

Fiqh Contracts for BPJS Ketenagakerjaan Syariah: A Conceptual Approach to *Wakalah bil Ujah*, *Wakalah bil Istithmar*, and *Tabarru'*

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Abstract

This research aims to examine fiqh contracts applicable to BPJS Ketenagakerjaan Syariah using a qualitative library research approach. Currently, the implementation of BPJS Ketenagakerjaan Syariah remains limited to the Province of Aceh; therefore, this study discusses the application of sharia principles within BPJS Ketenagakerjaan from a conceptual and normative perspective. The findings indicate that several contracts are relevant for BPJS Ketenagakerjaan Syariah, including *Wakalah bil Ujah*, *Wakalah bil Istithmar*, and *Tabarru'*. These contracts play an important role in Islamic finance, particularly in the context of Islamic insurance, as they support compliance with sharia principles, including the prohibition of usury (*riba*), uncertainty (*gharar*), and gambling (*maysir*). In addition, these contracts reflect key Islamic values such as mutual assistance, solidarity, and fairness in the distribution of risks and benefits among participants. However, the application of these contracts in BPJS Ketenagakerjaan Syariah faces several challenges, including varying interpretations, the need for a clearer framework, and a better understanding of tax implications. Overall, these concepts provide a strong foundation for the development of a sustainable and inclusive Islamic financial system, and their effective implementation requires improved understanding and closer collaboration between financial practitioners, regulators, and ulama.

Keywords:

BPJS Ketenagakerjaan, Fiqh Contracts, *Wakalah bil Ujah*, *Wakalah bil Istithmar*, *Tabarru'*

Introduction

Currently, the implementation of BPJS Ketenagakerjaan Syariah remains limited to the Province of Aceh. This implementation is formally regulated under Regulation of the Social Security Administering Body for Employment (Peraturan Badan Penyelenggara Jaminan Sosial Ketenagakerjaan) Number 2 of 2021 concerning Sharia Services for Employment Social Security Programs in the Province of Aceh (Badan Penyelenggara Jaminan Sosial Ketenagakerjaan 2021). Nevertheless, the growing demand for sharia-compliant public services has encouraged academic and

policy discussions on the possibility of developing a sharia-based employment social security scheme within the BPJS Ketenagakerjaan system.

BPJS Ketenagakerjaan Syariah is therefore discussed in this study as a conceptual framework for a sharia-compliant employment social security model. This initiative is designed to provide comprehensive social security services that align with Islamic principles by ensuring that all operations are free from *riba* (interest), *gharar* (excessive uncertainty), and *maysir* (gambling). In this framework, contributions from both employers and employees are pooled into a fund managed under sharia-compliant principles. These funds are predominantly invested in halal businesses to ensure growth that in line with Islamic ethics. Operating on a risk-sharing basis similar to *takaful* (Islamic insurance), the scheme fosters a system where participants provide mutual assistance and collective solidarity during times of need. Furthermore, BPJS investments are guided by the principles of prudence and responsibility to ensure sustainable growth that aligns with sharia principles. This approach is vital for ensuring long-term financial stability and the continuity of the social security system. This principle is further underscored in Article 40 of the BPJS Law, which highlights the necessity of prudence in investment decision-making. Specifically, this highlights the need for prudential judgment when projecting investment returns and the costs of expanding service capacity. Such prudence is essential for managing financial risks and ensuring efficient fund utilization.

A dedicated Sharia Board oversees all operations to ensure that activities and investments strictly adhere to Islamic law. Regular audits and reviews by the Sharia Board maintain compliance with these principles. Contributions or donations can be structured to include a *Tabarru'* component, where participants voluntarily allocate a portion of their contributions to help those in need, thereby fostering a spirit of mutual cooperation and solidarity.

BPJS Ketenagakerjaan Syariah offers several advantages, such as fulfilling the requirements of Muslim participants seeking religious compliance, as well as enhancing transparency, trust, and community solidarity. By providing sharia-compliant security, the system ensures that participants' contributions and benefits align seamlessly with their religious beliefs. Additionally, enhanced transparency and ethical management increase greater trust among participants. Community solidarity also encourages a sense of togetherness and mutual cooperation, reflecting Islamic values in social welfare.

BPJS Ketenagakerjaan Syariah offers benefits comparable to the conventional system, yet they are strictly structured according to sharia principles. These benefits include: Work Accident Insurance, which provides coverage for medical, compensation, and rehabilitation costs resulting from work-related accidents or illnesses; Old Age Security, which manages employee retirement savings prepared in accordance with sharia; and Pension Security, which offer regular pension payments to retired employees, ensuring financial stability during retirement. Equally significant is

the Death Security, which provides essential financial assistance to the families of deceased participants. In addition, the scheme may also include Unemployment Security, which provides temporary income support, job placement services, and skills training for participants who experience job loss, structured in a manner consistent with sharia principles.

The implementation of BPJS Ketenagakerjaan Syariah encounters several significant challenges, most notably regarding public awareness and education. It is essential to educate employers and workers about the benefits and how BPJS Ketenagakerjaan Syariah works to ensure broad acceptance and participation. In addition, developing a strong regulatory framework is crucial to support and monitor the implementation of sharia-compliant practices within the BPJS Ketenagakerjaan system. Meticulous planning is also required to integrate sharia-compliant practices into existing systems without disrupting service delivery. While stakeholder support is vital for success, resistance may arise due to the systemic changes required. Therefore, engaging stakeholders effectively and providing transparent information regarding the new system's objectives is important to overcoming these challenges.

Furthermore, another challenge is integrating this new system with the existing social security system. This integration requires significant changes that may be complex and time-consuming. This is confirmed in research by Firdausi et al. (2023), which highlights the need for a comprehensive framework to ensure smooth integration between new and existing systems. Another challenge is the potential for differing sharia interpretation among stakeholders. Since sharia law is based on the interpretation of Islamic principles, different scholars may have varying opinions regarding the application of these principles. This can lead to inconsistencies in the implementation of BPJS Ketenagakerjaan Syariah. Therefore, it is important to establish a clear sharia interpretation framework to ensure consistency and fairness in the application of Islamic principles (Najah 2018).

The initiative to establish BPJS Ketenagakerjaan Syariah reflects Indonesia's commitment to accommodate the needs and ethics of its predominantly Muslim population within its social security framework. Ongoing efforts are being made to engage Islamic scholars, financial experts, and regulatory bodies to develop and effectively implement a sharia-compliant social security system. BPJS Ketenagakerjaan Syariah is a significant step towards inclusive and ethical employment-related social security, ensuring that Muslim participants can benefit from social protection while adhering to the principles of their religion.

Therefore, it is important to consider the types of contracts (*akad*) that can be utilized in implementing sharia-compliant social security. The *fiqh* contracts used in BPJS Ketenagakerjaan Syariah are primarily grounded in Islamic jurisprudence, particularly within the framework of *mu'amalah*, which encompasses transactions and social interactions based on Islamic law. BPJS Ketenagakerjaan Syariah utilizes several types of contracts recognized within Islamic law: 1)

Wakalah, an agency contract where one party (the agent) acts on behalf of another (the principal). In the context of BPJS, it allows for the management of funds and benefits on behalf of the participants (Lubis 2023). 2) *Tabarru'*, a donation contract that forms the basis for mutual assistance among participants. Participants contribute to a fund used to provide benefits to those in need, reflecting the communal spirit of Islamic finance (Jamal et al. 2024; Lubis & Pradini 2024). 3) *Murabahah*, although less common in social security contexts, this profit-sharing contract can be applicable regarding investments made by BPJS with the collected funds, ensuring that all transactions are compliant with sharia law (Jamal et al. 2024).

A number of studies that are relevant to fiqh contracts for BPJS Ketenagakerjaan Syariah include Saniah (2021), who highlighted the contract aspect in the BPJS Kesehatan program and found that the contract is in accordance with sharia principles if it is understood by all parties and does not violate sharia rules. Sukriyono et al. (2019) and Listyadewi & Pasaribu (2024) evaluated the implementation of sharia principles in BPJS Ketenagakerjaan, highlighting the challenges and potential for developing this sharia program, particularly in the context of Province of Aceh. Furthermore, Rufani et al. (2023) and Murtiana (2023) provide an overview of the influence of service quality and the future of sharia insurance in the context of BPJS Ketenagakerjaan, while Rais et al. (2020) and Imaniyah & Agus (2019) highlight aspects of Islamic law in general BPJS management.

Based on these previous studies, there has been little research specifically examining the fiqh contracts for BPJS Ketenagakerjaan Syariah. Therefore, to fill this research gap, this study discusses the fiqh contracts utilized in BPJS Ketenagakerjaan Syariah.

Literature Review

The Social Security Administering Body (BPJS) is a public legal entity responsible to the President, providing protection to all Indonesian workers in both formal and informal sectors, including Indonesian or foreign citizenship status (provided they have worked in Indonesia for at least six months). Specifically, BPJS Ketenagakerjaan is a program focused on work-related social security, including work accident insurance, old-age benefits, pensions, and death benefits. This program aims to provide welfare to employess, guaranteeing income security when they are no longer in the workforce.

Along with its development, BPJS Ketenagakerjaan Syariah emerged by integrating Islamic principles into its operations. This program is based on Islamic law principles, which emphasize mutual cooperation, non-profit motives, openness, prudence, accountability, portability, mandatory participation, and the utilization of funds for the greatest benefit of society (Imaniyah, 2019; Murtiana, 2023). These principles are important to ensure that the program remains socially responsible and aligned with Islamic religious values.

Furthermore, fiqh contracts (*akad*) are a crucial aspect of implementing sharia-compliant Social Security. Referred to as '*Aqd*' in Islamic jurisprudence, these contracts are foundational elements in Islamic finance and transactions, representing agreements that are binding and enforceable under sharia law. The term "*Aqd*" literally means to tie or bind, indicating the commitment between parties involved in a transaction. Technically, a fiqh contract is defined as a combination of an offer (*Ijab*) and an acceptance (*Qabul*) that creates legal obligations for the parties involved. This definition emphasizes the mutual consent required to form a binding agreement in Islamic law (Finance 2020; Puneri 2021). According to Islamic jurisprudence, several key elements must be present for a fiqh contract to be valid: 1) Offer and Acceptance (*Ijab* and *Qabul*): There must be a clear offer made by one party and an acceptance by another, both expressed in clear terms. The two must occur within the same session to ensure mutual agreement (Finance 2020; Puneri 2021). 2) Subject Matter: The object of the contract must be lawful (*halal*) and clearly defined to ensure both parties understand what is being exchanged or agreed upon (Puneri 2021; Sudiarti 2016). 3) Contracting Parties: Both parties must possess the legal capacity to enter into a contract, meaning they must be of sound mind and mature enough to understand the implications of their agreement (Finance 2020; Irfanudin 2023).

The implementation of fiqh contracts in BPJS Ketenagakerjaan Syariah focuses on adhering to Islamic legal principles while providing social security benefits. This system is designed to ensure that all transactions and contracts comply with sharia law, promoting ethical practices and mutual assistance among participants. The operational framework for BPJS Ketenagakerjaan Syariah is primarily guided by the DSN-MUI Fatwa No. 147/DSN-MUI/XII/2021, which outlines the principles and contracts permissible under sharia law for employment social security. This fatwa serves as a foundational guideline for implementing sharia-compliant social security systems in Indonesia (Finance 2020; Puneri 2021).

There is still not much research that examines BPJS Ketenagakerjaan Syariah. Research that is relevant to this research topic includes research from Saniah (2021) analyzing sharia economic law on contracts in the BPJS Kesehatan program. In this research, it is explained in principle that public health insurance is one of the state's duties. Indonesia, as a large country, has regulated social security in the form of health prevention for the community, which is realized in the National Health Insurance program organized by the Social Security Administering Body (BPJS) Kesehatan. As a country with a majority Muslim population, Indonesia places significant importance on sharia aspects, particularly regarding whether contracts within the BPJS Kesehatan program align with Islamic law. This is essential because Muslim participants' lives are guided by religious rules that govern all sectors, including health insurance. This research finds that the contracts used in the BPJS Kesehatan program are permissible (*halal*), provided their terms are clearly understood by all

parties to avoid *gharar* (uncertainty). Furthermore, mutual consent (*an-taradhin*) is a primary requirement in every muamalah contract to ensure that the acquisition of property is neither fraudulent nor in violation of sharia provisions.

Sukriyono et al. (2019) analyzed sharia principles in BPJS Ketenagakerjaan, especially in the scope of substance, organization and operational implementation of employment social security, as well as appropriate contract models. In the 1945 Constitution of the Republic of Indonesia article 34, the State must develop a social security system for all Indonesian citizens. Based on this basis, the National Social Security System and BPJS Ketenagakerjaan were formed. The mandatory membership in BPJS Ketenagakerjaan necessitates that the agency provides social security based on sharia principles to fulfill the rights of citizens seeking religious compliance. This research indicates that participation concepts in the wage earner, non-wage earner, and construction service segments currently contain elements of *gharar* (uncertainty), *maysir* (gambling), and *riba* (usury), which do not align with sharia principles, particularly in the interactions between participants and the agency. However, from a philosophical standpoint, the implementation of social security is consistent with sharia values. To ensure full sharia compliance, a Sharia Supervisory Board is essential. Furthermore, it may be necessary to expand into sharia-compliant markets overseas when domestic markets are insufficient to absorb the managed funds. Additionally, the appropriate use of *Tabarru'* and *Tanahud* contracts in program management, alongside *Wakalah bil Ujrah* and *mudharabah musytarakah* as the basis for transactions between participants and BPJS Ketenagakerjaan, remains crucial.

Listyadewi & Pasaribu (2024) explain sharia services and principles in administering employment social security in Indonesia. According to this research, the implementation of BPJS Ketenagakerjaan Syariah as well as employment social security programs which are in the initial stages of implementing sharia principles is still limited to the Old Age Security program and only in Province of Aceh. The results of this research conclude that there is potential to expand the coverage of BPJS Sharia Employment, especially in Province of Aceh. National sharia economic and financial development has an important role in reducing poverty and encouraging economic equality, including through regional development. Socialization activities in the form of introducing the BPJS Ketenagakerjaan Syariah program are important to carry out on a massive scale in line with the moment of national sharia financial revival.

Rufani et al (2023) analyzed the influence of service quality on sharia customer loyalty at the BPJS Ketenagakerjaan. This research specifically aims to examine the partial and simultaneous influence of physical evidence, reliability, responsiveness, assurance and empathy on customer loyalty at BPJS Ketenagakerjaan Banda Aceh Branch Office. The research showed that partially and simultaneously tangible (direct/physical evidence), reliability, responsiveness, assurance

(guarantee), and empathy (attention) have an influence on customer loyalty in choosing Employment Social Security Providers in Banda Aceh. This can be seen from $F_{\text{count}} > F_{\text{table}}$ or 15,598 > 2,311 with the determinant value of the multiple correlation coefficient of 0,903 being positive, meaning that the variables physical evidence, reliability, responsiveness and assurance have a very strong influence on empathy or 90,3%.

Murtiana (2023) examined the future of sharia-based employment insurance within BPJS Ketenagakerjaan. This research explains that data from the Indonesian Financial Authority shows a very large gap between conventional insurance and sharia insurance regarding their contribution to Indonesia's GDP in the third quarter of 2018. Conventional insurance contributed 31,7%, while sharia insurance accounted for only 1,13%. This suggests that Indonesia, despite having the world's largest Muslim population, lags behind other Muslim-majority nations in developing a sharia economic market. In contrast, Malaysia, with a smaller Muslim population, has successfully established a robust sharia economic market and insurance framework within its social security institution, the Employees' Provident Fund (EPF). The research concludes that developing sharia insurance depends not only on the schemes introduced by BPJS Ketenagakerjaan but also on the central government's willingness to establish a new regulatory framework.

Furthermore, Rais et al. (2020) studied Islamic law regarding the management of the Helath Social Security Administering Body (BPJS Kesehatan). Their research defines BPJS Kesehatan as a mutual cooperation (*gotong royong*) guarantee program with mandatory, non-selective participation and a contribution-based system. The services provided include First Level Health Facilities, Advanced Referral Health Facilities, and various supporting health services. However, challenges in the program's implementation have emerged, impacting public health outcomes. Notably, the PBNU's Bahtsul Masail commission, held at the Bahrul Ulum Nahdatul Ulama Islamic Boarding School, concluded that BPJS Kesehatan program is halal and permissible for all groups within the context of Indonesian health insurance.

Imaniyah & Agus (2019) examined the contract of the BPJS Ketenagakerjaan from the perspective of sharia economic law. In providing social security, the government mandates that all Indonesian workers become members of BPJS Ketenagakerjaan. However, given that the majority of the population is Muslim and adheres to the Quran and Sunnah, it is essential to evaluate whether BPJS Ketenagakerjaan complies with sharia economic law. This research concludes that the BPJS Ketenagakerjaan program contracts do not deviate from sharia economic principles. Specifically, the Work Accident Benefits can be categorized as a *Tabarru'* contract, which is based on the principle of benevolence. The Death benefits is an implementation of *at-takmin at-ta'awuni*, representing mutual assistance (*ta'awun*) within a *Tabarru'* framework. Meanwhile, the Old Age Security program is conceptually similar to a *Mudharabah Musytarakah* contract. Likewise, the

Pension Benefits program can be viewed as an adaptation of the inheritance (irits) contract principles.

Overall, these studies discuss the implementation of sharia principles within BPJS Ketenagakerjaan programs, in both health and employment contexts. Saniah (2021) highlighted the contract aspects of the BPJS Kesehatan program, finding that they complies with sharia principles provided the terms are understood by all parties and do not violate Islamic law. Meanwhile, studies conducted by Sukriyono et al. (2019) and Listyadewi & Pasaribu (2024) evaluated the implementation of sharia principles in BPJS Ketenagakerjaan, highlighting the challenges and potential for developing this sharia program, particularly in Province of Aceh. Furthermore, researches by Rufani et al. (2023) and Murtiana (2023) provided an overview of the influence of service quality and the future of sharia insurance in the context of BPJS Ketenagakerjaan, while recent research by Rais et al. (2020) and Imaniyah & Agus (2019) examined aspects of Islamic law in general BPJS management.

The relevance of these studies lies in their complementary approaches in investigating the concepts and practices of BPJS Ketenagakerjaan which are based on sharia principles and their impact on society. By addressing legal, economic, and service-related dimensions, this body of literature provides a holistic understanding of the challenges and potential of the program in providing inclusive and sustainable social security. However, based on this existing literature, there remains a lack of research specifically examining fiqh contracts within BPJS Ketenagakerjaan Syariah. Consequently, further study is required to investigate this specific topic and fill the existing research gap.

Research Methods

This study employs a qualitative research method in the form of a library study, aiming to describe the issues under investigation, specifically related to the fiqh contract (akad) of BPJS Ketenagakerjaan. Library research, also known as a literature review, involves collecting data from books, academic journals, legal regulations, and other scientific literatures. Qualitative research utilizes a natural setting to interpret phenomena through various established methods. According to Zed (2004), library research or literature review constitutes a series of activities focused on collecting, reading, noting, and processing library materials exclusively, without the necessity of field research.

The data utilized in this study consist of secondary sources, including books, journal articles, DSN-MUI Fatwas, and other relevant scientific literature. The collected data are analyzed using a descriptive-analytical method, which follows three stages: data reduction, data presentation, and conclusion drawing or verification. Data reduction involves summarizing and selecting relevant

data obtained from journal articles and other secondary sources, focusing on essential and relevant aspects, and organizing them systematically. Subsequently, the data presentation stage presents the information derived from the reduced data to facilitate drawing conclusions. Finally, the conclusion drawing and verification stage involves interpreting the synthesized data and formulating meaningful conclusions.

Library research is a systematic method of gathering, evaluating, and utilizing information from various academic resources. This process involves identifying relevant sources, such as library catalogs, databases, scholarly journals, and books to retrieve pertinent data. Furthermore, it requires synthesizing information by integrating disparate data points to form a comprehensive understanding of the subject matter. Library research is fundamental in academic settings, as it provides the necessary foundation for assignments, projects, and theses. Ultimately, this methodology fosters the development of critical thinking, information literacy, and advanced analytical skills.

By utilizing the aforementioned qualitative methodology and descriptive-analytical framework, the following section presents the results of the study. This discussion focuses on the application of fiqh contracts within BPJS Ketenagakerjaan Syariah and evaluates their alignment with Islamic economic principles based on the synthesized literature.

Result and Discussion

BPJS Ketenagakerjaan operates as a non-profit entity mandated by the Indonesian government to provide social security protection to all workers, including those in the informal sector. Its primary income source of income is the contribution fees paid by its members (Wandebori 2019). The organization emphasizes three core competencies: reliability, responsiveness, and innovation. These competencies are essential for enhancing service quality and ensuring member satisfaction (Paramita 2022; Wandebori 2019). Currently, BPJS Ketenagakerjaan provides five main social security programs: 1) Old Age Security, financial assistance upon retirement or disability, 2) Death Benefit, financial support to beneficiaries of deceased workers, 3) Work Accident Insurance, coverage for accidents occurring in the workplace, 4) Pension Fund, ongoing financial support for retirees, and 5) Unemployment Benefit, a protection program given to workers/laborers who have been terminated . To expand coverage, especially among informal workers, BPJS Ketenagakerjaan collaborates with financial institutions to integrate social security programs into their loan products. This strategy aims to increase participation rates by making services more accessible (Paramita 2022).

Furthermore, in line with the growing needs of the community and the development of social insurance in Indonesia, BPJS Ketenagakerjaan, has developed a model that aligns with Islamic financial principles. This model is specifically grounded in sharia contracts, including *Wakalah bil Ujrah*, *Wakalah bil Istithmar*, and *Tabarru'*. In the context of BPJS Ketenagakerjaan Syariah, the agency acts as a representative (*wakil*) for its members in managing contributions and distributing benefits. The fees collected can be categorized as *ujrah* (management fees) for the services rendered in administering the *Takaful fund* (Vandiantara 2017).

Additionally, the investment strategy of BPJS Ketenagakerjaan Syariah aligns with the *Wakalah bil Istithmar* contract, as it invests participants' contributions in sharia-compliant assets. In this capacity, the agency serves as an agent responsible for managing these investments on behalf of the participants (Wandebori 2019). On the other hand, the contributions made by participants to the sharia program can be considered *Tabarru'*, as they are intended for mutual assistance (*ta'awun*) during times of need. This aligns with the concept of social solidarity inherent in *Takaful* schemes (Murtiana 2023).

BPJS Ketenagakerjaan Syariah model integrates essential aspects of Islamic finance through its operational framework and service offerings. By adopting contracts such as *Wakalah bil Ujrah*, *Wakalah bil Istithmar*, and *Tabarru'*, the agency not only fulfills its mandate of providing social security but also adheres to the ethical standards of Islamic law. This synergy enhances both the financial sustainability of the program and its acceptance among Muslim participants in Indonesia. The following section provides a detailed overview of the connection between these contracts and BPJS Ketenagakerjaan Syariah.

Wakalah bil Ujrah Contract

Wakalah bil Ujrah is an Islamic financial contract that integrates the concepts of "*Wakalah*" (agency) and "*Ujrah*" (fee or commission). In Islamic finance, *Wakalah* refers to a contract in which a principal appoints another party or entity (the agent) to perform specific tasks on their behalf. The agent is legally bound to act according to the principal's instructions and in their best interest.

Meanwhile, *Ujrah* refers to the compensation or fee paid to the agent for the services provided. Consequently, *Wakalah bil Ujrah* involves an agreement in which the principal appoints an agent to carry out certain tasks, and the agent receives compensation for their services. This structure is commonly used in various financial products and services, such as: *takaful*, investment accounts, and financing products.

In the *Takaful* (Islamic insurance) industry, operators act as agents for the participants (policyholders), managing the *Takaful* funds on their behalf. For these administrative and management services, the operators are compensated through *Ujrah*. Similarly, Islamic banks

employ *Wakalah bil Ujrah* contracts to manage investment accounts, where the bank acts as an agent to invest the account holder's funds and charges a management fee for its expertise.

In some cases, Islamic financial institutions use *Wakalah bil Ujrah* to structure financing products, whereby they act as agents to purchase assets or commodities on behalf of clients and charge fees for their services. The concept of *Wakalah bil Ujrah* ensures that the relationship between the principal and the agent is transparent and that agents are fairly compensated for their efforts, while adhering to the principles of Islamic finance, which prohibits usury (interest) and encourages risk sharing and adherence to a Code of Ethics. There are several things related to *Wakalah bil Ujrah*, including its main principles, differences from other types of agency contracts, advantages and disadvantages, as well as its contemporary applications in Islamic finance.

There are several main principles of *Wakalah bil Ujrah* in Islamic finance. *Wakalah bil ujrah* is a concept that is permissible in Islam and has been applied in gold trading, addressing situations in which physical gold assets are geographically distant from buyers (Shuib et al. 2016). In addition, Islamic Trade Finance (ITF) instruments, including *wakalah*, are based on *muamalat* contracts such as *murabahah*, *bay' al-dayn*, *kafalah*, and *wakalah* which are widely used in Islamic trade finance products (Rahim et al. 2015).

The difference between *Wakalah bil Ujrah* and other types of agency contracts lies in its application in contemporary Islamic credit cards, where it combines contracts such as *qardh*, *kafalah*, and *ujr*, along with sharia issues related to monthly management fees and cash withdrawal fees (Razak 2015). *Kafalah* (guarantee) is generally considered an act of *Tabarru'*, and most classical Islamic jurists were of the opinion that imposing *ujrah* (fees) on *kafalah* is not permissible; however, some contemporary legal experts have allowed it (Alwi et al. 2014).

Meanwhile, the advantages and disadvantages of using *Wakalah bil Ujrah* can also be examined. The legality of the *wakalah* concept is important to establish prior to its application in contemporary gold trading, and it is permissible in Islam (Shuib et al. 2016). Scholars agree that the reward for *ujrah* is in the form of money, goods or benefits, in accordance with the provisions of Islamic jurisprudence and law (Abdulsoma et al. 2017). Moreover, there are numerous contemporary applications of *Wakalah bil Ujrah* in Islamic finance. For instance, Islamic banks in Malaysia offer Bank Guarantee-i (BG-i) using the *kafalah* contract as the primary contract and charge fees for it, although differing interpretations regarding the nature of the *kafalah* and the absence of a standardized method for determining fees remain among Islamic banks (Alwi et al. 2014). In addition, a sharī'ah framework for using *hiyal* in Islamic finance has been proposed, which identifies the distinctive features of valid *hiyal* to develop comprehensive guidelines for their application in Islamic financial engineering (Syed & Omar 2017).

Based on the foregoing explanation, it is evident that *Wakalah bil Ujrah* is a concept that is permissible in Islam and is widely applied in contemporary Islamic finance, particularly in gold trading and Islamic credit cards. This concept is subject to various interpretations and applications, which have implications for costs and fees. However, direct evidence regarding the specific advantages and disadvantages of using *Wakalah bil Ujrah* in Islamic finance remains limited. Therefore, although the discussion above provides insight into its principles and contemporary applications, it does not explicitly address the advantages and disadvantages of its use in Islamic finance.

Wakalah bil Istithmar Contract

Wakalah bil Istithmar is an Islamic financial contract that combines the principles of "*Wakalah*" (agency) with "*Istithmar*" (investment). In Islamic finance, *Wakalah* refers to a contract in which a person (the principal) appoints another person or entity (the agents or representative) to perform a specific task or set of tasks on their behalf. The agent acts in accordance with the principal's instructions and in the principal's best interests. Meanwhile, *Istithmar* (investment) refers to the act of investing funds in various sharia-compliant investment opportunities in order to generate profits. Taken together, *Wakalah bil Istithmar* involves an agreement in which the principal appoints an agent to invest funds in sharia-compliant investment activities. The agent, acting on behalf of the principal, is responsible for managing investments and generating profits. Key features of this arrangement include the agency role, profit-sharing mechanisms, fee structures, and sharia compliance.

Under this contract, an agent (often a financial institution) manages an investment portfolio on behalf of the principal (investor). The agent uses its expertise to make investment decisions that align with the principal's goals and risk tolerance. The returns generated from the investment are shared between the principal and the agent based on a pre-agreed ratio, ensuring that both parties benefit from the investment performance. In addition, the agent may charge a fee for its services, either as a fixed amount or as a percentage of the investment returns, as agreed at the outset of the contract. All investments made under the *Wakalah bil Istithmar* contract must comply with Islamic principles, including the prohibition of interest (*riba*), gambling (*maysir*), and other prohibited (*haram*) activities.

Wakalah bil Istithmar is commonly applied in various sharia-compliant financial products and services, such as sharia investment funds, *sukuk*, private wealth management, and other sharia-based services. Financial institutions use this structure to manage sharia-compliant investment funds on behalf of clients, providing professional management and expertise. In certain *sukuk* structures, the issuer acts as an agent to invest the *sukuk* proceeds in sharia-compliant projects or

assets, thereby generating returns for *sukuk* holders. High-net-worth individuals may also use *Wakalah bil Istithmar* to have their wealth managed by professional financial institutions in a manner that aligns with their ethical and religious beliefs. By combining agency and investment principles, *Wakalah bil Istithmar* offers a sharia-compliant mechanism for wealth management while adhering to Islamic ethical standards.

Although the existing literature on *Wakalah bil Istithmar* remains relatively limited, several studies have examined this contract, including those by Abdurrubi & Aziz (2023), Maksum et al (2021), Rafiullah & Khan (2018), and Putra et al. (2022). However, these studies do not specifically address the application of the *Wakalah bil Istithmar* contract in the context of public insurance schemes, particularly its implementation in BPJS Ketenagakerjaan.

***Tabarru'* Agreement**

Tabarru' is an Arabic term meaning "donation" or "charity". In Islamic finance, *Tabarru'* refers to voluntary contributions made with the intention of seeking Allah's pleasure and assisting others without expecting any form of return. This concept plays a crucial role in the context of *takaful* (sharia-compliant insurance). *Tabarru'* is based on voluntary giving, whereby participants donate a portion of their funds to a collective pool with the aim of supporting those in need. The primary objective of *Tabarru'* is to promote mutual cooperation and solidarity among participants, reflecting the Islamic principle of mutual assistance during times of difficulty. Unlike investment or commercial transactions, *Tabarru'* does not involve any expectation of profit or financial return and is therefore considered purely charitable purpose.

In the context of *takaful*, *Tabarru'* plays an important role. Participants contribute to a shared fund based on the *Tabarru'* principle, which is used to pay claims and provide financial assistance to participants who experience losses. Through this mechanism, risk is shared collectively among participants, in line with Islamic principles of cooperation and mutual protection. In sharia insurance arrangements, any surplus remaining after claims payments and operational costs is typically distributed among participants or retained for future use, rather than being treated as profit for the operator.

There are several differences between *Tabarru'*-based insurance and conventional insurance. *Tabarru'* ensures that *takaful* operations comply with sharia principles by avoiding prohibited elements such as interest (*riba*), uncertainty (*gharar*), and gambling (*maysir*). In sharia insurance, the participants collectively own the sharia insurance fund, and the operator acts solely as a manager on their behalf. In contrast, in conventional insurance, the insurance company owns funds and policyholders pay premiums in exchange for coverage. Overall, *Tabarru'* constitutes a fundamental concept in Islamic finance that emphasizes charitable giving and mutual support,

forming the basis of *takaful* and ensuring that insurance services are delivered in accordance with Islamic ethical and religious principles.

Existing literature consistently recognizes *Tabarru'* as a core element of *takaful*, representing the charitable and cooperative dimension of Islamic insurance (Ali & Hussain 2014; Siswono et al. 2022). Within *takaful* arrangements, *Tabarru'* reflects principles of mutual cooperation and wealth preservation grounded in sharia, emphasizing the prohibition of interest, uncertainty, and gambling, while prioritizing cooperation and collective responsibility (Ali & Hussain 2014; Rahman et al. 2019). *Tabarru'* funds are used to provide benefits in the event of emergencies, such as death, and are therefore very important to the financial sustainability of *takaful* products (Lukman & Elatrash 2017; Siswono et al. 2022). Moreover, the application of *Tabarru'* in *takaful* reflects broader objectives related to social welfare and mutual assistance among participants (Azeez & Ishola 2016).

Currently, there is ongoing discussion regarding the legality and feasibility of *takaful* insurance as an alternative to conventional insurance, particularly in relation to its societal implications, including religious obligations, spiritual fulfillment, and socio-economic impact (Maali & Atmeh 2015; Rahman et al. 2019). In addition, taxation issues remain a subject of debate, especially concerning the imposition of goods and services tax (GST) on *Tabarru'*-based *takaful* products, with the need to balance strict sharia interpretations and broader public interests considerations (Lukman & Elatrash 2017). In conclusion, the *Tabarru'* concept plays a vital role in *takaful*, reflecting the principles of mutual cooperation, social welfare, and financial sustainability, while also enhancing important legal and tax-related considerations.

Wakalah bil Ujrah, *Wakalah bil Istithmar*, and *Tabarru'* are three distinct Islamic financial concepts, all of which have important applications in the context of BPJS Ketenagakerjaan Syariah. *Wakalah bil Ujrah* is a contract in which an agent is appointed to carry out certain tasks on behalf of the principal and receives compensation for the services provided (Nst & Soemitra 2023). In Islamic finance, this contract is commonly used in financial products such as *takaful* and investment account management, where agents manage funds or assets and receive *ujrah* in return (Sellyfio 2022).

Wakalah bil Istithmar combines agency principles with investment activities. Under this arrangement, the agent not only acts on behalf of the principal but is also responsible for investing their funds in sharia-compliant investment opportunities. The returns generated from these investments are then shared between the principal and the agent based on an agreed ratio. This contract is frequently applied in the management of Islamic investment funds, *sukuk*, and wealth management services, providing additional benefits through professional investment management (MUI 2019). *Tabarru'*, on the other hand, emphasizes donations or voluntary contributions made

with the objective of helping others without expecting any return. In the context of *takaful*, participants contribute funds to a mutual fund that is used to pay claims and provide financial assistance to those in need. This principle highlights solidarity and mutual cooperation among participants and differs fundamentally from the commercial concept in conventional insurance.

When implemented in BPJS Ketenagakerjaan Syariah, these three concepts offer different benefits. *Wakalah bil Ujrah* can be used to ensure transparency in fund management fees, providing clarity to participants regarding service charges. *Wakalah bil Istithmar* is particularly suitable for the management of long-term funds, as it enables BPJS to invest participants' funds professionally and generate returns that can be distributed to participants, thereby enhancing their welfare. Among the three contracts, *Wakalah bil Istithmar* appears to be the most suitable for BPJS Ketenagakerjaan Syariah. This agreement allows for more professional and sharia-compliant fund management, as well as providing the potential for significant fund development through ethical investment. Meanwhile, the *Tabarru'* principle can serve as a complement to health insurance and social assistance programs, by strengthening aspects of solidarity and mutual cooperation. Through the strategic combination of these contracts, BPJS Ketenagakerjaan Syariah can provide a comprehensive and efficient program that aligns with Islamic financial principles, as well as providing optimal protection for participants.

Conclusion

This research aims to examine the fiqh contracts applicable to BPJS Ketenagakerjaan Syariah. Based on the research findings, it can be concluded that several contracts may be applied to BPJS Ketenagakerjaan Syariah products, including *Wakalah bil Ujrah*, *Wakalah bil Istithmar*, and *Tabarru'* contract. Regarding to these contracts, the study finds that all three play an important role in Islamic finance, particularly in the context of sharia-compliant insurance. They contribute to ensuring compliance with Islamic financial principles, such as the prohibition of usury (*riba*), uncertainty (*gharar*), and gambling (*maysir*), while also reflecting the values of mutual assistance and fairness in the distribution of risks and benefits.

However, the implementation of these contracts in BPJS Ketenagakerjaan Syariah is not without challenges. These include differing interpretations among scholars and practitioners, the need for clearer operational and regulatory frameworks, and a more comprehensive understanding of tax-related implications. Despite these challenges, the findings indicate that *Wakalah bil Ujrah*, *Wakalah bil Istithmar*, and *Tabarru'* provide a strong foundation for the development of a sustainable and inclusive Islamic financial system. With better understanding and closer collaboration between financial practitioners, regulators, and *ulama*, the application of these

contracts is expected to better support sustainable and inclusive economic growth in accordance with Islamic principles.

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