

Politics of National Laws on the Establishment of Islamic Banking

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Abstract: *The aim of this research is to know politics of national laws on the establishment of Islamic banking. The method used in this research using qualitative and historical. Qualitative data is based on the content or quality of a fact. While historical data based on past experiences that describe fully the whole truth of events or facts. This data is sourced from the '45 Constitution, laws, government regulations, PBI, SK Directors Circular BI, and Instruction (Fatwas) DSN-MUI relating to Islamic Banking, newspapers, magazines, journals, articles and research or scientific papers related to the issue being discussed is collected through observation and in-depth interviews. The results of this study revealed that; First, the involvement of government and society in the establishment of Islamic banking, such as; capital (assets), institutions and legislation; second, the internal and external factors that affect both domestic and abroad who encourage the presence of Islamic banking.*

Key words : *politics, laws, establishment, banking, Islam (sharia)*

1. Introduction

Islam, as a religion of divine with its book al-Qur'ân al-Karim, not only is a comprehensive system to regulate all aspects (Marthon, 2007), but also universal and always in accordance with the dynamics of life. According to Ansori, citing Chaptra (2000), one of the aspects of the independence of Islamic values that really stands out is the doctrine and practice of economics. Muslims are excited and very eager to build an economy that is in accordance with the values and ethics of Islam, and the validity of Islam is not bound by space and time. Islamic teaching on economics is part of a larger vision of universal ethics. This means the basic formulas (basic formulation), and the process of economic motivation in the Islamic community in favor of the values of justice and ethical-religious. This shows the difference with the others either Neo-Classical, Marxist, institutional and others (Naqvi, 2003).

In fact, it has many emerging critique of conventional economics. One of them Amartya Sen, in writing Amin (2009), says that keeping economics at a distance from ethics has

impoverished and also undermine a close link between the descriptive and predictive economics. According Marthon (2007) the system of capitalism and socialism, considered less valid and unable to cope with problems of life, so it is expected the existence of a new penetration of alternative economic system that is more capable.

Along with the replacement of growing Islamic system of government towards the Islamic dynasties in a strong government organizations, emerging figures of Muslim thinkers who are categorized as "jurists", the philosophers and Sufis (Amin, 2009). They thought, at first, about the laws relating to worship *maḥḍah* (pure)¹. Then, slowly and demanded by a reality of, growing scientific work including thoughts *ghair maḥḍah* (impure)², such as the economy.

In the period of last 50 years, Islamic economy continues to grow perfecting itself in the midst of

¹ Worship what Allah has decreed will be level, ordinances and details-details. Kind of worship that included mahdhah, are: Wudu, Tayammum, Shower hadats, Prayer, Shiyam etc.

² All practices allowed by God. eg ghairu mahdhah worship is all about learning, remembering, preaching, and helping others.

the diversity of social and economic systems are basically conventional secular system. More than 55, the market of Islamic economy was rising and developing, even some Islamic financial institutions has operations in 13 other locations, namely Australia, the Bahamas, Luxembourg, Switzerland, United Kingdom, United States, and the Virgin Islands.³

In Indonesia, the Islamic economic terms to other countries, better known to use the term sharia economy.⁴ The economic system adopted from al-Qur'an and as-Sunnah, as well as of the economic order built on these foundations have, in accordance with various bi'ah (environment) and every age.⁵ Sharia Economy can also be understood as a science that addressed the subject of the economy from the viewpoint of Islam (philosophy, ethics, etc.), especially from the aspect of the law, and sharia.⁶ That is why, according to Amin Suma, why Islamic economics is sometimes called sharia economy.⁷

There are fundamental problems underlying the different views and interests of the formalization of the enforcement of Islamic sharia as the law in a state system in Indonesia. This difference was built by three groups, each of which has a building arguments. First; movement "Political Islam" is the path to power as a tool to enforce sharia law. Second, the "Cultural Islam" who choose the path of culture and society. Third, the movement "Liberal Islam" that propagate do not need to bring religious issues into the public discourse.

That is characteristic of the law political configurations in political science that have a very big influence on a legal product which is then born, renewed, modified and / or abandoned. These factors include, among others: the legal system (the

³ Mervyn K. Lewis & Latifa M. Alghoud, *Islamic Banking: Principles of Practice and Prospects*, Translation Burhan Subrata (Jakarta: Serambi Ilmu Semesta, 2007), 9.

⁴ See M. Dawam Rahardjo, "Foreword Enforce Islamic Law in Economics", in book Adiwarman A. Karim, *Bank Islam: Fiqh and Financial Analysis* (Jakarta: RahaGrafindo Persada, 2007), edisi ke-3, xii-xiii..

⁵ Ahmad Izzan dan Syahri Tanjung, *Referensi Islamic Economics: The verses of al-Qur'an the Economic Dimension* (Bandung: Renaja Rosdakarya, 2006), 33.

⁶ See Amin Suma, *Regarding Islamic Economics: Study of the Principles of Islamic Economics in Indonesia*, the Supreme Court of the Republic of Capita Selecta *Islamic Banking: Toward Applicability of Law No. 3 of 2006 on the Amendment Act. Number 7 of 1989 (Extension of Privileges Religious Courts)*, (T. Tp: Mahkamah Agung RI, 2006), 39.

⁷ Suma, *Regarding the Islamic Economist*, 39.

basic norms of the state and the state philosophy); religiousism; humanism; culturalism; globalization; ethnical assimilation; liberalism; feudalism; socialism; militarism; interrelationship of Civilizationship; authoritarianism; capitalism⁸ and so on.

Legal political configuration in the preparation of Islamic Banking Act has the purpose to facilitate orientation and the will of the Islamic community in Indonesia, which has long been fighting for the role of Islam in state and society in the form of implementing Islamic law. This meant that the Muslims would have given tranquility to their heart by using the services of Islamic banking (in accordance with the teachings or religious affiliations), since many Muslims who do not want to keep their funds or conduct transactions by using the services of conventional banks.

Islamic banking⁹ which was established in 1991 (on the initiative by Council of Indonesian Ulama, the Association of Indonesian Muslim Intellectuals and Muslim entrepreneurs are supported directly by the New Order government and society, both in the form of moral and capital), continues to experience growth and development until mid-1997, the spectacular growth actually occurred since the economic crisis of 1997. this was partly due to the ability of Islamic banking in the face of monetary flows characterized by very high interest rates, while Islamic banking is free from negative spread because it is not based on interest.¹⁰

Although, the development of Islamic banking has not been matched by progress of regulation or legislation specifically elaborate on the specificity of Islamic banking. The development and the progress both in the institutional field, and the capital has been very significant and give effect to the tranquility on the demands of Islamic society.

In this study was limited to issues relating to the politics surrounding the national law of sharia banking in Indonesia. While the purpose of this study include the following general purpose and special purpose. The general objective was to elaborate on how the government's policy towards

⁸ Abdul Gani Abdullah, *Lecture Notes Graduate School Syarif Hidayatullah State Islamic University Jakarta*, April 14, 2010.

⁹ Heri Sudarsono, *Banks and Islamic Financial Institutions Description and Illustration* (Jakarta:Ekonesia, 2007), ed.2, Cet.4, 29)

¹⁰ Zainul Arifin, *Understanding Islamic Bank; Scope, Opportunities, Challenges and Prospects* (Jakarta: Alfabet, 2000) Cet.III, ix

the development of Islamic banking can be realized well. Specifically, the study aims to: 1) analyze and determine what factors influence the politics of Islamic banking law; 2) analyze and determine how political national law against the legal establishment of Islamic banking in Indonesia.

2. Literature Review

a. Law politics

According to Mahfud MD (2009), the law is a legal political lines (policy) official about the law that applied to both the making of new laws and with the replacement of the old law, in order to achieve the objectives of the state. Thus, the law politics is a choice about the laws that will be enforced at the same choices about the laws that will be revoked or not enforced. All are intended to achieve the country's goal as stated in the preamble of the 1945 Constitution.

Legal political terms themselves are very varied.¹¹ Various political understanding of the law include: first, the development of the core law-making and renewal of the material laws in order to fit the needs: the second, the implementation of the provisions of existing laws,¹² including the assignment of functions of institutions and law enforcement training.

Also added by Padmo Wahjono,¹³ who said that the law politics is a policy of State administrators about what is the criterion to judge anything. In this case the policy can be associated with the formation of the law, the application of laws and law enforcement itself.

law Politics of a country is different from the law politics of other state. The difference is due to differences in philosophy, historical backgrounds, worldviews, socio-cultural (values that live in the community), and the political will of each government.

Political aims to mobilize the power of the community to achieve the objectives that have been defined previously. While the laws are the rules concerning the rights and obligations of society that

¹¹ Mahfud MD, *Political Law in Indonesia* (Jakarta: Rajawali Press, 2009), 1

¹² Artidjo Alkosta, (Editor), *the National Law Development Policy Perspective in National Legal Identity* (Yogyakarta: FH-UII, 1997), 37

¹³ Padmo Wahyono, *Investigate the process of formation of Legislation* (Forum Keadilan: Jakarta: 1991) No. 29, 65

must be obeyed. Therefore, the law will be a tool that is ready to be manipulated, ready to consolidate the strengths and win adherence citizens.¹⁴

Politics gives a feel that is very significant to the law. Clattering and legal steps are often obstructed his way to the aspired law. Therefore, the legal stained by political and legal position of course be weaker than politics. Law Politics can simply be defined as a legal policy¹⁵ that will be or have been implemented nationally by the government; also include the understanding of how politics affects the law by looking at the configuration of the power that is behind the adoption and enforcement of the law.¹⁶

b. National Law Politics

Political law generally helpful to know how the processes covered in the six study area that could result in a legal policy that suits with the needs and the sense of justice. Six areas of study, of course, are integral¹⁷ to each other.

At this stage we would like to know whether the values and the growing aspirations of the people have been accommodated by state officials who formulate legal politics or maybe even vice versa. The study on this field is important to do because the law was, substantially, never separated from the spiritual structure of the relevant community, or the community that supports the law. This means that when the law was built on a foundation that is not in accordance with the spiritual structure of society, we can be sure the people's resistance to that law will be very strong. The value associated with the applicability of the theory of law, good law qualify sociological, philosophical, and juridical.

A legal expert from Austria, Eugen Ehrlich, argued that the effect of law in society have to do with legal approach in the society itself. This means that, "A good law is the law in accordance with the laws of life in society". This theory stems from the

¹⁴ Satjipto Rahardjo, *Build and Remodel law Law Indonesia An Interdisciplinary Approach* (Yogyakarta: Genta Publishing, 2009), Cet. Pertama, 112

¹⁵ Solichin Abdul Wahab, *Analysis of Policy Formulation to Implementation of State Policy* (Jakarta: Bumi Aksara, 2008), Cet. Ke-6, 2.

¹⁶ M. Mahfud MD, *Political Law in Indonesia*, 9.

¹⁷ The word "integral" comes from the Dutch language "*Integral*" or in English "*integral*" means the whole; cover all areas that need to be complete, intact, and perfectly round, Katon Y. Stefanus, *A Critical Assessment Against Theory Integralistic in Indonesia* (Yogyakarta: Universitas Atmajaya, 1998), 18

difference between positive law with the law of life (living law) in the community. He stated in the positive law will only be effective if aligned with the law in the society, which in terms of anthropology known as the cultural patterns.¹⁸

Nasional Legal politics of Indonesia established in order to realize the goal of the ideals the country which includes two aspects are interrelated (1) is as a tool or means and steps that can be used by governments to create a legal system that is desired, (2) with national legal systems will be realized the ideals of the Indonesian nation is greater.

In Article 7 paragraph (1) of Law No. 10 of 2004 on the establishment of regulations and legislation, the hierarchy of laws in Indonesia are of: (1) the Constitution of the Republic of Indonesia Year 1945, (2) the Act, (3) Government Regulation in Lieu of Law (perpu), (4) Government Regulation (Peraturan pemerintah), (5) Presidential Decree (Decree), and (6) District Regulation (Perda).¹⁹

The top legislation, the legislation that is higher than beneath it. Therefore, the under legislation must not conflict with the laws and regulations that are in it (Explanation of Article 7, paragraph 5 of Law No. 10 of 2004).

Political Characteristics of National Law refers to the laws in force in the community both religious law and customary law. In the Guidelines, item-2 TAP MPR No. IV / MPR / 1999 said that organize a national legal system that fully recognizes and respects the religious law and customary law and renew the laws inherited from colonial and discriminatory national laws, including gender inequality, and it is incompatible with the demands of reform through legislation.²⁰

Politics national law established in order to realize the ideals and objectives of the Republic of Indonesia in accordance with the 1945 Constitution and Pancasila as the basic philosophy of the Republic of Indonesia. Explicitly stated that the

¹⁸ Soejono Soekanto, *Principles of Sociology of law*, Jakarta: Rajawali, 1991), 36.

¹⁹ Law No. 10 Year 2004 on the Establishment of Legislation quoted from the State Gazette of 2004 as contained in the 53 http://www.parlemen.net/site/docs/UU_NO_10_2004.pdf.

²⁰ State Policy Guidelines (Guidelines), in point-2 TAP MPR No. IV / MPR / 1999 on the Guidelines of State Policy on Policy Direction legal field. State Policy Guidelines (Guidelines), in point-2 TAP MPR No. IV / MPR / 1999 on the Guidelines of State Policy on Policy Direction legal field.

Indonesian state to protect the homeland and all Indonesian citizens both inside and outside the country. The unitary state of Indonesia a fixed price that had to be positioned above personal or group interests. To that end, the split will not be tolerated and unity of the nation is something that should be encouraged and sustained.

Besides that, in politics of the law can be realized practical purposes to allow regulation of positive law formulated better and to provide guidance, not just to lawmakers but also to the court that enacted laws and also the organizers or executing a court decision.²¹

Politics in the Islamic banking law is as a protection against the interests of society (Islam and Economy) that exist within the country itself. This because countries want the situation and condition of the people happy, prosperous, just, prosperous, and so forth.

c. Sharia Banking Law

Banking law is a set of laws that govern the activities of financial institutions, includes all aspects, in terms of essence and existence, and its relationship to other areas of life.²²

Islamic banking is anything that involves about Sharia Bank and Sharia Business Unit, covering institutional, business activities, as well as the manner and process of carrying out its business activities.²³ Islamic Banking is a financial institution that works to attract (collecting) the financial resources derived from individuals of society, and perform its function in ensuring the greatness and financial growth is based on the principles of Islamic law, and the role of the service of the people and efforts to improve their economies.

The Objectives of Islamic banks / Islam is not just to collect the treasures of the Muslims themselves, but the goal is essentially to implementing the task of operational bank for increased productivity nationalism, supply of capital for the community and the fulfillment of their needs, as well as the

²¹ M. Hamdan, *Criminal Law Politics* (Jakarta: Raja Grafindo Persada, 1997), 13

²² Hermansyah, *Indonesian National Banking Law*, (Jakarta: Prenada Media Group, 2008, Cet. Keempat, 39

²³ Law OF the Republic of Indonesia Number 21 Year 2008 on Islamic Banking, Chapter I, General Provisions, Article 1 (1)

objective to achieve a profit for each customer, the bank and the public.

Islamic banks emerged in Indonesia the caused by impulse wishes of the people of Indonesia, especially the Muslim community, who believe that the bank interest is *riba* that is forbidden by Islam. However, not all Muslims found that bank interest is haram. Pros and cons of this is causing birth and development of Islamic banking in Indonesia is very slow. Judging from the legal aspect, the Islamic banks in Indonesia is Law No. 7 of 1992. The law is Expressed as bank profit sharing principle.²⁴

Islam organizes his people in all things, which are governing the relationship between creatures and God and the relationship of creatures with creature such as human relations.²⁵ Relationship with God being manifested in worship then arranged with *fiqh* of worship. And the relationship with the creature being governed by *Fiqh Muamalat*. One of the discussion in *Fiqh Muamalat* is the Islamic economy.²⁶ Later in Islamic economics there is discussion about Islamic banking.

The foundation used in Islamic banking is Al-Qur'ân (revelation of Allah conveyed to the Prophet Muhammad, through the angel Gabriel) and the Sunnah of the Prophet (sayings, deeds and attitudes of the Prophet.) The later *ijma* and *qiyas* are in *ijtihadkan* by Council National Sharia.

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Sharia Supervisory Board (DPS) is the element that distinguishes Islamic banks and conventional banks. Sharia Supervisory Board (DPS) oversees the bank's operations and products to comply with the provisions and guidelines of sharia. Sharia Supervisory Board is usually placed on a level position BOC on each bank. This is to ensure the

effectiveness of any opinions given by the Shariah Supervisory Board. Because of that, the establishment of the Sharia Supervisory Board (DPS) is usually done by a general meeting of shareholders (AGM), after members of the DPS recommendation from the National Sharia Council (DSN). DSN MUI is an autonomous body known as *ex-officio* Chairman of the MUI, while the daily activities carried out by the Executive Agency DSN DSN Daily.²⁷

3. Research Methods

a. Types of research

This data is qualitative and historical. Qualitative data is based on the content or quality of a fact, as the data and explanations explanation unraveled that is based on books, newspapers and articles collected authors who deal with politics of Islamic banking law which was then analyzed in order to answer the problems that exist.

While historical data based on past experiences that describe fully the whole truth of events or facts which is based on activities such as evaluating an object or character past the events in the light of today's standards and culture.²⁸ What is meant by historical data here are the data related to the development of Islamic Banking law in the country of Indonesia.

b. Data Source

Sources of data in this research is divided into two, namely primary data sources and secondary data sources. Sources of primary data in this study are: (i) the '45 Constitution Article; (ii) Act No. 7 of 1992 on Banking; UU no. 10 Year 1998 on Banking; UU no. 21 of 1992 About Islamic Banking; Law No. 23 of 1999 concerning Bank Indonesi; Number 3 of 2004 on the Amendment Law of the Republic of Indonesia Number 23 of 1999 concerning Bank Indonesia; (iii) PP, PBI, SK Directors Circular BI, and Fatwas DSN-MUI on Islamic Banking. Secondary data sources are data obtained through data which has been researched and compiled by other parties associated with the problem of this research.

²⁴ Muhammad Sholahuddin dan Lukman Hakim, *Economic institutions and Contemporary Islamic finance*, 76.

²⁵ Sauqi Ahmad Dunya, *An alternative Islamic Economic System* (Jakarta: Fikahati Aneska, 1994), Cet. 1, 120

²⁶ Mustafa Edwin Nasution, *Intro Exclusive: Islamic Economics* (Jakarta:Kencana, 2006), ed. I., Cet-2, 12

²⁷ Heri Sudarsono, *Intro Exclusive: Islamic Economics* (Ekonnisia: Jakarta, 2007), Ed. 2, cet. 4, 42

²⁸ Husein umar, *Research Methods For Thesis and Thesis Business*, Jakarta: P.T. Raja Grafindo Persada. 2003), 22. lihat juga lexy J. Maleong, *Qualitative Research Methods* (Bandung: PT. Remaja Rosda Karya, 2002), 18

c. Data Collection Techniques

This data is sourced from the '45 Constitution, laws, government regulations, PBI, SK Directors Circular BI, and Instruction (Fatwas) DSN-MUI relating to Islamic Banking, newspapers, magazines, journals, articles and research or scientific papers related to the issue being discussed is collected through observation and in-depth interviews.²⁹

d. Technique of Data Analysis

To analyze the collected data, the authors used a method Contents Analysis (research documentation), for the collection of data and information will be testing records and documents. Descriptive analysis, the authors conducted an analysis on each description of the data cited by the author. The data obtained and analyzed through the description of data, reduced, mapped and sorting is done in accordance with the focus of research. While the approaches is sociological perspective approach anthropological research methods study documents Law and at the stage of final conclusions made interpretation of the data, connect with each other. By analyzing the descriptive is expected any fact that there can accept logically and scientifically.

4. Results

The findings in this study that: at first, the establishment of Islamic banks in the world have a significant influence on the birth of Islamic banking in Indonesia; First Egypt Mit Ghamr Bank nor Nasr Social Bank; Faisal Islamic Bank, a commercial bank commercial Islamic International Bank for Investment and Development, involving the political elite of government, the role of government is very large, either in the form of regulation, infrastructure and capital; Secondly, Pakistan, abolish the system of non-bank financial institutions, with a non-usurious system; Third, Iran, the Islamization of the banking system made nationally after the establishment of the Islamic Republic of Iran; Fourth Philippine Amanah Bank, Bank Islam Malaysia, also involving the government. All existing Islamic banks in the world will become the frontline when their direct

government involvement both in general cultural and structural issues, in particular.

This study also provides elaboration: that the politics of law on the formation of Islamic banking is divided into several phases and factors that influence it.

a. The era of the establishment for Islamic banking

- 1) *Phase of old order*, in which efforts to enforce Islamic sharia formatted through the Jakarta Charter, a failure, although it has been prepared by Agency investigators efforts of Indonesian independence (BPUPK) or Indonesian independence preparatory committee (PPKI)
- 2) *Phase of the new order*, that is the establishment of BMI, which is initiated by the Indonesian Ulema Council, the Indonesian Muslim scholars, and the public. As to the capital for the establishment of the bank was initiated by President Soeharto (to set aside funds from Yayasan Amal Bhakti Muslim Pancasila), the cabinet of the new order, a Muslim businessman and the public at large. Then the government and the DPR establishes the Law No.7 / 1992 on Banking, where the bank for the results to be accommodated. It is based on the accommodating attitude of the government towards the aspirations of the people;
- 3) *Phase reforms*, succeeded in amending the Law No. 7 of 1992 with the enactment of Law No. 10 of 1998 which is more clearly positioned with the position of Islamic banking. In this period also born of Law No. 10 of 2008 concerning Islamic Banking which was ratified on 17th June 2008. This law explicitly mentions the Islamic Banking. If we review the perspective of Islamic law, enforcement of Shari'a in Muslim-majority countries is an obligatory duty as kifayah.

b. The outline of the factors that influence on the formation of Islamic banking in Indonesia are divided into two:

- 1) Internal factors

²⁹ See Arthur Asa Berger, *Media and Communication Research Methods: An Introduction to Qualitative and Quantitative Approaches* (California, Sage Publications, 2000), 57.

- (a) *Ideology*; Pancasila as the basic philosophy of the Republic of Indonesia guarantee the people and the nation;
 - (b) *Religion*; Article 29 (1) State based upon Almighty God. (2) The State guarantees the freedom of each citizen to profess his own religion and to worship according to their religion or belief was;
 - (c) *Political Power*; Leaders New Order (Suharto) at the time, to build alliances with political parties, hoping to mobilize popular support against him;
 - (d) *Economics*; The Indonesian economy is already battered, New Order regime brought the need for stabilization, rehabilitation-oriented economic development;
 - (e) *Social*; improving the quality of education of Muslims as well as the ability of Islamic scholars in Islamic thought floated the idea that makes the government may not ignore their existence;
 - (f) *Culture*; Indonesia, which has a living culture of togetherness and cooperation.
- 2) External
- (g) (a) *Politics*; is the fact that the Muslim countries in particular, and generally secular state bank has opened and operates a profit sharing principle;
 - (h) (b) *Economics*; Islamic world community wants out of the shackles of the gripping effect of the capitalist system.

5. Discussion

From the results mentioned above can be analyzed that the politics of law on the formation of the Islamic banking; there must be a direct government involvement, both culturally and structurally. Government involvement is not only the disbursement of capital, but more importantly, the government should be able to convert most of the state banks into Islamic banks. This is due to that the Indonesian people are predominantly Muslim, and most scholarly stated on conventional bank interest is unlawful (*haram*).

Thus, the participation of the community in developing Islamic banking in consciousness can be

implemented, either in the form of investments, deposits, credit or financing, or in the form of other businesses. That is, the public will gain tranquility, because it can carry out worship muamalah accordance with the guidelines or instructions of the Koran (*al-Qur'an*). Tranquility in the society are also a part of the destination of the country.

Seen from the factors that influence the formation of Islamic banking that internal factors, have tremendous power and great influence, such as:

Factors *ideology*, which is a guarantee of Article 29 of the 1945 Constitution, freedom of belief and its implementation should be seen as a lack of freedom for Muslims to perform activities in accordance with the civil law concept of Islam as her faith.

The *religious* factor, Indonesia, State-majority embraced Islam of course the teachings of al-Qur'an and al-Sunnah serve as guidelines life (way of life) daily worship either vertically or horizontally, including the basic thinking of the financial systems based on not on the basis bung (usuary), but the scheme for the results (profit and loss sharing).

Political factors, There are two political parties that can provide support to the government, the party NU and PNI. NU prevalent among students in rural areas and among the self-employed Muslims who are the majority indigenous Indonesian business community, as well as having a relatively unified leadership, of course, is to encourage the government to embrace these parties.

Economic factors, presence of Bank Muamalat Indonesia (BMI) in this context, it can help to answer the economic problems faced by the government, the economic crisis are quite prolonged due to the scarcity of development funding sources after the oil boom also pushed the state of the new order to take advantage of financial aid and loans Islamic Development Bank (IDB). Because the IDB established konferensi Organization of Islamic (OIC) on 23 April 1975 was aimed at boosting economic growth and to improve the social welfare of its member countries consisting of 44 Muslim countries in which Indonesia included.

Social factors, because these thoughts in some respects in accordance at have in common with directions and policies developed New Order; and *Cultural factors*, in accordance with the motivation

of the constitution against Sharia Banking, it can be seen in Article 33 paragraph (4) of the Constitution reads: "The national economy shall be organized based principles of economic democracy with the principles of togetherness, efficiency with justice, sustainability and environmental insight, independence and by keeping balance economic progress and national unity. " Because of these factors is a very dominant factor in the banking establishment of sharia in Indonesia.

No less influence also external factors, such as; external political factors, which Indonesia as the second largest Muslim country in the world was intrigued her heart and an open view that Indonesia has a lot of assistance from Islamic banks in the world. Thus the mirror to the Muslim world is unethical, if Indonesia does not immediately create and build the Islamic Bank. While the view of the economic factors, the series of crises repeatedly experienced international financial system throughout the last two decades-which has led to a new awareness of the need for reform of the system architecture Financially also provide fresh air for the development of Islamic finance. Islamic finance is expected to inject discipline at the same time pushing for the fulfillment of the prudential regulation and supervision in the financial industry are factors that encourage the formation of the power of Islamic banking in Indonesia.

6. Conclusion

Politics of national laws on the establishment of Islamic banking requires a lot of support or alignments of the various elements, both government and society. Islamic banking will not be able to stand up, if there is no government involvement or a shared desire directly, particularly in the establishment of a law or regulation and capital. This means that the establishment of Islamic banking should be done through the power or structural. Without government involvement, Islamic banking will not be born or grow, even die. Politically, the establishment of Islamic banks have been affected and in accordance with; spirit of Islam, the state philosophy, politics, economics, and culture of Indonesia as an internal dominant factor, in addition to external factors.

7. Recommendation

In this research, there are some things that can be recommended, among other things:

- a. There are still many differences of opinion among Muslims about the bank's interest, it is necessary to sit down together, to redefine their understanding of Islam according to the interest for bringing harm to the life of the nation in the world;
- b. Government (umaro) and scholars should be coupled more closely in resolving the issue of the country, especially about the law or the rules of the challenge and provide a solution to the operational techniques of Islamic banking, which in practice is still getting criticism that it is still not out of interest system ;
- c. Need for uniformity mindset together acknowledge that Islamic banking as the only bank in accordance with the principles of Islam. Thus, the deal through Islamic banks means to build and run the Islamic Sharia as the command of God;
- d. The government should show partiality significantly to the economy of sharia, as the aspirations of the majority. In fact, the government must have known that Islamic banks have been recognized by the entire international community, as well as resistant to the monetary crisis in 1997.

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