



**PEGADAIAN TRANSFORMATION IN MEETING CUSTOMER NEEDS BASED ON SHARIA FINANCE**

<sup>1</sup>Musthafa Syukur, <sup>2</sup>Maudy Sulis Setyaningsih, <sup>3</sup>Ismi Lailiyatil Wardah,

<sup>4</sup>Ana Sri Wulandari, <sup>5</sup>Rifqoh Maulidah

<sup>1,2,3,4,5</sup> Universitas Nurul Jadid Paiton Probolinggo

*Email (Maudysulis@.com)*

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**ABSTRACT**

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**\*Corresponding  
Author**

In this article, we will explain the pegadaian syariah and its legal basis in the Fatwa DSN-MUI. Gadai in Islam is also referred to as rahn, which means to handle a good as a guarantee on the debt transactions carried out with the principle of Shariah. This is a solution for society to meet its urgent financial needs. The transformation of custody practices in Indonesia is growing very rapidly with the increasing need for fast funds to meet their basic needs. This factor inspired a number of sharia banks and key government agencies to open mortgage services in their place.

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**A. INTRODUCTION**

Financial institutions in Indonesia consist of two, namely banking financial institutions and non-banking financial institutions. In addition to acting as intermediary institutions, these two institutions also play a role in channeling money in the form of credit. Banks and other financial institutions always try to provide the best service to the public in the credit sector (Kasmir, 2003).

One of the financial institutions that offers loan services to the public is PT. Pawnshop (Persero). PT. Pegadaian (Persero) is the only business unit in

Indonesia that has an official license based on the Pawn Law as referred to in Article 1150 of the Civil Code to organize financial institutions in the form of money financing distribution to the public.

Banks as financial institutions cannot be used as the first alternative to meet fund needs. Banks have not been able to work as much as possible in collecting and distributing funds to the community (Nuraini, 2008). In reality, only some people can enjoy this banking service. In addition to having to have collateral or collateral, lending at banks also requires loan procedures that are relatively long and difficult to fulfill for people who have a middle to lower economy (Wahyudi, 2008).

This situation causes many people who need funds to quickly divert their funding needs to pawnshops. In pawnshops, people can get the funds needed in a short time and the cost of maintaining goods is also still affordable. Both for consumptive needs and for productive needs (Nuraini, 2008).

Pegadaian (Persero) as a financing institution that has a special purpose, namely the distribution of loan money on the basis of pawn law aimed at preventing ijon practices, illegal pawnshops, and other unreasonable loans. PT. Pegadaian (Persero) increases its role in lending to the community. Customer PT. Pegadaian (Persero) is dominated by people of weak economic groups who lack services from financial institutions or banks so that the lower middle class people need loans easily and quickly. Ease and simplicity in the procedure of obtaining financing is the basic capital in approaching the market share of pawnshops (Wahyudi, 2008).

The demand for financing from the community is an indication of the need for funds for the community to meet their living needs. The condition of economic uncertainty that has hit Indonesia since the last few years, inflation that continues to fluctuate and so on, is thought to contribute to the amount of credit requested by the public (Purnomo, 2009).

Starting when the VOC established the Van Leening Bank in 1746 as a financial institution that provided credit with a pawn system that lasted until 1811 the British government dissolved the Van Leening Bank and took over so that people could get the freedom to establish pawn businesses<sup>1</sup>.

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<sup>1</sup>. <https://www.pegadaian.co.id/profil/sejarah-perusahaan>

In 1901, the first state pawnshop was established, located in Sukabumi, West Java, on April 1, 1901, which then formed an official institution called "Jawatan" in 1905 and became a legal entity in the district court based on Government Regulation in Lieu of Law (Perpu) No. 19 of 1960 and Government Regulation (PP) No. 178 of 1961.

Furthermore, in 1990, the form of legal entity changed from "PERJAN" to "PERUM" based on Government Regulation (PP) No. 10 of 1990, which was updated with Government Regulation (PP) No. 103 of 2000. In 2012, the form of legal entity changed from "PERUM" to "PERSERO" on April 1, 2012, based on Government Regulation (PP) No. 51 of 2011, which then ended in 2021. The form of legal entity changed from "PERSERO" to "LIMITED LIABILITY COMPANY" on September 23, 2021. Based on Government Regulation (PP) No. 73 of 2021 until now.

## **B. METHOD**

This research uses a qualitative approach to a literature review. This type of research is conducted to review with a method of systematic study that is transparent to find the research articles that have been published and then to evaluate by extraction and analysis, and then the final step is to make a synthesis.

## **C. FINDINGS AND DISCUSSION**

### **1. History of Pawnshops**

Pawn activities in the history of human civilization have occurred in China in the year 3000. Pawnshops are known in Europe, namely Italy, England, and the Netherlands. Introduction in Indonesia at the beginning of the entry of the Dutch East Indies Colonial, which is around the end of the XIX century, by a bank called Van Learning. The bank provides loan services with the condition of delivery of movable goods, so this bank has essentially provided pawnshop services. In the early 20th century, the Dutch East Indies government tried to take over the pawnshop business and monopolize it by issuing staatsblad No. 131 of 1901. This regulation has

been followed by its establishment since the enactment of *staatsblad* No. 226 of 1960.

Furthermore, government-owned pawnshops are still given monopoly facilities over pawnshop activities in Indonesia. The pawnshop service underwent several legal entity forms until, finally, in 1990, it became a public company. In 1960, the pawnshop service changed to a state company (PN) Pegadaian; in 1969, the Neagara Pegadaian Company was changed to a state company (Perjan) Pegadaian; and in 1990, it became a public company (Perum) Pegadaian through PP No. 10 of 1990, dated April 10, 1990. When the pawnshop was still in the form of a service company, the social mission of the pawnshop was the only reference used by its management in managing the pawnshop.<sup>2</sup>

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Pegadaian is a financing or credit institution with a pawn system. PT Pegadaian is one of the companies under the auspices of the Ministry of SOEs. The main task of PT Pegadaian is to bridge the needs of public funds by providing loan money based on pawn law. Along with the development of sharia products in Indonesia, in 2003 the pawnshop sector also established a sharia pawnshop in the form of a Sharia Pawn Service Unit (ULGS), which in its implementation adheres to sharia principles. Until now, Pegadaian Syariah is still holding PT Pegadaian, which is planned to spin off in 2019.

The concept of operating sharia pawnshops refers to a modern administrative system with the principles of rationality, efficiency, and effectiveness and Islamic values. The operating function of sharia pawnshops is carried out in sharia pawnshop branch offices, or ULGS, as an organizational unit under the guidance of the Other Business Division of PT

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<sup>2</sup>. Lukman Jensen dan Yuliawati, Pegadaian Dalam Lingkup Fiqih Muamalah, *Jurnal Al-Iqtishady* No. 1, 2021, 61-62.

Pegadaian and is an independent business unit that is structurally separate from conventional pawn businesses.<sup>3</sup>

The main purpose of establishing a sharia pawnshop is to realize the benefit of the people and help each other. With the existence of sharia pawnshops, it can eradicate loan sharking, the practice of illegal pawning, which is very burdensome and burdens small communities. The reason behind the permissibility of sharia pawnshops is because of their social nature; they can help ease the burden on the lower middle class, who are still consumptive in their daily lives, and the goal is also to realize benefits for the people. However, in their operational activities, sharia pawnshops are still more widely used by people of upper-middle-class income who are commercially productive. This can be seen from the magnitude of the marhun in the form of gold and diamonds that many pawns receive.<sup>4</sup>

## 2. Definition of Pawn

Sharia pawn is basically part of the financial system, which is an order in the economy of a country that has a role, especially in providing services in the financial sector. Because sharia pawns are part of non-banking financial institutions that, in their business, are not allowed to collect funds directly from the public in the form of deposits, sharia pawns are only authorized to provide loans to the public (Sasli, 2006).

Pawn can be interpreted as an activity to guarantee goods that have economic value to certain parties in order to obtain a certain amount of money. The guaranteed goods will be redeemed again in accordance with the agreement between the customer and the pawn institution. According to Budisantoso and Triandaru (2006), a lien is a right obtained by someone who has receivables on a movable property where the movable property is handed over to the person who owes the debt by someone who has a debt or by another person on behalf of the person who has a debt. The debtor then gives his power to the debtor to be able to use the pledged goods that

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<sup>3</sup>. Luluk Wahyu Roficoh dan Mohammad Ghozali, Aplikasi Akad Rahn Pada Pegadaian Syariah, Jurnal Masharif al-Syariah no. 2, 2018. 33.

<sup>4</sup>. Nuroh Yuniwati, Emilia Dwi Lestari, dan Anis Alfiqoh, Pegadaian Syariah : Penerapan Akad Rahn pada Pegadaian Syariah, Jurnal An-Nisbah No. 2,2021, 195.

have been handed over to pay off the debt if the debtor cannot pay off the obligation when the loan is due.

Meanwhile, according to Kasmir, pawning is the activity of pledging goods [1] valuables to certain parties in order to obtain a certain amount of money, and the guaranteed goods will be penetrated again in accordance with the agreement between the customer and the pawn institution. In general, the practice of pawning is generally accepted in some regions and states. The goal is to get funding in the short term with a guarantee of valuables. One of the fundamental differences between sharia pawns and conventional pawns is that there is no interest levy in sharia pawn transactions because interest is a form of usury. In principle, the conventional pawn practice is almost the same as a sharia pawn, where there are goods used as collateral for creditors (which in Islamic terms are referred to as *murtahin*) for loans given to debtors (which in Islamic terms are called *rahin*).

The maintenance and storage of *marhun* is essentially a *rahin* obligation, but it can also be done by *murtahin*, but the cost of maintaining and storing the *marhun* is determined by the *ijarah* contract. The existence of an *ijarah* contract is what distinguishes between a conventional pawn and a sharia pawn. *Rahn* transactions in Indonesia are divided into two categories: ordinary *rahn*, where *marhun* can consist of all objects that meet the provisions of sharia, and gold *rahn*, where *marhun* must be gold. Gold *rahn* is the mortgaging or physical surrender of the ruler's rights to property or valuables (in the form of gold) from *rahin* to *murtahin*.

### 3. Legal Basis Of Sharia Pawnshops

The emergence of sharia pawn practices is due to the correction of the pawn system that has been in effect for a long time since the Dutch era. The foundation for the operationalization of sharia pawns is the National Sharia Council Fatwa number 25/DSN-MUI/III/2002, dated June 26, 2002, concerning *rahn*.<sup>5</sup> One form of financial service that is needed by the community is loans by pawning goods according to debt guarantees. Islamic

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<sup>5</sup>. Rokhmat Subagiyo, Tinjauan Syariah Tentang Pegadaian Syariah (*Rahn*), Jurnal An-Nisbah, No.1, 2014, 170-171.

financial institutions need to respond to the needs of the community in their products so that they are carried out in accordance with sharia principles. The National Sharia Council considers it necessary to establish a fatwa to serve as a guideline for Rahn, namely withholding goods as collateral for debts.<sup>6</sup> Fatwa number 26/DSN-MUI/III/2002 concerning rahn emas.<sup>7</sup> One form of service that is needed by the community is Rahn, which is holding goods as collateral for debts. Society in general has made it common to make gold as a valuable item that is stored and make rahn objects as debt collateral to get money loans. In order for this to be done in accordance with sharia principles, the National Sharia Council considers it necessary to establish fatwas to serve as guidelines. And Fatwa Number: 68/DDS [1] MUI/III/2008 concerning Rahn Tasjily, which states that the receivable party Rokhmat Subagiyo, Sharia Review of Sharia Pawnshops (Rahn), Journal of An-Nisbah, No. 1, 2014, 170–171. In the fatwa, DSN states that loans by pawning goods as debt collateral in the form of rahn are allowed with the following conditions:

- a. Murtahin (consignee) has the right to detain Marhun (goods) until all debts of Rahin (who delivers goods) are repaid.
- b. Marhun and its benefits remain the property of Rahin. In principle, marhun should not be used by murtahin except to seize rahin. This does not reduce the value of marhun, and its use is just a substitute for the cost of maintaining its care.
- c. The maintenance and storage of marhun is basically the obligation of rahin, but it can also be done by murtahin, while the cost and maintenance of storage remain the obligation of rahin.
- d. The amount of administrative and storage costs should not be determined based on the loan amount.
- e. Marhun Sales:
  - 1) When due, Murtahin should warn Rahin to pay off his debt immediately.

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<sup>6</sup>. Agustri Purwandi dan Destiana Leyli, Analisis Yuridis Terhadap Pelaksanaan Produk Pembiayaan Arrum Haji Pegadaian Syariah, Jurnal Yustitia No. 2, 2019, 154.

<sup>7</sup>. *ibid*

- 2) If Rahin still does not pay off his debt, then Mahun is forcibly sold or executed.
- 3) The proceeds from the sale of marhun are used to pay off debts, unpaid maintenance and storage costs, and sales costs.
- 4) The excess proceeds of the sale belong to Rahin, and the deficiency becomes Rahin's obligation.<sup>8</sup>

Sharia-based products have characteristics such as not collecting interest in various forms due to usury, establishing money as a medium of exchange, not as a traded commodity, and doing business to obtain services with a profit-sharing system. Sharia Pawnshop, also known as Rahn, operates Mudharabah (profit sharing). The issuance of PP/10 on April 1, 1990, can be said to be the beginning of the establishment of Pegadaian. One thing that needs to be noted is that PP10 emphasizes the mission that must be carried out by Pegadaian to prevent usury practices. This mission did not change until the issuance of PP103/2000, which was used as the basis for the business activities of PT. Pegadaian (Persero) until now.

Many parties argue that the operationalization of the Pegadaian pre-Fatwa MUI dated December 16, 2003 concerning bank interest has been in accordance with the concept of sharia, although it must be admitted later that there are several aspects that dismiss this assumption. Thanks to the Grace of Allah SWT and after a long study, a concept was finally drawn up to establish a Sharia Pawn Service Unit as the first step in the formation of a special division that handles sharia business activities. The concept of Sharia Pawnshop also refers to Islamic sharia, which comes from the Quran and the Hadith of the Prophet SAW. The foundation used is the Qur'an Surat Al Baqarah verse 283, which means:

*"If you are on the way (and not in cash) and you do not have a writer, then there should be dependents held by the debtor. But if some of you believe others, then let the believer fulfill his commission (his debt) and let him fear Allah his Lord, and do not you (witnesses) hide testimony. And whoever hides it is a sinner in heart, and God knows what you do."*

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<sup>8</sup>. Rokhmat Subagiyo, Tinjauan Syariah Tentang Pegadaian Syariah (Rahn), Jurnal An-Nisbah, No.1, 2014, 170-171

#### 4. Pawnshop Products

##### a. Pawnshop Rahn

Lending with a pawn engagement based on sharia principles. The flow and process of services provided are the same as in KCA pawnshops, but customers are not subject to capital rent but are subject to *ujrah* calculated from the estimated collateral submitted. The amount of *ujrah* calculated from the estimated collateral submitted has a maximum *ujrah* rate of 0.71% (of the estimated collateral) per 10 days with a maximum period of 4 months. But it can be extended by grading or repeating the pledge, and it can be repaid at any time with *ujrah* calculations proportionally during the loan period.

##### b. Arrum Pawnshop (Ar-Rahn for micro/ssmall businesses)

Financing services with sharia schemes are both intended for micro and small entrepreneurs for business development with motor vehicle BPKB guarantees, as well as for people who do not have a business with gold guarantees. Repayment of financing is carried out in installments with a period ranging from 12 months to 36 months, which can be repaid at any time.

##### c. Pegadaian Amanah

Provision of loans or loans for motor vehicle ownership to permanent employees in an agency or specified company or for small microentrepreneurs. The basis for lending by calculating repayment capacity is determined on the basis of the amount of income or salary for permanent employees or based on business feasibility for small microentrepreneurs. The pattern of collateral engagement is carried out with a *rahn tasjily* contract, whose mechanism is similar to that of a fiduciary.<sup>9</sup>

#### 5. Rights and obligations of the contracting Party

Sharia pawn (*rahn*) is an alternative form of financing in the form of providing loan money to people in need based on the principles of Islamic sharia and avoiding the practice of *riba*, or adding a certain amount of money

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<sup>9</sup>. Pamonaran Manahaar, Implementasi Gadai Syariah (Rahn) Untuk Menunjang Perekonomian Masyarakat Indonesia, *Jurnal Dialogia Iuridica* No. 2, 2019, 103.

or a certain percentage of the principal debt when paying debts. Rahn is holding one of the borrower's possessions as collateral for the loan he received. The purpose of the RAHN contract is to provide a guarantee of repayment to the bank in providing financing. In simple terms, a rahn is a debt guarantee or lien. Usually, the contract used is a qardh wal ijarah contract, which is a guarantee agreement from the bank for customers accompanied by the submission of duties so that the bank maintains the collateral submitted. There are several rights and obligations in the implementation of bank pawnshop contracts, both conventional and sharia, namely:

1) Lien beneficiary

Lien beneficiary rights:

- a) If the rahin is unable to fulfill its obligations by maturity, the murtahin reserves the right to sell the marhun.
- b) To maintain the safety of the marhun, the lien holder is entitled to reimbursement of costs incurred.
- c) The lien holder has the right to withhold the lien from Rahin as long as the loan has not been repaid.

Lien beneficiary obligations:

- a) If something happens (missing or defective) to the marhun due to negligence, then the marhun must be responsible.
- b) You must not use marhun for personal gain.
- c) Before a marhun auction is held, there must be a notification to the rahin.

2) Lien

Lien rights:

- a) Upon repayment of the loan, the monk is entitled to the lien handed over to the murtahin.
- b) In the event of damage or loss to the pawn due to the failure of the murtahin, the rahin claims compensation for the marhun.
- c) After deducting borrowing costs and other costs, Rahin is entitled to receive the remaining proceeds from the sale of Marhun.
- d) If it is found that there is abuse of Marhun by Murtahin, then Rahin has the right to ask for his Marhun back.

Lien obligation:

- a) Pay off loans that have been received and existing costs within a predetermined period of time.
- b) If, within a predetermined period of time, Rahin is unable to pay off the loan, it must give up the sale of the owner's marhun.<sup>10</sup>

## 6. Sharia Pawn Product Mechanism

One form of financial service that is needed by the community is financing by providing guarantees or mortgaging something they have to get the desired financing. Pegadaian is one of the alternative financial institutions for the public to get financing in the real sector. Most people who use pawnshop services are middle- to lower-class people who need short-term financing with low margins. Technically, the implementation of pawnshop business activities is as follows:

- a) The customer guarantees the goods (Marhun) to the sharia pawnshop to get financing.
- b) Sharia pawnshops and the customer agree on a pawn agreement that includes the loan amount, deposit service fees, and administrative costs.
- c) Sharia pawnshops provide financing or services needed by customers in accordance with the agreement that has been handled.
- d) The customer redeems the mortgaged goods after maturity.
- e) The pawnshop (murtahin) returns the mortgaged property (marhun) to its owner (customer).

The implementation of sharia pawnshop operations is generally almost the same as conventional pawnshop activities, where the method of raising funds can be obtained from the distribution of loan funds with movable goods guarantees. Apart from some of the mechanisms that have many similarities between sharia pawnshops and conventional pawnshops, when viewed from the perspective of the basic concept, technical transactions and funding systems at sharia pawnshops have their own characteristics based on the Quran, hadith, and the agreement of scholars who allow rahn contracts.<sup>11</sup>

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<sup>10</sup>. Lukman Jensen dan Yuliawati, Pegadaian Dalam Lingkup Fiqih Muamalah, Jurnal Al-Iqtishady No. 1, 2021, 63-64.

<sup>11</sup>. Lukman Jensen dan Yuliawati, Pegadaian Dalam Lingkup Fiqih Muamalah, Jurnal Al-Iqtishady No. 1, 2021, 68

The application of products in Sharia Pawnshops that apply a combination of al-rahn contract and ijarah contract in an agreement contract is considered controversial because it is contrary to the method that prohibits two contracts in one contract. Where the al-rahn contract is a tabaru contract that prohibits the emergence of profits, on the other hand, the ijarah contract is a mu'awalah contract oriented toward al-ribh (profit), although this contract refers to the National Sharia Council Fatwa No. 25/DDSN-MUI/III/2002 concerning rahn and the National Sharia Council Fatwa No. 26/DDSN-MUI/III/2002 concerning gold rahn, where the pawnshop can collect storage fees based on the ijarah contract. Because the fatwas of the National Sharia Council are general contractual arrangements, their implementation in Islamic financial institutions is not uniform. One of the parameters to assess whether a product has met sharia principles or not is to pay attention to the contracts and various provisions used in the product. In Islamic financial activities, if al-takyif al-fiqi is carried out, some or even most of them turn out to contain several contracts. For example, sharia pawnshops apply a combination of rahn and ijarah contracts in one contract.<sup>12</sup>

#### **D. CONCLUSION**

Pawn can be interpreted as an activity to guarantee goods that have economic value to certain parties in order to obtain a certain amount of money. The guaranteed goods will be redeemed again in accordance with the agreement between the customer and the pawn institution. Pawn, from the Islamic perspective, is called Ar [1]. Rahn, according to the language, means al-tsubut and al-habs, which is an agreement to hold something as collateral or debt-dependent. The main purpose of establishing a sharia pawnshop is to realize the benefit of the people and help each other. With the existence of sharia pawnshops, it can eradicate loan sharking, the practice of illegal pawning, which is very burdensome and burdens small communities. The emergence of sharia pawn practices is due to the correction of the pawn system that has been in effect for a long time since the Dutch era.

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<sup>12</sup>. Agustri Purwandi dan Destiana Leyli, Analisis Yuridis Terhadap Pelaksanaan Produk Pembiayaan Arrum Haji Pegadaian Syariah, Jurnal Yustitia No. 2, 2019, 154-155.

The foundation in sharia pawn operations is the National Sharia Council Fatwa number 25/DSN-MUI/III/2002, dated June 26, 2002, concerning rahn. One form of financial service that is needed by the community is a loan. By pawning goods according to debt guarantees, Islamic financial institutions need to respond to the needs of the community in their products so that they are carried out in accordance with sharia principles. The National Sharia Council considers it necessary to establish a fatwa to serve as a guideline for Rahn, namely withholding goods as collateral for debts. Fatwa number 26/DSN-MUI/III/2002 concerning rahn emas. One form of service that is needed by the community is Rahn, which is holding goods as collateral for debt. The foundation in sharia pawn operations is the National Sharia Council Fatwa number 25/DSN-MUI/III/2002, dated June 26, 2002, concerning rahn. One form of financial service that is needed by the community is a loan. By pawning goods according to debt guarantees, Islamic financial institutions need to respond to the needs of the community in their products so that they are carried out in accordance with sharia principles. The National Sharia Council considers it necessary to establish a fatwa to serve as a guideline for Rahn, namely withholding goods as collateral for debts. Fatwa number 26/DSN-MUI/III/2002 concerning rahn emas. One form of service that is needed by the community is Rahn, which is holding goods as collateral for debt.

Society in general has made it common to make gold as a valuable item that is stored and make rahn objects as debt collateral to get money loans. In order for this to be done in accordance with sharia principles, the National Sharia Council considers it necessary to establish fatwas to serve as guidelines. And Fatwa Number: 68/DDSNI-MUI/III/2008 concerning Rahn Tasjily, which states that the debtor has the right easily to execute collateral that is still controlled by the borrower in the event of default, so that it is carried out in accordance with sharia principles. The National Sharia Council considers it necessary to establish fatwas to serve as guidelines.

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