




# The Concept of Islamic Economic *Fiqh* in Mu'amalah Perspective

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## Abstract

Islamic Economic *Fiqh* is an important foundation for understanding and applying economic principles in Islam, with a special focus on muamalah or daily life transactions. This discussion aims to find out the concept of Islamic economic jurisprudence from several experts and also aims to find out what is the scope of the discussion of Islamic economic jurisprudence (*Fiqh Iqtishad*). Islamic economic jurisprudence is knowledge about activities or transactions based on Sharia law and about human behavior in their lives obtained from detailed Islamic postulates. The scope of Islamic economic jurisprudence is all human economic activities based on Islamic law in the form of regulations containing commands or prohibitions such as obligatory, sunnah, haram, *makruh*, and permissible. In general, the scope of Islamic economics includes economic aspects, including *Syirkah* and *mudharabah*, *murabahah*, *khiyar*, *istisna*, *ijarah*, *salam*, *kafalah*, *hawalah*, and others. However, in the aspect of cooperation that is most often carried out is profit sharing, namely *Syirkah*, and *mudharabah*. *Fiqh* law consists of legal laws regarding matters of worship in relation to the vertical relationship between humans and Rabb and human relationships with other humans.

## INTRODUCTION

Islam offers broad rules in the economic field because this field is developing very dynamically. However, Islam stipulates that the development of events in the economic field does not cause harm to either party (Rahmi, 2022). The economic sector, which is a central aspect of everyday life, is closely related to many ethical principles and values in Islam. The concepts of halal and haram, as well as considerations of harm and illegitimacy, are important aspects that form the basis of Islamic economics. Some of these principles are reflected in the laws and guidelines regulated by the Islamic religion in economics. Islamic economics is considered a social science because it studies human life in society. Hasan al-Zuman believes that Islamic economics is a science that studies economics based on Islamic principles or makes the economy follow Sharia law (Tho'in, 2015).

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The economy is a very important and influential factor in people's lives. Talking about the economy, one of them is related to economic sources, both primary financial, such as agriculture, industry, trade and human labor as well as secondary sources, such as tourism, wages and transportation facilities. Santika, (2022) these two sources cannot be separated by economic actors, namely the people. Human resources can realize and feel the benefits in the form of goods or services because people can produce goods, garden, trade and sell, etc (Rahmad, 2022).

## METHODS

This type of research is library research (Alfansyur & Mariyani, 2020; Maharani, 2020; Fadli, 2021; Muslih, 2021). According to Zed, library study is a series of activities related to methods of collecting library data, reading and taking notes and processing research materials. Therefore, the author collects and then examines books or other reading sources, namely sources that are relevant to this research, namely the concept of economic jurisprudence and its scope. Library research is a research activity carried out by collecting information and data using various materials available in the library, such as reference books, previous similar research, articles, memos, and various journals about the problem to be solved. Activities carried out systematically to collect, process and conclude data using certain methods or techniques to find answers to problems that arise. There are four steps in library research (Sari, 2021). i) Prepare the equipment for research. Library research tools in the form of previous research and memos. ii) As a practical reference, a practical reference is a list of the most important resources used for research purposes. iii) The timings associated with this time management will vary depending on who is using the available time. iv) Read and make research notes. This means it can record what is needed for research.

## RESULT AND DISCUSSION

Understanding Islamic Economic *Fiqh Al-Fiqh* comes from the word *Fakiha yafkahu Fiqhan* which means understanding, and comprehending (Dewi et al., 2023). The definition of *Fiqh* according to Imam Syafi'i is the science in which we know the *Amaliyah Shari'a*, which was derived in detail from *Dall*. According to Hanafi scholars, *Fiqh* is the knowledge that explains all the rights and obligations related to *mukallaf* acts. Hidayatulloh et al., (2023) *Fiqh* according to its trend is an understanding of the laws of *Sharia* related to human behavior. The meaning allowed by the word 'arguments of *syariah* law' is already widely known in the science of *Fiqh*. The reason the jurists are mentioned jurists, the plural jurist is because the general proposition in *Fiqh* is as stated above, it is known that law is born with status *zhanni* is *tafsbil*, namely *zhanni*. And *zhanni* law of course has *zhanni* status. The binding rope is *ijtihad* because everyone considers *Fiqh* to be the same as *ijtihad*. Maulana & Zulfahmi, (2022) the meaning of the term *Fiqh* is the science that explains the laws of *Sharia* about practice, which is taken from *tafsbili* propositions.

It is not appropriate for the believers to go all out (to the battlefield). why not leave some people from each group among them to deepen their knowledge of religion and to warn their people when they have returned to it, so that they can guard themselves" From the points above several definitions can be put forward, namely *Fiqh* in general is a science that studies various *sharia* or Islamic law and various rules of human life, both personally and socially. Jurisprudence is a huge body of knowledge, bringing together various types of Islamic law and rules of life, serving the needs of individuals, groups and human society in general. Taufiq, (2021) every human word and action, whether it concerns humans' relationship with God,

or concerns others, is all regulated by *syara`*. So, based on these instructions, the *mujtahids* established laws. All legal provisions are stipulated by the texts or *ijtihad* of the *mujtahids* in the text-free area called *Fiqh*. If studied according to the *Quran*, the term economics is not mentioned explicitly (Handayani & Hidayat, 2022).

However, if we look at its economic potential, this can be seen in the words of Luqman verse 19, namely in the word *swaqshid fii masyrika* which means and simplification, the word *waqshid* which means simple, therefore contemporary Islamic economists agree to use the word *iqtisod* (Baihaqqi & Nuzula, 2022). In Arabic, the word economy is called *iqtisad*, which comes from the root word *Qasd* which means simple, frugal, average, honest and average. Meanwhile, the word *iqtisad* means simplicity, thrift and integrity. This term is then commonly used as an economic term in Indonesia. Islamic economics is a social science that studies human economic problems inspired by Islamic values (Roliansyah et al., 2022). Dawan Rahardjo divides the term Islamic economics into three possibilities. 1) Islamic economics is an economic science based on Islamic values or teachings. 2) Islamic economics is a system. The system concerns regulation, namely the regulation of economic activities in a society or country based on a certain method or method. 3) Islamic economics in the sense of the Muslim economy (Sari, 2022).

In this paper, Islamic economics concerns all three with an emphasis on Islamic economics as a concept and economic system. These three areas, namely the theory, system and economic activities of Muslims are three pillars that must form a synergy (Aziz & Zamzami, 2022). The definition of Islamic economics based on the opinion of Muhammad Abdullah Al-Arabi is that Islamic economics is a set of general economic principles that we take from the *Quran* and Sunnah, and is an economic structure that we build on these foundations in a specific environment and time. Islamic economics has two main elements that form the legal basis of the sharia economic system, namely the *Quran* and the Sunnah of the Prophet, whose laws are taken from two fundamental foundations that are fixed in terms of concepts and principles (which cannot be changed) all the time. The following are several definitions of Islamic economics taken from several sources: According to Monzer Kahf in his book *The Islamic Economy* explains that Islamic economics is part of economics which is interdisciplinary in the sense that the study of Sharia economics cannot stand alone, but requires good and in-depth mastery of the sciences sharia and its supporting sciences as well as sciences that function as tools of analysis such as mathematics, statistics, logic and *ushul Fiqh* (Muheramtohadhi & Faizah, 2022).

M.A. Mannan defines Sharia economics as a social science that studies people's economic problems inspired by Islamic values (Prasetya, 2022). The Goals of Islamic Economic *Fiqh* The goals of Sharia economics are in line with the goals of Islamic law itself (*maqashid asy shari'ah*), namely achieving happiness in this world and the hereafter (*falah*) through a good and noble way of life (*hayyah Thayyibah*). The *falah* objectives to be achieved by sharia economics include micro or macro aspects, including the world time horizon or beyond. An Egyptian Fuqohaa named Prof. Muhammad Abu Zahrah said that three objectives of Islamic law show that Islam was revealed as a blessing for all mankind, namely: a. Purification of the soul so that every Muslim can become a source of goodness for society and the environment. b. Upholding justice in society. The justice in question includes aspects of life in the fields of law and muamalah. c. The achievement of *maslahah* (is the peak). The scholars agree that the *maslahah* which is the pinnacle of the above targets includes five basic guarantees, namely: safety of religious beliefs (*al-din*), the safety of the soul (*al-nafs*), the safety of the mind (*al-aql*), the safety of the family and descendants (*al-nasl*) and safety property (*al-mal*) (Musliadi, 2022).

For example, we know that the Islamic economic system has different goals from conventional economics, in conventional economics the main focus is on

personal profit. But in Islamic economics, it has very high goals. Islamic economics or Sharia economics aims to ensure a harmonious life in this world and the world to come. Islamic values are not only for the lives of Muslims but for all creatures on earth. This is a blessing for all of nature, not only limited to economic, social, cultural and political aspects, but also for all aspects of human life. Able to capture the value of social phenomena to follow its journey without departing from the halal roots of Islamic economic doctrine. The aim of Islamic economics or Islamic economics is to ensure harmony in life in the world. Islamic values are not only for the lives of Muslims but for all creatures on earth (Fajrianti, 2022).

In all aspects of business and trade life, the Muslim world has an economic system based on the values and principles of Sharia law from the *Quran* and Hadith and is equipped with Al Ijma and Al Qiyas. as follows: a) Prospering the Economy within the framework of Islamic moral norms (the basis of thinking QS. Al-Baqarah verse 2 & 168, Al-Maidah verse 87-88, Al-Jumu'ah verse 10); b). Forming a society with a solid social order, based on universal justice and brotherhood (QS. Al-Hujuraat verse 13, Al-Maidah verse 8, Asy-Syu'araa verse 183); c) Achieve a fair and even distribution of income and wealth (QS. Al-An'am verse 165, An-Nahl verse 71, Az-Zukhruf verse 32); d) Creating individual freedom in the context of social well-being (QS. Ar-Ra'du verse 36, Luqman verse 22); e) Putting worship to God above everything else. The main purpose of the Sharia economy is to seek God's pleasure and not merely to seek material gain (Yanti, 2022).; f. Balancing the life of this world and the world to come; h) Avoiding chaos and unrest We know that the one who has full power over the economy is the government of the country (ZA, 2023).; k. Defending economic stability and growth, and improving economic well-being Scope of Islamic Economic *Fiqh* Within the framework of Islamic economics, there are challenges and tasks of Islamic economics.

In general, the scope of sharia economics includes economic aspects, including syirka and *mudharabah*, *murabahah*, *khiyar*, *istisna*, *ijarah*, *salam*, *kafalah*, *hawalah* and others. However, the aspect of cooperation that is most often carried out is the sharing of results, namely *Shirkah* and *Mudharabah*. The definition of *musyarakah* (*Shirkah*) literally means a mixture, which means mixing one of two properties with another, so that the two cannot be distinguished (Susila et al., 2022). According to some *Fiqh* experts, understanding *Shirkah* is an agreement between two or more people in a partnership to use the agreed capital and profits. In other words, Syria is a contract between two or more parties who agree to do business to make a profit (Hasibuan, 2022). *Shirkah* is a legal activity between parties who carry out business cooperation based on the principle of profit sharing according to their agreement.

According to Hanafi scholars, there is only one pillar *Shirkah*, namely consent to qabul (*sighat al aqad*). Hanafiah does not mention other factors such as the opinion of Jumhur Fuqaha, because according to him the existence of the subject (aqidain) and object as *Shirkah* (ma`qud`alaih) has become the determinism of its existence. So when this tower is not filled, *Shirkah* it will be zero. Meanwhile, if it is met but the conditions are not met, then *Shirkah* becomes fascist, so it cannot be done until the cause of the ascidian is eliminated. In another book, it is written that the pillars of syirka according to the provisions of Islamic law are: speech. Sight is the willingness of the parties to ally/cooperate to carry out commercial activities. Example of a lafadz agreement: "I shirk with you for that and that" and the other party says: "I accept". 2. Person (party organizing the association) People who wish to join the trade union agreement must meet the requirements, namely that each party who wishes to join this agreement must be an adult, healthy and free. 3. Core business (managed area of activity) Each labor union must have clear goals and frameworks that are regulated by agreement (Latifah & Sofyan, 2023).

Wahbah az-Zuhaili said, *mudharabah*, *qiradh*, or *muamallah* including among various associations. In Iraq it is called *mudharabah* and in Hijaz, it is called *qiradh* which is taken from the word *alqard* which means to cut. Because the property owner deducts part of his assets to provide entrepreneurs to manage the property. The manager then gives the property owner a share of the profits. Iraqis call it *qiradh mudharabah* because everyone has an agreement to exchange capital to make a profit. There are three types of *al mudharabah*, namely a) *Mudharabah mutlaqah*, which is a collaboration between the first party and the second party which has a wider scope. That is, it is not limited by time, business specifications, and business area. b) *Mudharabah muqayadah*, which is the opposite of *mudharabah mutlaqah*, which is limited by time, business specifications and business area. c) *Mudharabah Musytarakah*, is *mudharabah* where the fund manager includes capital or funds in investment cooperation. At the start of the collaboration, the agreement agreed was a *mudharabah* contract with 100% capital from the fund owner, after the business operations were carried out with certain considerations and agreement with the fund owner (Sitorus & Handayani, 2020).

Fund managers also invest their capital in this business. This type of *mudharabah* is called *mudharabah musytarakah*, which is a combination of *mudharabah* contracts and *musytarakah* contracts (Syakur, 2021). The legal basis for *mudharabah* is a) Qs. An-nisa verse 29 means: O you who believe, do not falsely devour each other's wealth, except using commerce that is carried out between you. And do not kill yourselves; Verily Allah is Most Merciful towards you. b) Qs. Al-Muzammil 20 Meaning: He knows that there will be among you those who are sick and those who walk the earth seeking some of Allah's bounty; and other people who fight in the way of Allah, then read what is easy (for you) from the *Quran*. Apart from that, it includes the pillars of *mudharabah*, namely: *syar'i*. This means that bad people have the potential to become capitalists and stupid people have the potential to become managers, for capital managers, it is a form of authorization to handle capital b) Capital, shopping center c) Work or business/*dhar abah*. d) Profit. *rihb*, e) *Shagat*/approval (Agustianto, 2021).

Capital required: 1. Capital must be in the form of money that is still valid, namely dinars, dirhams and the like. This is the opinion of the majority of ulama, as well as according to the Hanifah and Hanabilah ulama, even though the movable goods are in the form of *mitslyat* goods (which have similar variants). Meanwhile, Ibn Abi Laila and Auza'i allow it, but the *mudharabah* is achieved with the value of the item when the *mudharabah* occurs. *Jumhur* argues that if capital is in the form of goods then it contains fraud (*gharar*) because *mudharabah* at that time causes unclear profits at the time of distribution. The Hambali school of thought allows the provision of non-monetary assets such as planes, ships and so on for *mudharabah* capital.

Managers utilize these assets in a business and various results from their business by providing assets. The manager must return these assets to the asset provider at the end of the contract (Aravik et al., 2021). Likewise, Ibn Abi Laila allows *mudharabah* capital with goods, he allows someone to give cloth (to another person) to sell, then the profit (from the sale) is divided between the two people. 2. The amount of capital must be known. If the amount of capital is unknown, then *mudharabah* is invalid, because lack of clarity regarding capital causes uncertainty regarding profits. While determining the amount of profit. This is a valid requirement for *mudharabah*. 3. Capital must be a specific item and exist, not debt. *Mudharabah* is not valid with debt and non-existent capital, therefore, one should not say to someone who owes money, "Do *mudharabah*, with your debt." These conditions and the previous conditions are conditions agreed upon by the ulama (Nufus, 2022).

Capital required: 1. Capital must be money that still has value, namely dinars, dirhams, etc. This is the opinion of the majority of ulama, as well as Hanifah and Hanabilah ulama, even though movable goods are mitslyat goods (there are similar variations). So far, Ibn Abi Laila and Auza`i have allowed *mudharabah* to be taken at the value of the article when the *mudharabah* takes place. Jumhur argues that if capital is in the form of commodities, it contains fraud (*gharar*) because *mudharabah* at that time leads to unclear profits at the time of distribution. Except the Hambali school of thought does not allow giving non-monetary assets such as planes, ships and the like to mud capital. Managers use these assets in their business and various business outcomes by providing the assets. The manager must return the property to the property provider at the end of the contract.

Similarly, Ibn Abi Laila authorized capital for mud in commodities, he allowed someone to give cloth (to another person) for sale, and then the profit (from the sale) was divided between two people. 2. The amount of capital must be known. If the amount of capital is not specified, then the porridge is invalid, because the uncertainty of capital causes uncertainty in returns. Meanwhile, determining the amount of profit. This is a valid requirement in *mudharabah*. 3. Capital must be a definite and existential commodity, not debt. Mudarabah has no value with no debt and no capital, so one should not say to the debtor, "Be like mud, with your debt." These conditions and the previous conditions are those agreed upon by the ulama. *Mudharabah* is carried out with debt as a *mudharabah* fasid because the capital in the hands of the debtor always belongs to the debtor and only belongs to the debtor with forgiveness whereas here there is no forgiveness. Accept the debt. If someone says to another person, "Accept my debt and settle it with *mudharabah*", it is likely that the scholars will agree. Because the debt referred to here in the debt received is the trust, so capital means money, not Wadi'ah (reservation) debt (Zaini, 2021).

Likewise, for Hanafiyah, Syafi'iyah and Hanabilah scholars, *mudharabah* contracts are allowed if there is a wadi`ah (deposit) in someone's hands. This is because the wadi`ah belongs to the owner of the capital (*Mudi`*) which can then be used as *mudharabah* capital for those who receive it. Maliki scholars do not insist that something that is pledged or entrusted cannot be used as capital for mud, because it is similar to debt. Barang ghasab (taken at will). *Mudharabah* can also be obtained with the proceeds of confiscation. The person who owns ghasab can make ghasab goods because the goods belong to the capital owner and he can sell them to the ghasab person and the person who can get them from the ghasab person. So similar to *wadi`ah* (Suparmin, 2020). 4. Capital must be returned to the `amil (cradle). This is so that Amil can work with capital. Furthermore, capital is a trust in the hands of `amil, so it has value only by handing it over to him, that is, by releasing it as *wadi`ah*. The *mudharabah* contract can end due to the following reasons: 1) If the *mudharabah* is limited in time, the *mudharabah* ends at the specified time. 2) One of the parties decides to resign. 3) One of the parties dies or loses his mind. 4) The business carried out experiences losses which results in capital running out or not being enough in the hands of the mudharib. The *mudharabah* contract becomes invalid because the capital is reduced or exhausted. Likewise, if the capital is handed over to someone else, the *mudharabah* will be invalid. 5) The *mudharabah* contract is canceled when the shahibul mal or mudharib apostates. Then he died or was executed because of his apostasy, or he moved abroad. 6) Failure to fulfill one of several *mudharabah* conditions. 7) The fund manager will not carry out his duties as a business manager if he fails to do something that does not fall under the mud rule. In this situation, the capital manager is responsible if a loss occurs because he is the cause of the loss (Rusanti et al., 2023).

## CONCLUSION

*Fiqh al Iqtishad* or Islamic economic jurisprudence is knowledge about Sharia-based activities or transactions, about human behavior in life. Islamic Economic Law regulates all human economic activities based on Islamic law in the form of regulations containing commands or prohibitions such as obligatory, sunnah, haram, *makruh* and permissible. In general, the scope of Sharia economics includes economic aspects, among others *Shirkah* and *mudharabah*, *murabahah*, *khiyar*, *istisna*, *ijarah*, *salam*, *kafalah*, *hawalab* and others. However, the most common aspect of cooperation is the sharing of results, namely *Shirkah* and *mudharabah*.

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