

ISLAMIC PRINCIPLES RESPOND TO THE CUSTOMS OF MODERN MUSLIM SOCIETY IN TERMS OF ECONOMIC MUAMALAH IN INDONESIA

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Abstract

The purpose of this study is to describe islamic principles, *muamalah* problems of modern in Indonesia, and the existence of customs in Islam. This research method uses a qualitative descriptive approach, and the type of research used is library research, because this research collects data is library in nature to solve problems based on critical and in-depth study of relevant library materials. The results of library research find that islamic principles regarding original law in muamalah affairs are permissible, other than things that have been determined are prohibited by *nash* (the rules of the text). Customs or traditions are used as the basis for the legitimacy of resolving legal disputes in muamalah. Customs can be used as the basis for legal determination, with characteristics that cannot be regulated in detail in *nash* (written rules). If the customs or traditions of the community have beneficial values and do not bring negative effects, then the law is allowed. In the modern era, muslims are obliged not only to maintain religious and cultural beliefs but also to contribute to the development of human civilization. The emergence of new discoveries due to advances in science and technology will result in shifting perspectives and forming patterns of thought flow that have consequences for forming new norms in people's live. Then the progress of science and technology should not be confronted with *nash* (written rules). Especially the issue of muamalah or islamic economics which regulates social interaction so that the harmonization of islamic economic or *muamalah* is formed in modern society.

Keywords: *muamalah*, custom, and Islamic economic.

INTRODUCTION

Digital transactions are a necessity that cannot be avoided in the midst of the rapid pace of technological innovation. In Indonesia, this situation can be seen from the changing behavior of people who increasingly use technology-based financial services to facilitate their non-cash transaction activities. Some of the services that are growing are debit cards, electronic money, to digital banking.

Bank Indonesia (BI) stated that Indonesia's digital economic and financial transactions in 2021 will continue to grow in line with increasing public expectations and preferences for online shopping. This growth was reflected in a significant increase in the volume and value of transactions for various non-cash payment methods utilizing the latest technology services.

The reason for the positive movement is economic activity and community needs ahead of Eid al-Fitr in the midst of a pandemic situation. There are several economic activities that need to be highlighted, namely: first, the increase in economic activity According to Bank Indonesia records, the value of Electronic Money (EU) transactions in May 2021 reached Rp 23.7 trillion, or an increase of 57.38%. Second, the volume of digital banking transactions continued to grow and recorded an increase of 56.49%, or reached 601.2 million transactions in May 2021 with a

transaction value that grew 66.41% to 3,117.4 trillion. Third, the value of payment transactions using ATM cards, debit cards, and credit cards in May 2021 also grew by 21.03% with a total of 689.7 trillion.

The development of society in the form of changing habits into modern brings benefits in their lives. These changes shape human activities that are routinely always practiced in daily life which are considered important and needed by humans. So that humans become a group of people in an area or country who understand each other's habitual practices and are even embedded in their lives.

Muamalah is part of Islamic law that regulates the relationship between two or more parties in a transaction. The development of modern science and technology has had a major impact on human life, including on business economic activities. So that social change does not rule out the possibility that muamalah discussions will also become more complex as a result of accelerated globalization.

The question that then arises is whether Islamic principles in muamalah are able to survive in the midst of changing times, the development of modern science and technology? Or is there still a lot of classical muamalah thought that is relevant to today's modern era, so the product of fiqh thinking needs to be preserved and maintained, in accordance with the rules.

The existence of Shari'a does not seek to abolish traditions or customs, Islam filters these traditions so that any values adopted and actualized by the local community do not conflict with Shari'a. Because the tradition carried out by every ethnic group who is actually a Muslim is not allowed to conflict with the Shari'a. Because the position of reason will never be more important than the revelation of Allah Ta'ala. This is an essential and crucial understanding that every Muslim must have. The belief of Islam as a universal religion and regulates all aspects of life is not only in the transcendental relationship between the servant and the Creator but also other aspects of life such as economic, social, cultural, political and so on. Sometimes this partial understanding is still believed by Muslims. Therefore, the attitude of Islamic law towards customs always prioritizes the arguments in the Qur'an and Hadith over customs or traditions.

METHOD

This type of research is library research and data collection techniques are carried out through library research. In this case, the sources used are secondary data sources which include primary legal materials, secondary legal materials and tertiary legal materials. The data analysis is through ushul fiqh approach and Islamic legal philosophy.

RESULTS AND DISCUSSION

A. Basic Principles of Muamalah

The classification of muamalah principles is divided into two, general principles and specific principles. The general principles are:

1. Muamalah is basically permissible (mubah).
"Basically muamalah is permissible, or other rules, basically muamalah is permissible until there is an upright argument for prohibiting it."
2. Muamalah is done to create problems.

The essence of benefit in Islam is all forms of goodness and benefits that have integral dimensions of the world and the hereafter, material and spiritual, as well as individual and collective. Something is considered beneficial if it fulfills two elements, namely sharia compliance (halal) and beneficial and brings goodness (tayib) to all aspects in an integral way that does not cause harm. "Sharia was revealed to realize benefit, to perfect, to eliminate, to reduce damage, to provide the best alternative among several options, to provide the maximum benefit value among several benefits, and to eliminate the value of greater damage by bearing less damage." The rule of ushul al-fiqh: "Basically every

muamalah brings justice, maintains the benefit between two parties and eliminates harm from both."

3. Muamalah is carried out by maintaining the value of balance (tawaazun).

This concept covers various aspects, including the balance between material and spiritual development as well as the use and conservation of resources. In addition, the balance of worldly life with the hereafter, personal and congregational balance, balance between physical and spiritual aspects, mind and heart, between *das sein* and *das sollen*, and eliminates any gaps between humans. In this case, Islam also strives for the distribution of wealth to be done proportionally.

4. Muamalah is carried out by maintaining the value of justice.

All forms of muamalah that contain elements of oppression are not allowed. Justice is putting something only in its place and giving something only to those who are entitled, and treating things according to their position. The implementation of justice in economic activity is in the form of the principle of muamalah which prohibits the elements of usury, tyranny, *maysir*, *garar*, and *haram*. In *fiqh* terminology, fairness is putting something in its place and giving something only to those who are entitled and treating something in its position (*wadh 'al-syai' fi mahallih*).

Meanwhile, the specific principles are:

- a. The object of the transaction must be *halal*. This means that it is prohibited to carry out related economic activities that are unlawful.
- b. There is the pleasure of the parties who are muamalah. The basis of this principle is "*an taradhin minkum*" (mutually willing among you, Q.S. *an-Nisa*: 29). This principle states that all transactions carried out must be based on the willingness of each party as a prerequisite for the realization of the transaction. If this principle is not fulfilled in the transaction, it means eating something in a vanity way.
- c. Trustworthy fund management, namely conveying any rights to the owner, not taking anything beyond their rights and not reducing the rights of others.
- d. Recording of transaction processes. Among the efforts to safeguard a transaction from disputes, forgetfulness, loss, etc., *sharia* commands authentication (*tautsiq*) through recording, testimony, and collateral to protect the rights of the owner.

B. Islamic Principles in Responding to Tradition

1. 'Urf (Custom) As a Legal Basis

There is no difference among the scholars of *Usul Fiqh* (*ushuliyyun*) that there are 2 (two) sources/basic/postulates of Islamic law, namely *naqly* sources (*al-Qur'an* and *as-Sunnah*) and *aqly* (reason). Sources / legal arguments based on reason, in the methodology of Islamic law (*Usul Fiqh*), constructed by scholars with the term *Ijtihad*. One method of *ijtihad* is '*urf* (law determination based on local customs/traditions/customs). This legal stipulation based on local customs ('*urf*) certainly must not conflict with the basic principles of the *Shari'a* and is only used in the field of muamalah (excluding matters of *mahdhah*/ritual worship). Arabic before Islam.

2. The "Anything Can Be Done" Principle

The method of thinking among the *Shafi'i* schools, among others, is based on the rule of الأصل الإباحة الأشياء (The original law in everything is permissible). While the *Hanafi* school uses the opposite rule, namely التحريم الأشياء الأصل (The original law in everything is prohibited). In its development, the two contradictory rules are given their respective roles by distinguishing the area of study. The rules of الأصل الإباحة الأشياء are placed in the study of the field of muamalah (other than *mahdhah*/ritual worship) and then emerges is muamalah affairs in the origin of law (الأصل الإباحة ل ل الدلي) things that are permitted to be done by argument/text) While the rules of التحريم الأشياء الأصل are placed in the area of study of *mahdhoh* worship / rituals and then worship of affairs in the origin of law (الأصل العبادة التحريم ل)

ل الدليل لى الإباحة the rule appears is not allowed, unless there are arguments).Understanding and observing these two principles is very important to assess whether the existing traditions/customs/customs in the community are allowed or not, heretical or not heretical. The first principle, in the affairs/regions/fields of muamalah (other than worship) is "everything can be done even if there is no command, as long as there is no prohibition", or more specifically "a person may do something, even though there is no evidence that orders it, which is important. there is no argument against it.

While the second principle, a person may not perform worship if there is no command, or more specifically "a person may perform a worship if there is an order, even though there is no prohibition". relation to the issue of worship and does not conflict with the principles of the Shari'a (no texts prohibiting it) is permissible (ibahah). Even a certain tradition/custom/custom can be used as the basis for determining (legitimacy) law and at the same time as a basis (legitimacy). settlement of legal disputes, especially in the field of buying and selling (transactions or contracts). This principle is in the rules: العادة custom can be used as the basis for determining law). This is because the issue of muamalah is not all and cannot be regulated in detail in the texts (which are regulated in detail in the texts are very limited, most of the others are only the basic principles that are regulated), this is not the case in matters of worship, most of them are regulated in detail including the technical implementation.

3. The principle of benefit/benefit

Another important principle used in establishing laws or judging "something" is the real benefit or benefit. This method in Islamic law (Usul Fiqh) is called istishlah or maslahah mursalah. Therefore, one of the parameters to assess the traditions/customs/customs that exist in society is good or not, may or may not, heresy or not heresy is whether it is useful/there is a value of benefit (goodness) or not. If the tradition/custom/custom has its benefits/benefits or does not result in harm (negative effect), then at least the law is allowed (ibahah). Once again as long as the tradition/custom/custom is not related to worship or is included in the system/technical worship, and as long as there is no qath'iy text that prohibits it, then it is not prohibited.

C. Terms of 'Urf as the Foundation of Islamic Law

The scholars divide 'urf into two, namely 'urf sahih and 'urf fasid. 'Urf Sahih is 'urf that does not contradict the Qur'an and Al-Hadith, which does not justify the unlawful and forbids the lawful. Scholars agree that not all 'urf can be used as a proof for establishing Islamic law. 'urf can be accepted as one of the legal foundations if it meets the following conditions:

1. Not against sharia;
2. Does not cause harm and does not eliminate the benefit
3. It has been generally accepted among Muslims
4. Does not apply in mahdhoh worship
5. 'Urf is already in the community when it will be determined as one of the legal benchmarks.

Meanwhile, according to al-Zarqa, 'urf can only be used as one of the arguments in establishing Islamic law if it meets the following requirements:

1. The 'urf must apply in general terms. That is, the custom applies in most cases that occur in the community and its validity is embraced by the majority of the community.
2. The 'urf must apply in general terms. That is, the custom applies in most cases that occur in the community and its validity is embraced by the majority of the community.
3. 'Urf which will be used as the basis for determining the law does not conflict with what is clearly stated by the parties in the matter that is being carried out. For example, between the seller and the buyer when making a sale and purchase transaction, it is agreed that with a clear agreement that the purchased goods will be brought by the buyer himself to his house. Whereas the prevailing custom is that the goods purchased will be delivered by the seller to the buyer's house. This means that there is a conflict between 'urf and what is clearly stated in the transaction. If this is the case, then the prevailing 'urf in society cannot be used as the basis for establishing the law in the sale and purchase.

4. 'Urf can be accepted as the basis of Islamic law when there are no texts containing the law of the problems encountered. That is, if a problem already has a text, then the custom cannot be used as a proposition for Islamic law.

D. Ulama's View of 'Urf as Proof of Islamic Law

The Ulama justify the use of 'urf only in muamalah matters, and even then after fulfilling the above conditions. It should be noted that in terms of worship, 'urf is absolutely not applicable because what determines in terms of worship is the Qur'an and al-Hadith 'Urf which aims to maintain the benefit of the people and support legal corrections and the interpretation of several texts.

The following are the views of the Ulama regarding 'urf:

1. Abu Yusuf from the group of 'Hanafi scholars and the majority of 'non-Hanafi' scholars are of the opinion that the shara law' also changes following the development of the customs or 'urf concerned. This is in accordance with the rule "it cannot be denied that changes in law are caused by changes in times and places".
2. Abu Hanifah and Muhammad bin Hasan are of the opinion that what remains as a legal standard is the old 'urf at the time of the arrival of the relevant text.
3. Abdul Wahab Khalaf argues that basically 'urf is not a shara argument' that stands alone, because it includes maintaining maslahah mursalah. So if 'urf is taken into consideration as one of the legal standards, then it is also considered in interpreting the texts. In fact, sometimes qiyas are abandoned because 'urf is considered more appropriate, for example, transactions with the salam and istisna system are legal, even though according to qiyas it is not valid because the goods were not or were not present at the time of the transaction.

CONCLUSION

From the explanation above, it can be concluded that every economic activity must be based on the sources of Islamic economic law and must not conflict with the principles of Islamic economics in ijtiḥad on an economic phenomenon. In Islamic economics, there are principles that must be met if an interaction between human beings is to be carried out. These principles must be used as a rule in carrying out economic activities.

Between local wisdom and 'urf saḥih has a very clear meeting point, because local wisdom is local ideas and behaviors that are wise, full of wisdom, of good value, which are embedded and followed by members of the community. Likewise, 'urf, that is, everything that is known to each other among humans that has become a habit or tradition, whether in words, deeds or in relation to leaving certain actions.

Thus, the dynamic and dialectical development of Muslims can only be realized if Islamic economic tolerance for local wisdom can be pursued so as to create synergy between the two.