



## **BANK INTEREST HALAL: DISTINCTION INTERPRETATION OF CONTEMPORARY ULAMA THOUGHT UMER CAPHRA AND MUHAMMAD SAYYID THANTHAWI**

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**Abstract:** Life is controlled by two great forces, namely economy, and religion. All things based on Sharia law are clearly about halal and haram. Bank interest is something that is no longer common among the public, with the law and practice still being debated by some scholars. Therefore, this study aims to answer public confusion about the law of halal interest according to Umer Caphra and Muhammad Sayyid Thanthawi and the reasons for making legal decisions regarding bank interest. The research is in the form of a qualitative method with a literature study using several references from books and journals in concluding the views of the two figures. The primary data used is from the book Prohibition of Interest: Does it make sense? The work of Umer Chapra. While secondary data comes from various books and journals related to bank interest. The results of this study indicate that the two scholars have different opinions regarding bank interest. Umer Chapra argues that the practice of bank interest is prohibited in Islam because usury interest can harm the poor. Meanwhile, Muhammad Sayyid Thanthawi argues that bank interest is not part of usury because bank interest is not part of faith and worship.

**Keywords:** Bank Interest; Islamic Economics; Banking

**Abstrak:** Kehidupan dikendalikan oleh dua kekuatan besar yaitu ekonomi dan agama. Apa yang dilakukan setiap harinya berdasarkan pada hukum Syariah yang jelas halal dan haramnya. Bunga bank adalah hal yang tidak umum lagi dikalangan masyarakat, dengan hukum dan praktiknya yang masih menjadi perdebatan sebagian ulama. Maka dari itu, penelitian ini bertujuan untuk menjawab kebingungan masyarakat akan hukum bunga halal menurut Umer Caphra dan Muhammad Sayyid Thanthawi dan bagaimana alasan Umer Chapra dan Muhammad Sayyid Thanthawi dalam mengambil keputusan hukum mengenai bunga bank. Peneliti menggunakan metode penelitian berupa metode kualitatif dengan studi pustaka menggunakan beberapa rujukan dari buku dan jurnal dalam mengambil kesimpulan dari pandangan kedua tokoh. Data primer yang digunakan dalam penelitian ini menggunakan buku *Prohibition of Interest: Does it make sense?* Karya dari Umer Chapra. Sedangkan data sekunder berasal dari berbagai buku dan jurnal yang berkaitan dengan bunga bank. Hasil dari penelitian ini diketabui bahwa kedua ulama mempunyai pendapat yang berbeda mengenai bunga bank. Umer Chapra berpendapat bahwa praktik bunga bank dilarang dalam Islam

*dikarenakan bunga riba dapat merugikan orang miskin. Sedangkan, Muhammad Sayyid Thanthawi berpendapat bahwa bunga bank bukan bagian dari riba karena bunga bank bukan sebagian dari iman dan ibadah.*

**Kata Kunci:** Bunga Bank; Ekonomi Islam; Perbankan

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## Introduction

Everything we do in daily life we must know that the law is halal or haram, sunnah or obligatory, permissible or makruh. The determination of halal or haram law is the right of Allah that needs to be instilled in the beliefs of Muslims without needing to be debated again. And also in terms of economics, everything needs to refer to Allah's commands regardless of halal or haram. Something that is forbidden must be abandoned and practiced as what is lawful because the decision that Allah has made for His people is the best for them. We often encounter small debates about the haram or halal of economic activities in our daily lives. Because, as we know, economic activity cannot be separated from the religion that accompanies it. Meanwhile, life in this world is also controlled by two great forces, namely the economy, and religion. Therefore, according to Umer Chapra, it is necessary to rethink a correct philosophy about humans, so that the field of economics cannot be separated from religion.<sup>1</sup>

Muamalat fikh regulates Islamic regulations relating to commercial laws and is more of a legal framework for Islamic economics. Islamic economics does not only regulate commerce. However, it also covers the social aspect by examining the processes and values of human activities more thoroughly. In terms of interest, the Bank is a financial institution whose main activity is to collect funds from the public and channel these funds back to the public and provide other banking services.<sup>2</sup> In general, a bank is a financial institution that handles financial problems including managing financial traffic (providing credit, services, and so on). As a financial institution, banks need an operational cost budget for both the sustainability of the institution itself and the benefits for its customers. These advantages can be achieved by doing business on credit. The main advantage of the banking business is derived from the difference between the interest on deposits given to the depository, and the interest on loans disbursed.<sup>3</sup> According to the law of fikh muamalah, bank interest is haram as stated in the fatwa of the Indonesian Ulema Council Number 1 of 2004 concerning interest. Because in essence there is an equation between illat and usury, basically they are

<sup>1</sup> Anwar Abbas, "Sistem Ekonomi Islam: Suatu Pendekatan Filsafat," *Jurnal Al-Iqthisha* 4, no. 1 (2012): 112.

<sup>2</sup> Afrian Monoarfa, Sri Murni, Dan Victoria N. Untu, "Faktor-Faktor Yang Mempengaruhi Roa Studi Kasus Pada Bank Umum Syariah Yang Terdaftar Di BEI Periode 2014-2019," *Jurnal EMBA: Jurnal Riset Ekonomi, Manajemen, Bisnis dan Akuntansi* 8, no. 3 (2020): 389.

<sup>3</sup> Dara Resmi Asbiantari, Manuntun Parulian Hutagaol, Dan Alla Asmara, "Pengaruh Ekspor Terhadap Pertumbuhan Ekonomi Indonesia (Effect Of Export On Indonesian's Economic Growth)," *Jurnal Ekonomi Dan Kebijakan Pembangunan* 5, no. 2 (2016): 10.

both added to the main assets.<sup>4</sup> This is supported by Umer Chapra and M. Abdul Manan who have the same thoughts about bank interest. Umer Chapra and M. Abdul Manan agreed to integrate Islamic values sourced in the Qur'an and Hadith into economic activities.<sup>5</sup>

Regarding the law of halal or haram bank interest, there are differences of opinion among the scholars, first, the opinion of the scholars regarding the status of bank interest is haram and includes usury, because the excess payment has been determined when the contract takes place. Second, it does not include usury, because it is quite rational for the cost of management and services provided to the owner of the money. The three doubts are not yet clear about halal and haram, but they tend to be careful. However, according to Muhammad Sayyid Thanthawi, conventional bank interest is halal in various forms, even if the interest is determined first. This determination can prevent disputes in the future and also because the determination is carried out with careful calculations and carried out between the customer and the bank on a voluntary basis.<sup>6</sup> And in another study Muhammad Sayyid Thanthawi argues that the status of bank interest is halal, this refers to the approach of the 'urf tijari instrument. The status of halal bank interest is practiced in the financial industry, because of the basic habit ('urf) in financial activities that are rooted in the banking world.<sup>7</sup>

In supporting the realization of the research, the author uses a qualitative descriptive method. Obtained by library studies and literature reviews as well as describing the state of the subject or object in the form of institutions, communities, and others based on the facts and conditions that appear or are at this time. The stages of the research are compiled by collecting data, compiling data, classifying, analyzing, and interpreting. The research was conducted through a review of primary data and secondary data, primary data, namely data taken from the Haram Bank Interest book, does it make sense? The work of Umer Chapra and the book Interest Bank Halal? The work of Prof. Dr. Muhammad Sayyid Thanthawi. While secondary data is data taken from journals, articles, and other sources related to the research conducted. The benefits of this study are to analyze the understanding of halal bank interest based on the opinions of contemporary scholars including Umer Chapra and Muhammad Sayyid Thanthawi and to know the differences in the thoughts of Umer Chapra and Muhammad Sayyid Thanthawi.

In this study, it is almost the same as the previous study entitled "Abdullah Saeed's Thoughts and Its Relevance to the Bank Interest System in Banking in Indonesia" which stated that Umer Chapra said that the prohibition of usury which was interpreted with

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<sup>4</sup> Ramdaniar Eka Syirfana, Neneng Nurhasanah, Dan Mohamad Andri Ibrahim, "Analisis Fikih Muamalah Terhadap Pemikiran M. Dawam Rahardjo Mengenai Bunga Bank," *Jurnal Riset Ekonomi Syariah* 1, no. 1 (2021): 26.

<sup>5</sup> Muhammad Naufal Lazuardi And Purbayu Budi Santosa, "Comparative Analysis Of The Thoughts Of M. Umer Chapra And M. Abdul Mannan About The Concept Of Riba And Banking," *Ad-Deenar: Jurnal Ekonomi Dan Bisnis Islam* 4, no. 2 (2020): 139.

<sup>6</sup> Nurul Rafiqah Ilhami, *Status Bunga Bank Konvensional Perspektif Muhammad Sayyid Al-Thanthawi*, (Riau: Universitas Islam Negeri Sultan Syarif Kasim, 2017), h. 40.

<sup>7</sup> Muhammad Fuad Mas'ud, *Analisis Konsep 'urf Tijari Menurut Muhammad Sayyid Thanthawi sebagai Instrumen Legal-Formal Bunga Bank*, (Bandung: UIN Sunan Gunung Djati, 2020), h. 33.

interest was axiomatic.<sup>8</sup> Meanwhile, Muhammad Sayyid Thantawi's thoughts quoted from his previous research with the title "Comparison of the Concept of Riba and Bank Interest According to Yusuf Qaradhawi and Muhammad Sayyid Thantawi and its Implications for Islamic Banking" is based on the modernist movement Thantawi considers that bank interest is not part of usury which is forbidden, because the bank does not determine interest in advance.<sup>9</sup> In this case, it is found that there are differences in the thoughts of Umer Chapra and Muhammad Sayyid Thantawi. Therefore, based on these problems, it is known that the formulation of the problem and the purpose of this study is to find out how Umer Chapra and Muhammad Sayyid Thantawi view bank interest. What are the reasons for Umer Chapra and Muhammad Sayyid Thantawi in making legal decisions regarding bank interest. Therefore, this study will discuss the legality of bank interest with the title Bank Interest Halal: Distinction Interpretation of Contemporary Ulama Thought Umer Chapra and Muhammad Sayyid Thantawi.

## Result and Discussion

### Four Stages Of Umar Chapra's Thought Process Of Bank Interest

Dr. Umer Chapra or commonly called Chapra is known as a pioneer or initiator of contemporary Islamic economics.<sup>10</sup> Umer Chapra was born in Pakistan on January 1, 1933. His father's name is Abdul Karim Chapra. Umer Chapra continued his undergraduate and master's education in Karachi, Pakistan.<sup>11</sup> After receiving his master's degree from Karachi University, his career soared until he received a doctorate degree at the University of Minnesota, the United States in 1956. Then he returned to his home country and joined the Central Institute of Islamic Research in the same year. Umer Chapra is an academic and researcher of Islamic economics, besides having extensive experience in teaching and research in the field of economics, he also has a comprehensive understanding of Islamic law. He worked hard in mastering Arabic and Islamic Studies from original sources.<sup>12</sup> The idea is not only in theory but also in the modern financial economic system which is closely related to money, banking, and monetary policy. In addition, Umer Chapra also gave a little knowledge about the Qur'an, Hadith, and Fiqh. In 1990, Umer Chapra was awarded the Islamic Development Bank Award for his service to Islamic economics and the King Faisal International Preice for Islamic studies. One of his famous books is *Islam and the Economic Challenge* which was declared by the great American economists, in his pre-published review as a brilliant analysis of the merits and demerits of capitalism, socialism, and

<sup>8</sup> Sri Wahyuni Arifuddin, *Pemikiran Abdullah Saeed Dan Relevansinya Dengan Sistem Bunga Bank Pada Perbankan Di Indonesia* (Surabaya: IAIN Parepare, 2021): 45.

<sup>9</sup> Annisa Eka Rahayu, "Perbandingan Konsep Riba Dan Bunga Bank Menurut Yusuf Qaradhawi Dan Muhammad Sayyid Thantawi Serta Implikasinya Terhadap Perbankan Syariah," *Jurnal Ilmiah Ekonomi Islam* 7, no. 2 (2021): 1181.

<sup>10</sup> Mohammad Zaki Su'aidi, "Pemikiran M. Umer Chapra Tentang Masa Depan Ekonomi Islam," *Isbraqi* 10, no. 1 (2012): 156.

<sup>11</sup> Dedi Mulyadi, "Pemikiran Ekonomi Islam Umer Chapra (Studi Analisa Terhadap Sistem Ekonomi Kapitalisme, Sosialisme, Dan Negara Sejahtera)," *ADLIYA: Jurnal Hukum Dan Kemanusiaan* 10, no. 2 (2019): 167.

<sup>12</sup> Abdul Qadir Jaelani, "Bunga Bank Dalam Perspektif Sosio-Ekonomi Dan Ushul Fiqh (Studi Atas Pemikiran M. Umer Chapra)," *ASAS: Jurnal Hukum Ekonomi Syariah* 4, no. 2 (2012): 78.

developed countries and is an important contribution to the understanding of Islam for Muslims and Non-Muslims.<sup>13</sup> Muslims are actually to worship Allah SWT, one of which is to follow all His commands and stay away from His prohibitions. One of the prohibitions that must be carried out by Muslims is to stay away from even taking usury of any kind. The prohibition of usury comes directly from various letters in the Qur'an and the Sunnah of the Prophet.<sup>14</sup> The submission of the letters was not sent down all at once but through four stages, namely:

The first stage, the first verse reads that Allah rejects the notion that usury or extras are only to help someone who is in need as an act of approaching (*taqarrub*). As in Surah Ar-Rum Verse 39 which reads:

وما آتيتم من ربا ليربو في أموال الناس فلا يربو عند الله، وما آتيتم من زكاة تريدون وجه الله فأولئك هم المضعفون

The verse above explains that usury transactions carried out by a person to obtain more wealth will not increase in the sight of Allah SWT, but if he makes transactions with alms then Allah SWT will increase his wealth in this world and in the hereafter and get the pleasure and reward of Allah SWT. Because the reward will be multiplied only if it is given to people who give charity because of Allah SWT.<sup>15</sup>

The second stage, in this surah it is explained that Allah will give punishment or retribution to people who eat usury, which is in Surah An-Nisa 160-161, which reads:

فيظلم من الذين هادوا حرمنا عليهم طيبات أحلت لهم ويصدهم عن سبيل الله كثيرا (160) وأخذهم الربا وقد نوحوا عنه وأكلهم أموال الناس بالباطل، وأعتدنا للكافرين منهم عذاب أليم (161)

From the verse above, it is explained that some of the painful witnesses were inflicted on the Jews because of their injustice. Because they also do usury transactions, even though Allah has forbidden it.<sup>16</sup> At that time, the Jews introduced usury to the Arabs on the Arabian peninsula, precisely in the cities of Taif and Yathrib. In these two cities, the Jews managed to make a lot of profit. Until the ignorant people pawn their children, wives, and themselves as collateral for usury debts. And if they are not able to pay it off then they will become slaves of the Jews.<sup>17</sup>

The third stage, Allah SWT forbids usury transactions to Muslims to multiply, as in Surah Ali-Imran verse 130 which reads:

يأيتها الذين آمنوا لا تأكلوا الربا أضعافا مضاعفة، واتقوا الله لعلكم تفلحون (130)

From the verse above it is explained that in the days of ignorance there was a man, one time he gave a debt to someone and when it was due the person who had the debt could not pay it then the debtor would multiply and extend the delay, then this will continue until

<sup>13</sup> Ahmad Fauzi, *Pemikiran M. Umer Chapra Tentang Instrumen Kebijakan Moneter Dan Peluang Implementasinya Di Indonesia*, (Jakarta: UIN Syarif Hidayatullah, 2010), h. 31.

<sup>14</sup> Abdurrahman Kasdi, "Analisis Bunga Bank Dalam Pandangan Fiqih," *IQTISHADIA* 6, no. 2 (2013): 319.

<sup>15</sup> Abdul Rouf, *Bunga Bank Halal*, (Depok: Keira Publishing, 2019), h. 154.

<sup>16</sup> *Ibid.*, h. 208.

<sup>17</sup> Erwandi Tarmizi, *Harta Haram Muamalat Kontemporer (HHMK)*, (Bogor: PT. Berkas Mulia, 2017), h. 189.

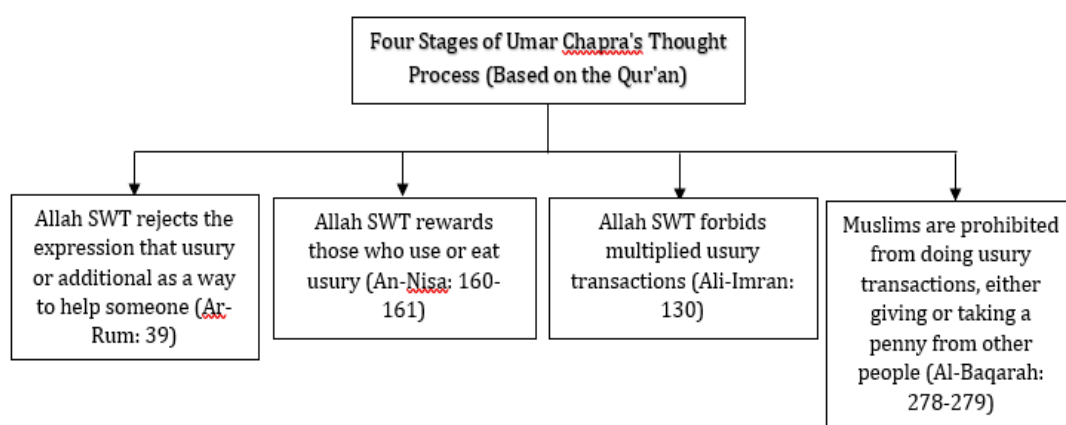
The borrower can repay the debt up to the additional amount.<sup>18</sup> This was a common trait in the practice of interest-bearing money at that time.

The fourth stage, in the Qur'an explains that Muslims are prohibited from collecting or carrying out usury transactions, either taking or giving a penny to others, as in Surah Al-Baqarah verse 278-279, which reads:

يأيتها الذين آمنوا اتقوا الله وذروا ما بقي من الربا إن كنتم مؤمنين (278) فإن لم تفعلوا فأذنوا بحرب من الله ورسوله ، وإن تبتم فلكم رءوس أموالكم لا تظلمون ولا تظلمون (279)

Asbabun nuzul of this verse is after Fathu Makkah Rasulullah appointed Itab bin Usaid as governor of Makkah which also includes the Taif area as its administration area. Bani Amr bin Umair bin Auf always lent money at usury to the Mughirah and since the days of jahiliyah the Bani Mughirah have always paid it with additional usury. After the arrival of Islam, they still have a lot of wealth and assets. So the Bani Amr came to collect the debt with additional usury from the Bani Mughirah, but the Bani Mughirah refused to give the additional usury. So the matter was reported to Governor Igtab bin Usaid. Responding to this problem, the Governor immediately wrote a letter to the Prophet Muhammad, so the verse above was revealed. Rasulullah SAW wrote a reply to the Governor of Itab "if they are satisfied with the provisions of Allah above then it is good, but if they reject it then announce the ultimatum of war to them" (Ath-Thabary).<sup>19</sup>

Picture 1. Four Stages of Umar Chapra's Thought Process



Source: Processed by Researchers

### Bank Interest In Islam

According to Umer Chapra, throughout his life, many have said that the cause of the prohibition of usury is the effect of injustice on the poor because they are pegged at a certain interest rate on the loans they use to meet their needs. The history of Islamic culture says that before Islam came, sources of wealth were mobilized based on usury. This is not in accordance with Islamic law, if there is a loss then the businessmen and traders must bear

<sup>18</sup> Abdul Rouf, *Bunga Bank Halal...*, h. 89.

<sup>19</sup> Abdurrahman Kasdi, "Analisis Bunga Bank...", 320.



it. While the owner of capital, only provides capital and earns interest that has been determined in advance. This can be seen from the supermarkets and malls that are everywhere, which are sometimes sided by side with traditional markets that get the impression of slums and dirty will lose competitiveness with a clean and comfortable supermarket. In the end, traditional markets and klontong shops will be affected, namely a decrease in income, which allows them to go out of business. From this, it can be seen that with the interest system, the distribution of money will not be evenly distributed. Fuad Amsyari said that the basic cause of the economic crisis was the rise of evil economic practices carried out in the countries concerned, including the practice of usury on bank interest. The whole evil economic practice is assimilated into the capitalist economic system and takes place on an international scale. This is very contrary to the Islamic concept that a strong person must help the weak, not like taking over power over the weak. This kind of injustice is strongly opposed by Islamic teachings.<sup>20</sup> Maududi and Sayyid Qutb regard bank interest as usury and haram, both of which emphasize the legal-formal aspects of the prohibition of usury which is transformed into bank interest.<sup>21</sup> This is supported by the statement of Umer Chapra which asserts that "*usury has the same meaning and import as interest*".<sup>22</sup> The statement of interest as usury is based on the interpretation of the Qur'an which reads:

وإن تبتم فلکم رءوس أموالکم

The term "*ru'usu amwalikum*" is defined as the principal of your property or the principal of the loan, then any addition that exceeds the limit or exceeds the principal of the loan is referred to as usury.<sup>23</sup>

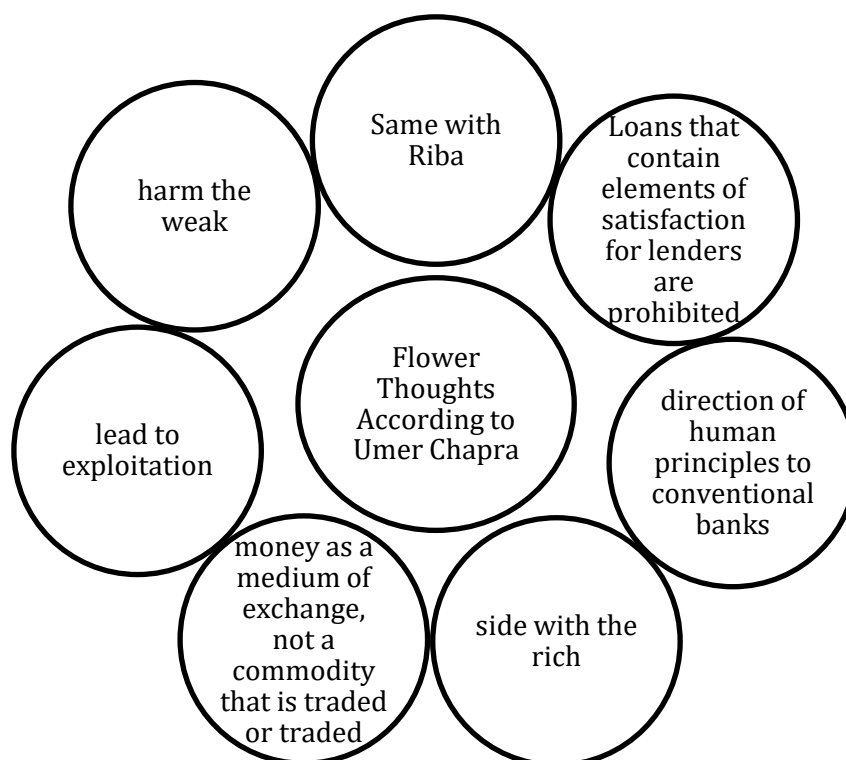
<sup>20</sup> Meichio Lesmana, Siti Nurma Rosmitha, Dan Andika Rendra Bimantara, "Analisis Penerapan Etika Jual Beli Islami Dalam Meminimalisir Distorsi Pasar Pada Pasar Tradisional," *Islamic Economica Journal* 6, no. 2 (2020): 175.

<sup>21</sup> Anita Rahmawaty, "Riba Dan Bunga Dalam Hukum Kontrak Syariah." *Jurnal Hukum Islam LAIN Pekalongan* 14, no. 2, (2010): 11.

<sup>22</sup> Muhammad Umer Chapra, *Towards A Just Monetary System*, (JKAU: Islamic Econ, 1990), h.112.

<sup>23</sup> Nurhadi, "Bunga Bank Antara Halal Dan Haram," *Nur El-Islam* 4, no. 2 (2017): 49.

Picture 2. Umer Chapra's Thought Map on Bank Interest



Source: Processed by Researchers

The Qur'an has explained the difference between buying and selling and usury. Allah forbids us to take usury even if it is only a little and is only allowed to take the principal property that we have lent to people in need. The borrower may not collect interest or additional for what he has lent. Instead, he must relieve the borrower of what he has borrowed because the situation is in difficult conditions so that exploitation does not occur.<sup>24</sup>

Chapra believes that the practice of bank interest will further widen the gap between the rich and the poor. This is because when someone will borrow bank credit, it will not be separated from the elements of capital and collateral. This is because capital (capital) is related to the capital ability that a person has when he carries out his business.<sup>25</sup> While the capital, in general, can be seen in the balance sheet, income statement, capital structure, return on equity, and return on investment, then as said by Irham Fahmi that many financial consultants provide advice to business people to In the action of the debt decision, it must be able to balance the assets and the amount of debt that will be carried out.<sup>26</sup> Bank interest,

<sup>24</sup> Mufti Afif, Aqif Khilmi, Meichio Lesmana, Nadia Hunaifah And Sangaji Rawi Manggini Tejokusumo, "Implementation Shariah Compliance At The Mui Cash Waqf Agency For The Special Region Of Yogyakarta," *International Journal Of Business And Economy* 3, no. 4 (2021): 53.

<sup>25</sup> Mohammad Zaki Su'aidi, "Pemikiran M. Umer Chapra...", 156.

<sup>26</sup> Irham Fahmi, *Analisis Investasi Dalam Prespektif Ekonomi Dan Politik*, (Bandung: PT Refika Aditama, 2006), h. 123.



which is known as money lending services in the financial institution and banking sector, is identified as usury. The interest in a certain period is called the interest rate. The interest rate is a measure of the economic activity of a country which will have an impact on the activity of financial flows. Some groups, including Muslims, think that even though the application of interest has the potential to cause several disasters, it can still be tolerated because they have not found a financial system that can be run without the element of interest. They argue that interest rates are prices, they play an important role in determining the supply and demand for financial resources in the economy. In the perspective of Usul Fiqh regarding bank interest found in financial institutions and banking, it is said that to be careful in doing charity, if the benefit is more dominant than bank interest is allowed and if *mafsadat* is more dominant then it must be abandoned. In accordance with the rule which means "can be forgiven in things that follow and not forgiven in other things". And if you still doubt whether bank interest is halal or haram, then the principle is based on the hadith of the Prophet which means "leave what doubts you and take what does not doubt you".<sup>27</sup> Thus, usury assets obtained from bank interest are the same as assets derived from other unlawful methods such as stealing, gharar, tadbis, and others. therefore the property is not to be used by yourself or others.

### Sayyid Thanthawi's Thought Process Of Bank Interest

His full name is Muhammad Sayyid Ahmad Thanthawiy. Born in the village of Saleem Syarqiyah, Thoma Sohag, Egypt October 28, 1928 AD He learned to memorize the Qur'an in 1944 at Ma'had Diniyah, Alexandria, after he memorized it, then continued his education in the ushuluddin faculty at Al-Muhammadiyah University. Azhar in 1958. In 1966, he graduated from the same faculty majoring in hadith and commentary. On September 5, 1966 AD, he received his doctorate in the field of hadith interpretation. Based on the doctorate he received with Cumlaude predicate. He was given the mandate by Al-Azhar to become a Middle Professor at the University of Medina. Until finally he was trusted to be the Head of the Tafsir Department at the Medina University Postgraduate. Program in 1980-1984. In 1985 he was entrusted as the Dean of the Faculty of Dirasat Islamiyah Cairo. However, for only a year he served as dean.<sup>28</sup> On 28 October 1986, he was appointed Mufti al-Diyar al-Misriyah. And when Sheikh Grand al-Haq Ali Gad al-Haq Sheikh Al-Azhar died in 1996 AD, the position was then entrusted to him and on March 10, 2010, he died in Saudi Arabia during an acute heart attack at the age of 81 years. . During his life, Muhammad Sayyid Thanthawi devoted himself to education as a lecturer in the field of interpretation and hadith at various universities. He is also known as a cleric who has very moderate thoughts and his opinions often conflict with those of the militants.<sup>29</sup>

<sup>27</sup> Amir Syarifuddin, *Ushul Fiqh Jilid 2*, (Jombang: Kencana Prenada Media Group, 2011), h. 98.

<sup>28</sup> Hasdin Has, "Sayyid Muhammad Thanthawi Dan Peranannya Dalam Tafsir Alqur'an (Telaah Metodologi Kitab: Tafsir Al-Wasith)," *Shautut Tarbiyah* 16, no. 2 (2010): 40.

<sup>29</sup> Abdurrahman Kasdi, "Analisis Bunga Bank...", 321.

## ***Istinbath Ahkam Muhammad Sayyid Thanthawi Method In Determining Bank Interest Status***

According to Muhammad Sayyid Thanthawi, Islamic law has many sources, but there are two main sources, namely the Qur'an and the Sunnah. The third and fourth sources, namely ijmak and qiyas, are only agreed upon by the majority of scholars. The Istibath method of Sayyid Thanthawi's law in determining the legal status of a bank is:

### **Al-Qur'an**

The stipulation of the bank interest law by Muhammad Sayyid Thanthawi refers to the Qur'an surah an-Nisa verse 86 which means:

*"If you are honored with an honor, then repay that respect with something better, or repay (with something similar). Verily, Allah takes into account everything."*  
(Surat an-Nisa [4]: 86).

Based on the verse above, according to Muhammad Sayyid Thanthawi that the advantages given by someone when borrowing something from someone are not usury. He argues that it cannot be said that every addition to the main property is considered usury and is forbidden, because several verses of the Qur'an and Hadith do not say that, even strengthening the call to instill a sense of generosity and repay kindness with better goodness. The supporting arguments for the above surah, mean:

*"O you who believe, do not eat each other's property in a vanity way, except by way of commerce which is carried out with mutual consent between you. And do not kill yourselves: verily Allah is Most Merciful to you."* (Surat an-Nisa [4]: 29)

### **Hadits**

Apart from the Qur'an, the basic thought of Muhammad Sayyid Thanthawi is in the hadith, that Rasulullah SAW. has given the excess of the principal debt to the borrower motivated by gratitude and appreciation. As the hadith narrated from Jabir bin Abdullah RA, which means:

*"From Abi Rafi'i Rasulullah SAW. lent from a man a camel, then a man gave a large camel from a sodakoh camel, then the Prophet ordered Abu Rafi'i to repay the camel loan to the man, then Abu Rafi'i returned to the Prophet SAW. while saying, "I do not find any camel except better", then the Messenger of Allah. said: "Give the good camel to the man, for the best of the debtor is the one who pays his debts."*

From the hadith above, Muhammad Sayyid Thanthawi explained that the excess and addition of the principal debt, both in the form of money and animals, both in size and scale, there is no problem given, as long as the addition comes from a sincere heart without any conditions and nothing is haram because there is no prohibition.

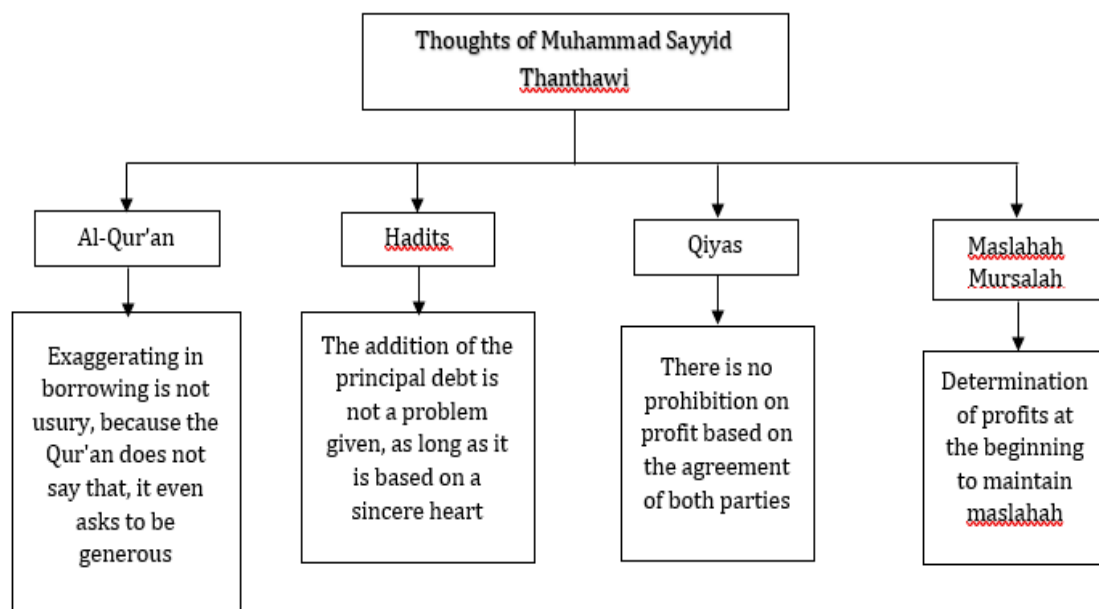
### **Qiyas**

Qiyas is to analogize or equate with a mudharabah contract. Muhammad Sayyid Thanthawi argues using the principle of consensual or mutual agreement. According to him, we do not view that there is a prohibition on determining the advance profit in investment based on the agreement of both parties.

### Maslahah Mursalah

The method of determining the law used by Sayyid Muhammad Thanthawi relates to the law of bank interest, which In this case the interest on investments required for profit at the beginning, that according to Muhammad Sayyid Thanthawi the determination of profits at the beginning in banking in order to maintain maslahah, determination of profit in advance in transactions banking and guarantees for capital provided by banks are included in the maslahah mursalah part, there is even no *text* that prohibits the government from setting policies like this.

Picture 3. Concept Map of Muhammad Sayyid Thanthawi's Thought



Source: Processed by Researchers

### Bank Interest According To Muhammad Sayyid Thanthawi

The reasons for modernists view bank interest as not usury is; that there is a desire in economic life, there is a difference between consumer loans and consumer loans, there is a difference between usury and bank interest, and the existence of *inflationary economics* in economic activity which causes interest rates to rise will correct the losses suffered by creditors due to inflation.<sup>30</sup> According to Muhammad Sayyid al-Thanthawi, any muamalah in Islam must stand on the principle of Ijab Qabul, mutually agree with one another, and eliminate the element of monopoly as long as it is within the limits permitted by Allah. He

<sup>30</sup> Muhammad Sayyid Thanthawi, *Baina Al-Tafsir Wa Al-Ifta*, (Kairo: Majalah Al-Azhar, 2001), h. 69.

also explained that there is no problem if two people working together set an addition at the beginning, as long as both parties agree and are willing. Because the problem of determining interest is a matter of muamalah whose basis is willingness and agreement, not a matter of worship or creed in accordance with Q.S An-Nisa verse 29.<sup>31</sup> The modernists assume that bank interest is not part of usury which is forbidden. According to Muhammad Sayyid Thanthawi, banks do not determine interest in advance, except after conducting a thorough and detailed analysis and study of the international market as well as the national market. Likewise, the determination of interest must refer to ongoing economic conditions. However, the main right is that the bank must also follow the policies and regulations of the central bank as the party providing the bank as well as the party transacting with the party concerned.<sup>32</sup>

Determination of bank interest in advance today brings benefits to investors and the bank. The benefit from the investor's side can be seen that he knows some of the rights that will be obtained. According to Muhammad Sayyid Thanthawi, the determination of interest does not include usury because this is not a matter of faith and worship. Determination of the bank in advance is the same as syirkah mudharabah. Banks do not determine interest unless they have analyzed the economy at that time, and there is no text that prohibits the determination of interest in advance.<sup>33</sup>

## Conclusion

The concept of bank interest according to Umer Chapra and Muhammad Sayyid Thanthawi has a different opinion. Umer Chapra argues that bank interest is part of usury nasi'ah which is forbidden in its form, and its substance because it harms the poor. Therefore, Umer Chapra prohibits the practice of bank interest. Meanwhile, Muhammad Sayyid Thanthawi argues that bank interest is not part of usury because it is not part of faith and worship. The determination of bank interest in advance is the same as syirkah mudharabah. The determination of bank interest is not determined unless it has analyzed the economy, and there is no text that can prohibit it. The bank interest system used is illegal because it can harm other people now and in the future. This is explained in the Qur'an surah Al-Baqarah verse 279 which explains the principle of the loan where every additional loan is usury.

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<sup>31</sup> Muhammad Sayyid Thanthawi, *Mu'âjmalah Al-Bunûk Wa Ahkamûha Al-Syar'yyah*, (Mishr: Dâr Al-Nahdhah, 1997), h. 77.

<sup>32</sup> Muhammad Sayyid Thantahwi, *Bunga Bank Halal?*, (Depok: Keira Publishing, 2019), h. 64.

<sup>33</sup> Abdurrahman Kasdi, "Analisis Bunga Bank Dalam Pandangan Fiqih," *IQTISHADIA* 6, no. 2 (2016): 320.

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