there were differences of opinion. Different views in assessing these problems lead to different legal conclusions, in terms of whether or not it is permissible, halal haram for Muslims to worship with banks. If it returns to the teachings of Islam where the Koran itself has prohibited the form of mu'amalah which contains elements of usury (Abdul, 2013). The issue of usury can be clearly and clearly known in 3 (three): first, the Koran Surat al-Ruum: 39, when the Prophet was still in Mecca before the *Arab mushrikin*. when the Prophet had moved to Medina. And thirdly the QS Al-Baqarah: 275-280.

The discourse on bank interest is inseparable from the role of scholars as designers in developing Islamic banking in Indonesia, but they have not agreed to state that bank interest that has been practiced in conventional banking has been unlawful. Only the Indonesian Ulama Council has issued fatwa Number 1 of 2004 stating that bank interest is illegal. This fatwa then aroused controversy among scholars who joined Muhammadiyah and Nahdhatul Ulama. Although later in 2006 Muhammadiyah gave a new fatwa that bank interest included usury and was forbidden. Initially Muhammadiyah and Nahdhatul Ulama argued that bank interest law was *mutasyabihat* (Y. Y. Muhammad, 2012). As for the figures of contemporary Islamic fiqh, which refers to the illegitimate bank paradigm, Abu Zahrah, Wahbah Zuhayli, Yusuf al-Qardawi (each Middle Eastern fiqh), Abdul Mannan, Syafi'i Antonio, Adiwarmarman Azwar Karim (each Islamic law expert and Indonesian Islamic banking practitioner) (Hasyim, 2014).

Observing usury discourse and bank interest in the monetary financial system, *Lajnah Bahsul Masa'il* of Nahdhatul Ulama also decided on the 2nd NU Congress in Surabaya 1927, concerning bank interest. There are three opinions of NU scholars regarding this issue; illegitimate because it includes debts collected by rent; halal because there is no requirement at the time of *aqad*, while the prevailing adat, cannot just be made a condition; *syubhat* (not necessarily halal) because the jurists disagreed about him. Despite differences of opinion, the Lajnah decided that a more cautious choice was the first opinion, namely to call bank interest as illegal. There are no recommendations for the need for an economic institution based on shari'ah. Then on January 21-25, 1992, *Lajnah Bahsul Masa'il* of Nahdhatul Ulama convened in Bandar Lampung (1992), again discussing the theme "The Legal Problems of Interest in Conventional Banks", even though they still slaughter opinions about bank interest, but provide important recommendations towards the existence of Islamic banking in Indonesia. The recommendation reads: "Given that NU citizens are the greatest

potential in national development and economic development, there is a need for a financial institution as a borrower and The coach and fulfill the requirements in accordance with the lives of the NU people, it is deemed necessary to find a solution to determine the banking system in accordance with Islamic law, namely a bank without interest" (Y. Y. Muhammad, 2012).

The difference in views regarding bank interest as usury, or not usury in practice raises an understanding of bank interest which is considered usury in conventional bank practices and has caused anxiety for bank employees or bankers in conventional banks. Likewise, in the practice of Islamic banks, claims emerged stating that the practice of Islamic banks is free from the practice of usury (*Interviews with MF, FZ, AS and RK Which Are Employees (Bankers) of Islamic Banks in Palangka Raya on August 6, 2018.*). The anxiety was also expressed by some conventional bank employees who claimed to be anxious and chose to stop working (resign) with conventional banks that they understood to practice usury (*Interviews with AK, DM, MT and EF Who Are Conventional Bank Employees (Bankers) in Palangka Raya on August 28, 2018.*). Whereas in the construction of fiqh there are still differences regarding the law of usury in the practice of interest in conventional banks. The understanding of bankers in interpreting bank interest in the context of the meaning of usury in banking practices has experienced different perceptions and has become a growing phenomenon among conventional bankers, even stopping looking for other jobs, and Islamic bankers consider illegal bank jobs illegal. This arises the extreme perceptions and attitudes of bankers in the modern era in understanding bank interest, even among them quit the bank, both conventional banks and Islamic banks themselves which are said to be free of usury. But the understanding of usury and bank interest is essentially the same, both in the practice of conventional banks and Islamic banks.

The understanding of usury and bank interest in practice is still a matter of debate and continues to follow the prevailing financial system. There is a view that states that bank interest is included in a family that is prohibited from positioning financial system practices in banking institutions not in accordance with Islamic teachings, but there is also a view that tolerates bank interest as different from usury, with tolerance limits with moral considerations during fair, not doubling, not exploitative and non-halal or persecutions which have an impact on economic disparity and damage to financial system stability.

## **2. *Maqashid Syariah* Prohibition of *Riba* and Legal Position of Bank Interest**

The basic essence of prohibiting usury in Islam is to avoid it injustice and injustice in all economic practices. Broadly the elimination of usury can be interpreted as the elimination of all forms of economic practices that lead to injustice or injustice. Not only usury is understood and reduced to the problem of bank interest only. But broadly usury can be latent or potent in a discriminatory, exploitative and predatory economic system which means it can live in a subordinate, capitalistic, neoliberalistic and hegemonic imperialistic economic system, which cannot be limited banking aspect. Therefore, the development of Islamic economics in the future is not can be done in isolation or partially, but must be done in total. Within other words, Islamic economics should not be reduced simply by focusing on efforts to build Islamic banks. Sharia economics must be able to counteract the exploitative system of economics widely, which understands and grows economic inequalities that allow systemic tradeoffs to occur the disadvantages of the poor and the weak, who are subordinated and discriminated against allowing the development of *laissez faire* in the broadest

sense without regard the need for deconstruction and restructuring of this usurious economic system. For this reason, experts in Muslim economics need to master conventional economics at the same time contemporary so as to be able to correct, improve and be more resilient and capable of delivering Islamic economics towards achieving justice and benefit of the people in the world and in the hereafter (Kalsum, 2014).

In terms of context or *illat al-hukmi*, the prohibition of usury in the Koran is due to the existence of a *zulm* factor, which is to collect additional debt from those who should be helped. While the context of the bank is commercial (*tijarah*) to seek mutual benefits between parties who have capital (investors), parties who need capital (debtors/entrepreneurs), and banks as mediators and service providers. So that there is absolutely nothing to do with helping help between the rich and the poor, but cooperation in developing capital by making banks as mediators between savers, entrepreneurs and banks. Therefore, the aspect of persecution (injustice) here is very unlikely to occur because each party has been mutually willing and knows their respective rights and obligations. With such a concept, they finally arrive at one conclusion that between usury and bank interest has a different context and essence.

Usury is considered an excess taken from loans intended for consumptive purposes, while bank interest is an excess of loans intended in the framework, productive needs. With such an analysis, adherents of this paradigm require them, abandon *qiyas* and prefer to take the *istihsan* method as a basis to arrive at a legal conclusion that is considered more appropriate to carry out. Among the figures and experts in Islamic law who adhere to the contextual paradigm in assessing the problems of bank interest are Munawir Syadzali, Quraish Shihab, Umar Shihab and M. Dawam Raharjo (each of them are *fiqh* scholars and Indonesian intellectuals). Likewise, Fazlur Rahman, Mahmoud Syaltout, and Mustafa Ahmad al-Zarqa (Hasyim, 2014). When viewed with a prophetic approach, the Prophet Muhammad was the first person to restore the purposes of the Qur'an and explain to the Ummah the revelations revealed by Allah to him. At that time no one from the apostle's friends dared to interpret the Qur'an, because the apostles were still in their midst. The Apostle understands the Qur'an globally and in detail. And it is his obligation to explain to his companions, on the basis of the authority given by Allah to interpret the Qur'an (Rif'at, 2002). Muhammad Abduh was of the view that the main purpose of the interpretation of the Qur'an was to emphasize the function of Al-Qur'an for humans, so that they could truly live this life under the guidance and guidance of the Qur'an. While the description and discussion of interpretations is only a way or way to achieve these Basic goals (Rif'at, 2002). The Qur'an contains several teachings such as faith, worship, morals, and *mu'amalah*. *Mu'amalah* is a dimension of relations of life between human beings. Included in an economic context, such as buying and selling. So, in Islam assets are highly upheld. Because without human property it will not survive. Therefore Allah SWT telling humans to get it, have it and use it for human life and God forbids anything that can damage and negate that property (Amir, 2003). Therefore, it is not surprising to say that the Koran is a complete book and contains comprehensive instructions in all activities of human life including teachings on the procedures for worship, ethics, transactions, politics, law, war and peace, and economic system revealed by Allah SWT as the gift of all humans, especially as a guide (Sayyid, 1994). Likewise in understanding the text about usury, it is necessary to understand moderate reinterpretation against the prohibition of usury by revisiting the goal of Islamic law itself.



When Islam talks about material and wealth, then the Islamic view is as a way, not the only goal, not as a cause that can explain events. Because, there the obligation is more important than the material. But the material is a way to realize some of the needs and benefits that are not enough for humans, namely service to someone who is material, which does not conflict with the general benefit, without doing dhalim or excessive (M. B. Muhammad, 1999). Proof of the importance of wealth for humans, is found in the QS Al-Jumu'ah verse 10. "So if the prayer has been carried out, scatter on the face of the earth, seek the gift (wealth) of Allah."

In accordance with the instructions of the paragraph above, the assets that can be obtained and obtained and utilized are bound to two conditions: First, the property is good, both in substance and in its material, not damaging to the self that uses and does not damage others (Ali, 1994). Second, the property is lawful in the sense that it is obtained in accordance with the instructions of Allah SWT. and avoid the prohibition (Amir, 2003). These two things are the main principles in making peace with the assets set by God in the Qur'an. On the contrary, Islam is very opposed to all transactions that aim to damage and harm others in a subtle way. One of them is Riba. Usury is simply defined as "Increasing from origin" is a transaction that is prohibited by Allah SWT. about the prohibition of usury affirmed by Allah SWT. in the QS. Al-Baqarah verse 275: Meaning: "They say, actually buying and selling is the same as usury. Even though Allah has justified buying and selling and prohibiting usury."

One of the reasons for the prohibition of usury is because it is not in accordance with Islamic principles that tell people to help without help. The act of usury indirectly provides pleasure and willingness to one party, whereas Islam requires pleasure and pleasure reciprocally (Amir, 2003). Islam wants a just and conducive life and in the order of moral norms of life. The mechanism of spending assets that are not in accordance with the shara' cannot be justified. The recommended mechanisms include, voluntary principles, attracting benefits and avoiding harm to human life, maintaining the values of justice and helping. Conversely, if the practice is contrary to these values, such assets that bring harm or distance from the principles of justice such as usury are prohibited (Ahmad, 2008).

According to the historically, Quraish Shihab argued that Thaif, a place of Thaqif tribal settlement which was located about 75 miles southeast of Mecca, which was also a dawn area and became a center of trade between tribes, especially the tribe of Quraysh were familiar with usury practices. Even some figures of the prophet's friends, such as Abbas bin Abul Munthalib (uncle of the Prophet) and Khalid bin Walid, he had known usury until the prohibition verse was dropped (Quraish, 1998). And a lot of historical literature explains that the breakdown of the socio-economic order at that time, due to practice, one of which was Riba. What is the essence of actual usury, and this is very important to be studied in the study of contemporary studies.

Then, however, usury in the past usury with all its properties and effects can be understood, even though in a simple sense. That is, various economic activities can already be said to be usury or not. It is economic development that seems to shape certain perceptions in society concerning the assessment of economic activities, so that certain activities which are currently considered good and even needed are deemed condemned and bad based on past perceptions due to different perceptions. Previously up to now scholars, when discussing the issue of usury is still a debate, it is mainly focused on what is actually meant by usury in the Qur'an and how the economy of the Muslims in the midst of the modern banking system includes among others the practice of interest and money saving and loan system. Even in everyday life until now

most of the life of society is still a lot of usury practices in saving and borrowing money.

Islamic jurists and scholars since the time of the Prophet until now it has been agreed that usury is the form of *mu'amalah* which is forbidden until the end of time, moreover it is also recognized by all other shari'ah religions. However, there are those who argue that transactions that occur in banks are a form of modern (new) business within the Islamic world, so the legal status needs to be explained. In among Islamic scholars there are different points of view since years 1930s until now. This difference is inseparable from the paradigm their thinking, namely textual and contextual thinking. With thus this case can be categorized as a problem of *ijtihadiah khilafiyah* (Hasyim, 2014).

Bank interest in the study of Islamic law, is a contemporary problem which gave birth to two different paradigms on how to practice jurisprudence in determining its legal status, does it include usury that is prohibited or not? namely the textual and contextual paradigm. The fundamental difference between the two paradigms is how to see the truth (because of the law) the prohibition of usury as the original law. The textual paradigm understands the illiteracy of usury lies in the addition, as the meaning contained by the word usury itself and based on the confirmation of the passage, that only the basic capital can be taken, so that if the illat is in the bank interest, then the bank interest is usury, and the law is haram.

The contextual paradigm group understands the context of usury in context, namely the existence of *zulm* elements or exploitation that occurs when the usury is forbidden. So that if these conditions are found in the implementation of bank interest, then the bank interest is categorized as usury whose legal status is clear, that is haram. This group saw that what happened at the bank's interest had no *zulm* element or exploitation, so they determined that bank interest did not include usury, and the law was permissible (halal) (Hasyim, 2014).

The essence of the prohibition of usury in Islam based on consideration of moral and humanitarian considerations for the cause of the prohibition of usury is the abolition of all forms of economic practices that lead to injustice and injustice. While the bank's legal interest status there are differences of opinion among experts both Islamic law experts and Islamic economists. This is motivated by the existence of differences in interpretations of verses regarding usury and whether interest is included in the category of usury or not? There are two opinions: first, according to scholars' *ijma* among all schools of *fiqh* that interest in all forms includes the category of usury (QS al-Baqarah: 130. And second, the opinion that interest does not belong to the category of *riba* because it is stated in QS al-Baqarah 130 usury must be multiplied (unnatural) (Kalsum, 2014).

Based on the description above, moderate reinterpretation (*wasathiyah*) of the prohibition on usury can be revisited by revisiting the purpose of the Islamic Shari'a itself (maqasid syariah). This means that in the context of modern finance, bank interest is not included in the category of usury because what is stated in QS al-Baqarah: 130 usury must be multiplied (unnatural) by paying attention to moral aspects rather than formal legal aspects regarding prohibition of usury in texts, but bank interest will be *haram* if exploitative and consumptive.

### 3. *Wasathiyah* Principle in The Moderate a Fiqh to Developing in The Field of Finance

The modern era or the era of globalization is the era of diplomacy, an era where Muslims are required to be moderate (*wasathiyah*). These demands are not the demands of the times, but the demands of the Qur'an are mandatory. The meaning of *wasathiyah* should not be taken from the understanding of extremists who tend to put forward an uncompromising hard attitude (*ifrath*), or an understanding of liberal groups that often interpret religious teachings very loosely, freely, and even almost leave the line of religious truth (*tafrith*). The meaning of Islam as a religion of *wasathiyah* must be taken from the explanations of the scholars, so as not to trigger misunderstanding and intolerant attitudes that damage the image of Islam itself. Understanding the true meaning of *wasathiyah* is capable of forming a conscious attitude in moderate Islam in the real sense (*ummattan wasathan*), realizing world peace, without violence in the name of class, race, ideology and even religion (Nur & Mukhlis, 2015).

The character or identity of Islam is the *tawassuth*, *tawazun* and *ta'adul wasathiyah*. According to the terminology of Islamic studies in the international world *Wasathiyah* Islam is often translated as justly-balanced Islam (Islam equitably equates) or also the middle path of Islam (Azyumardi, 2017). *Wasathiyah* comes from the word "*wasathan*" with "*sawa'un*" which is the middle between two boundaries, or with justice, the middle or the standard or the mediocre, *wasathan* also means keeping from being *ifrath* and *tafrith*. *Wasath* words with various derivatives in the Qur'an amount to 3 times namely al-Baqarah verse 143, 238, al-Qalam verse 48 (Nur & Mukhlis, 2015). The identity as *ummattan wasathan* based on the *wasathiyah* principle is defined as Kamali; "Recommended postures are manifested in people who have healthy instincts and intellect, which is characterized by dislike of real extremism and carelessness." The discourse and paradigm regarding *wasathiyah* is relatively new. Talks about this subject began to develop since the beginning of the 20th century, alluded to in various works of thinkers in the Arab World such as Muhammad Rashid Ridha, Muhammad al-Madani, Muhammad Syaltut, Yusuf al-Qaradhawi and Wahbah al Zuhayli (Azyumardi, 2017). The principle of *wasathiyah* is a wise way of Islam in addressing the polemic of bank interest and usury in the context of developing fiqh tolerant in the financial sector.

One of the main highlights of the *wasathiyah* paradigm is related to the understanding and attitude of bankers towards usury and bank interest. Textually usury is clearly forbidden and this is absolutely sourced from the Qur'an and Hadith. But different interest, interest are something new. Problems that arise in the modern era in the world of banking and finance. The interest are things that are obtained from a collaboration and commitment from various parties. This can be said as *mudharabah*. Because it is mutually beneficial for both parties, and what is practiced is *mudharabah* and brings benefits without strangling the other party. Moderate understanding usually has features such as *tawassuth* (taking the middle way), *tawazun* (balance), *i'tidal* (straight and firm), *tasamuh* (tolerance), *musawah* (egalitarian), *shura* (deliberation), *ishlah* (reform), *aulawiyah* (prioritizing the priority), and *tahadhdhur* (civilization).

The concept of *tawassuth* (taking the middle path), namely understanding and practice that is not *ifrath* (excessive in religion) and *tafrith* (reducing religious teachings). Understanding of bankers in the concept of *tawassuth* can position attitudes and understanding of the meaning of interest is not excessive as something that is considered as a practice of usury but also does not underestimate as something that is halal and thayyib. Interest must be understood as the way the company gains profits,

as well as the intentions and ways of the company to increase the economic impact of the credit distribution. Interest should not be considered as a final term that can lead public opinion as if representing all practices in conventional banks as illegitimate entities as usury. This is according to the rules of *fiqh* is *al-umuru bi maqasidiha*, which means that all cases depend on the purpose and purpose. This non-excessive attitude can be supported by the spirit of strengthening financial literacy and collaborative literacy between *aqad* and the value of implementative justice in transactions. The attitude of bankers from Islamic banking should also not be excessive in understanding interest, so forget that the whole practice of Islamic banks seems to be free from practices that are forbidden by religion. For conventional bankers, it should change the paradigm of interest as part of the term that must be tolerated as a goal, whereas for Islamic bankers should change the *halal* and *thayyib* paradigm in the financial sector is not enough in terms of the validity of the contract but *halal thayyib* from upstream to downstream from *aqad* to the impact of the implementation of the values of justice.

The next element of the *wasathiyah* paradigm is *shura* (deliberation), that is, every problem is resolved by deliberation to reach consensus with the principle of putting benefit above all. The attitude of conventional bankers in understanding bank interest should be built based on the highest agreement that benefits both parties. The percentage rate of interest is not allowed to judge one party. The percentage must be based on consensus agreement not based on unilateral policy.

The next element that can measure moderation is the element *aulawiyah* (prioritizing the priority), namely the ability to identify more important things must be prioritized to be implemented compared to those with lower interests. Bankers should make the element of *aulawiyah* a basis for programs that benefit the people. Through the *aulawiyah* element, bankers will focus on the spirit of identifying and helping productive MSMEs, healthy and productive poor people, and developing bank CSR that is right on target.

The most urgent element in the *wasathiyah* paradigm is the element of *tahadhdhur*. *Tahadhdhur* which is upholding noble character, character, identity and integrity as *khairu ummah* in humanity and civilization (Nur & Mukhlis, 2015). Through this element, bankers will not be trapped in terms of interest and profits, bankers will not be trapped with credit terms with financing, bankers will not be stuck with performance and fashion, bankers will not be trapped with *aqad*, and bankers will not be trapped in *sharia*. Moderate bankers will focus their enthusiasm to return to the main goal of the intention of the channeling capital, which is for business and social interests in a balanced manner.

If observed in financial practice, loans from banks both conventional and *sharia* are given to be productive and not consumptive, so that this is different from the time of the Prophet Muhammad who borrowed money for consumptive purposes so that it brought harm. Discussions about interest and usury still occur *Ikhtilaf ijthadiyyah* among scholars. But if viewed from the perspective of implementation both of them do have positive and negative values. This is where the principle of *wasathiyah* is present in the framework of developing a tolerant *fiqh* in the fields of finance and banking.

Banks that implement a loan contract system are unlawful if associated with interest in the refund process, but in terms of fairness, conventional bank interest has a value of justice. This is because conventional bank interest is much lighter than Islamic banks. Islamic banks in practice apply the contract of sale and purchase as in the content of Qur'an Allah justifies buying and selling and prohibiting usury. So that from the perspective of the Islamic bank contract it has been spared from *riba*. However, there is still a mistake in the refund where Islamic banks do not consider justice to the

debtor. In the form of returns that are far greater than conventional banks. Therefore, in this case it is necessary to reinterpret the essence of the meaning of actual bank interest. Third, in this case it aims to build a tolerant *fiqh*. This raises a concept paradigm that should be raised in the world of banking and finance by creating a banking concept by using sharia contracts to buy and use small interest to maintain the values of justice in it. Thus forming a midpoint as moderate Islam refers to *maqhasid sharia* in Islamic economics. This is aimed at minimizing the extreme attitude of conventional bank employees and undermining the right attitude of Islamic bank employees. A moderate attitude needs to be fought for the bringing up of the best people.

#### D. Conclusion

First, the anxiety of conventional bank employees is one of them due to their understanding that the interpretation of the meaning of the bank with the interest system is an act of usury and usury is illegitimate. Second, that the attitude of extremism seems to stop working suddenly, disappear without any reason, change the pattern of attitudes from how to dress, easily forbid something, and finally stop working at conventional bank. While employees working in Islamic banks consider that the meaning of margin, fee, *ujrah*, *ta'widh* and other terms in taking advantage of practiced Islamic banks have been free from the practice of *usury*, *maysir*, *gharar* and others. To build a tolerance paradigm towards these attitudes, it is necessary to have tolerant and moderate *fiqh mu'amalah (wasathiyah)* which is by reinterpreting the meaning and context of bank interest is not identical to usury. And develop two basic values about assets, namely halal in seeking it and being generous in spending it, as well as being true in its *aqad* and returning the value of equity and economic justice as its ultimate goal (*maqasid al-sharia al-iqtishadiyah*).

#### E. Acknowledgements

The researchers expresses great thanks to rector IAIN Palangka Raya for supporting the religious moderation in college and academicians for the moral supporting to quality publish this article. The appreciation is also addressed the book authors and researchers who are responsible for websites visited; the family for the valuable time support; and above all, the Almighty of God for finishing this article.

#### F. Author Contributions Statement

The authors consist of three researchers who had their own roles. Ahmad Dakhoir was the initiator of the study, conceived and designed the analysis, and propose the research together with the partner. Jefry Tarantang worked the reference management, contributed data or analysis tools. Ghazali Rahman participates as a template adjustment, performed the analysis, and helped to draft the manuscript. All authors read and approved the final manuscript.

#### G. References

- Abdad, M. Z. (2011). Analysis and Mapping of Moderate Fiqh in the Middle East and Its Clarity with the Formal Jurisprudence Movement. *Esensia Journal*, XII(1), 61.
- Abdul, S. (2013). Interest Bank in Islamic Perspective (Study of Nahdlatul Ulama and Muhammadiyah). *Indonesian Islamic Economics Journal*, III(1).
- Abdullah, S. (1997). *Islamic Banking and Interest*. E. J. Brill.

- Ahmad, A. B. (2008). *Reflection on Islamic issues: Regarding Philosophy, Law, Politics, and Economics*. Mizan.
- Ali, Y. (1994). *Initiating Fiqh Social*. Mizan.
- Amir, S. (2003). *Outlines of Fiqh*. Prenada Media.
- Azyumardi, A. (2017). *Islam Indonesia Exclusive Vs: The Dynamics of Muslim Community Diversity, Paper Papers for the Study of Ramadhan PP Muhammadiyah Campus University of Muhammadiyah Jakarta June 6*.
- Bank Indonesia. (1990). *the Banking System and the Role of Banking, and Its Impact in Improving Economic Welfare, a paper in the workshop on bank and banking interest*.
- Dakhoir, A., & Tarantang, J. (2020). *Hukum Bunga Bank (Pendekatan Fikih Washthiyah Iqtishadiyah)*. K-Media.
- Hasyim, M. S. (2014). Bank Interest: Between the Textual and Contextual Paradigms. *Hunafa*, 5(1), 46.
- Interviews with AK, DM, MT and EF who are conventional bank employees (bankers) in Palangka Raya on August 28, 2018. (n.d.).
- Interviews with AK, DM, MT and EF who are conventional bank employees (bankers) in Palangka Raya on August 28, 2018. (n.d.).
- Interviews with MF, FZ, AS and RK which are employees (bankers) of Islamic banks in Palangka Raya on August 6, 2018. (n.d.).
- Kalsum, U. (2014). Riba and Bank Interest in Islam (Legal Analysis and Its Impact on the Economic Community). *Journal Al-'Adl*, 7(2), 68.
- Marwini. (2017). Riba Controversy in Conventional Banking and Its Impact on the Economy. *Az Zarfqa*, 9(1), 2.
- Muhammad, M. (1994). *Banking System in Islam (Rineka Cip)*.
- Muhammad, M. B. (1999). *Position of Property according to the Islamic View*. Kalam Mulia.
- Muhammad, Y. Y. (2012). Dynamics of Bank Fatwa in Indonesia: Study of MUI Fatwa, Muhammadiyah and Nahdhatul Ulama. *Journal of Islamic Media*, XIV(2).
- Nur, A., & Mukhlis. (2015). The Wasathiyah Concept in the Qur'an: (Comparative Study Between Tafsir Al-Tahrir wa At-Tanwir and Aisar At-Tafasir. *An-Nur Journal*, 4(2).
- Quraish, S. (1998). *Membumikan Al-Qur'an*. Mizan.
- Rif'at, S. N. (2002). *Rationality of Muhammad Abduh's Tafsir: study of the problems of Aids and Worship*. Paramadina.
- Sayyid, Q. (1994). *Fundamentals of the Social Economic System in the Interpretation of Fihzilalil Qur'an*. Litera Inter Nusa Tenggara Library.
- Tarantang, J. (2018). Teori Dan Aplikasi Pemikiran Kontemporer Dalam Pembaharuan Hukum Keluarga Islam. *Transformatif*, 2(1), 315. <https://doi.org/10.23971/tf.v2i1.882>
- Thomas, S. (1993). *Institutional Banking*. Gramedia.
- Thomson. (n.d.). *Dictionary Banking (2nd ed.)*. The New Publishing co.. ltd.
- Warkom, S. (1997). *Banking Principles and Related Institutions*. Gramedia.