

Economic Development And Growth In Indonesia According To Law Sharia Economy

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Abstract. Banking has an important role in the development and support of the country's economy, especially after the enactment of Law Number 10 of 1998 concerning Banking. Islamic economics in Indonesia has now begun to be recognized and approved by the public, given the proliferation of Islamic-based banks making people understand the systems in Islamic economics. The establishment of the Islamic Development Bank (IDB) in 1975 triggered the establishment of Islamic banks around the world including Indonesia. The birth of Law Number 21 of 2008 concerning Islamic Banking is a guarantee for the existence and legal protection of Islamic banking after the last decade of its existence which only regulates one of the principles of profit sharing which does not definitively and comprehensively regulate bank activities based on sharia principles. The method used in this research uses qualitative research methods using interview, observation and documentation techniques. This type of research uses descriptive analysis. The development of Islamic economic law in the future must increasingly refer to the protection of the benefit of the people by using maqashid sharia as a methodology and perspective. To establish economic law that falls within the scope of muamalah fiqh, a comprehensive mastery of ushul fiqh is absolutely necessary, especially to find and determine the legal illat for ongoing economic practices. Failure to determine the illat leads to failure to master the source of the problem. The current Islamic economics only talks a lot about distribution and consumption, such as the distribution of money and capital claimed to be without usury and halal product certification, and does not appear to talk much about production and all aspects related to it, such as ownership of land, resources, capital and by the private sector and conglomerates, including the fulfillment of labor rights, destruction of nature by production activities, and so on. The determination of the illat and maqashid of sharia in the economic field is also expected to pay more attention to the material conditions in which unequal production relations between community groups have resulted in economic colonization and which are very detrimental to society, especially those who are in a weak position in terms of capital, resources and power.

Keywords: Development, Growth, Sharia Economy, Law, Indonesia

1. INTRODUCTION

Aqidah is the foundation of the Islamic economic system that comes from Allah and brought by the Prophet Muhammad Saw. Islamic aqidah itself is a comprehensive aqidah, satisfying the mind, reassuring the soul and in accordance with human nature. Therefore, in essence, the rules that emanate from the Islamic aqidah such as the Islamic economic system has a distinctive and humane character.

According to Yusuf Qardhawi, Islamic economics has three basic principles, namely tawhid, morals, and balance. This is what makes Islamic economics ogled by the world, both Muslim countries and non-Muslim countries. First, in terms of principles, it has been explained above that the Islamic economy comes from God which has been written in the Koran. Aqidah here is not just a complement or name only but true to human welfare. Then morals, in the Islamic economy of course all regulations and policies must look in terms of aspects of Islamic morals such as prohibiting fraud, speculation and individualist morals

that are only selfish and ignore healthy economic ethics that prosper the people.¹

Sukuk is also one of the Islamic economic instruments that is currently globalizing and becoming an option for any country around the world. Sukuk is seen to have restored *financial balance*, namely the value of money that truly reflects the value of real assets. This is in accordance with QS al-Baqarah: 275 where it is explained that the Islamic economy is an economy based on the real sector. In contrast to the capitalist economy that makes the monetary sector the backbone of the economy which is where there is a lot of speculation until fraud and economic imbalances occur.

Conceptually, the Islamic financial industry is in accordance with the demands of the times and has become its historical obligation to be born and grow into an alternative-solutive financial system. To realize this is not an easy thing, there are many challenges and obstacles that must be faced by the Islamic financial industry in the future. The Islamic financial industry, both bank and non-bank, is still in its early stages of evolution. Despite its rapid growth rate, it has so far only occupied a *small niche* in the financial sector in Muslim countries, let alone in the international financial sector.

Despite some difficulties, the Islamization of banking movement is well underway. The progress made over the last quarter century is encouraging.² The role of religion in Indonesia has a very important role in social life. This is clearly stated in Pancasila as the ideology of the Indonesian nation, the first principle of "*Belief in One God*". The role of religion in connection with the development of human life, instead of history, also carries out continuous changes and adjustments to the patterns of perception, especially in a rapidly changing society. Of course, that perception has relevance to worldly activities motivated by religious belief systems.³ The development of Islamic banking in Indonesia began with the expectations of the Indonesian Muslim community in the 1970s to be able to conduct sharia-based transactions, since in several other countries where the majority of the population is Muslim, sharia-based banking has been established.⁴ Majelis Tarjih Muhammadiyah has made decisions regarding banking law (1968 & 1972) which basically determines that usury is prohibited by the sharih nash of the Qur'an and as-Sunnah, and advises PP Muhammadiyah to realize the conception of an economic system, especially

¹ "Dakwatuna.com," Islamic Economics Becomes a World Trend, Accessed on August 21, 2024, <https://www.dakwatuna.com/2016/04/04/79866/ekonomi-islam-menjadi-tren-dunia/#ixzz4RXUYSnA3>.

² Nurhisam Luqman, "Sharia Compliance in the Islamic Finance Industry," *IUS QUIA IUSTUM Law Journal*, Vol. 23, No.1, 2016.

³ Asifudin Ahmad Janan, *Islamic Work Ethic* (Surakarta: Muhammadiyah Press, 2004), 4.

⁴ Rasjid Sulaiman, *Fiqh Islam* (Bandung: Sinar Baru Algesindo, 2013), 290.

banking institutions, which are in accordance with Islamic principles.⁵

Islamic banking is currently still difficult to fight against conventional banks, especially judging from the conditions over the past five years. Chairman of the Board of Commissioners of the Deposit Insurance Corporation (LPS), Halim Alamsyah stated that the current performance of Islamic banking is still slow. The current slowdown makes the condition of Islamic banking itself always an important discussion, especially on the issue of strengthening capital, liquidity and efficiency.⁶

The scholars implemented a joint agreement in realizing *non-rib-based* banks in Indonesia, namely by organizing a Workshop on Bank Interest and Banking by the Indonesian Ulema Council on August 18-20, 1990 in Bogor. The results of the Workshop were followed up in the National Conference IV of the Indonesian Ulema Council which took place in Jakarta on August 22-25, 1990. Based on the mandate of the Fourth National Conference of the Indonesian Ulema Council, a working group was established to establish a *non-rib-based* bank in Indonesia. Based on the recommendations of both the Indonesian Ulema Council Workshop on Bank Interest and Banking and the results of the National Deliberation IV of the Indonesian Ulema Council as well as the enactment of Law Number 7 of 1992 concerning banking as a substitute for Law Number 14 of 1967 concerning Banking Principles which contains provisions in article 1 number 12, namely the permissibility of banking operations based on profit sharing.⁷

The presence of the first Islamic Bank, PT Bank Muamalat Indonesia in 1992, is the beginning of the history of the development of Islamic banks in Indonesia where in carrying out its operational activities it is obliged to integrate the values and norms in Islamic law into economic activity transactions that lead to prosperity for many people. Islamic banking in conducting banking operations is not only for business purposes alone, in the form of material gain, but also to pursue happiness in the hereafter. For this purpose, Islamic Banks in carrying out banking operations are not only based on banking regulations in general but also based on sharia provisions. Islamic banks must comply with the principles of sharia which are implemented from the establishment to its operations.⁸

To support the growth of the Islamic economy, these Islamic-based institutions

⁵ Jundian, Legal Arrangement of Shari'ah Banking in Indonesia (Malang: UIN Malang Press, 2009), 20.

⁶ Rahajeng Kusumo Hastuti, "Islamic Banking Still Difficult to Compete with Conventional," Accessed on August 21, 2024, <https://www.cnbcindonesia.com/syariah/20190607133414-29-77037/perbankan-syariah-masih-sulit-bersaing-dengan-konvensional>.

⁷ Jundian, Legal Arrangement of Shari'ah Banking in Indonesia, 23.

⁸ Muhammad Danang Wahyu, "The Application of Sharia Principles in Islamic Bank Capital," Journal of Legal Media, 21, no. 1 (2014): 46.

should also play an active role and participate in driving the growth of the Islamic economy by starting to transact Islamically. In terms of internal institutions, of course, there are banks that are appointed to carry out financial transactions from institutions such as for salary payments, operational costs, institutional savings, etc. By supporting this growth, these Islamic institutions should also participate in using the Islamic economy by starting to transact Islamically. By supporting this growth, these Islamic institutions should also use Islamic banking in financial transactions. However, from a sample of four Islamic-based institutions.

2. RESEARCH METHODS

The method used in this research uses qualitative research methods using interview, observation and documentation techniques. Type this research uses descriptive analysis. Bogdan and Taylor argue that qualitative research methodology is a method with research procedures which then produces descriptive data in the form of written words or words from people or referred to as oral and behavior that can be observed and analyzed.⁹

3. RESULTS AND DISCUSSION

Development of Islamic Banking in Indonesia

The development of a politically Islamic-based banking system in Indonesia is finally recognized as part of the efforts of national development goals, namely to achieve the creation of a just and prosperous society based on economic democracy. This is characterized by the government's active role in developing the Islamic banking industry, which is expected to be the first step for the development of an economic system based on the values of justice, togetherness, equity, and benefits in accordance with sharia principles. This active role is derived not only at the level of legislative policy, but also in the practical realm.¹⁰

The Islamic financial industry is in accordance with the demands of the times and has become its historical obligation to be born and grow into an alternative-solutive financial system. To realize this is not an easy thing, there are many challenges and obstacles that must be faced by the Islamic financial industry in the future. The Islamic financial industry, both bank and non-bank, is still in its early stages of evolution. Despite its rapid growth

⁹ Lexy J. Moleong, *Skinative Research Methodology*, vol. 18 (Bandung: Remaja Rosdakarya, 2000), 20.

¹⁰ Abdul Ghofur Anshori, *Islamic Banking in Indonesia* (Yogyakarta: Gadjah Mada University Press, 2009), 35.

rate, it has so far only occupied a *small niche* in the financial sector in Muslim countries, let alone in the international financial sector. Despite some difficulties, the Islamization of banking movement is well underway. The progress made over the last quarter century is encouraging.¹¹

The economic field is where secularization originates, especially in sectors of the economy that are being shaped by capitalistic processes and industrialization.¹² Commercial banks are defined as profit-oriented financial institutions, to obtain these profits commercial banks carry out intermediation functions, because they are allowed to collect funds in the form of deposits, commercial banks are also depository financial institutions,¹³ in contrast to Islamic banks that use *mudharabah* and *wadiah*. In the world of banking in Indonesia since the 1997 monetary crisis (*krismon*), which has not been resolved until now, it appears that a capitalistic banking system and practices have developed that are not ethical because they emphasize the pursuit of maximum profit.

The severe economic crisis, from which Indonesia has yet to recover, is a reflection of the poor business ethics in Indonesia, both in the government and the private sector, both at the central and regional levels, and at all levels. In Indonesia, especially among economic actors, the existence of business ethics still seems to be a concept. According to I.S Susanto, the ethical dimension in business circles is very thin and even neglected.¹⁴ In a country whose people are religious, have the ideology of Pancasila and still uphold moral values, these conditions seem very concerning.

In law, J.D.Ny Hart suggests that there are 6 legal concepts that have an influence on the development of economic life, namely as follows:

- a. Predictability The law must have the ability to provide a definite picture in the future of the circumstances or relationships that are carried out in the present.
- b. The development factor of the legal system must be a force that provides a balance between conflicting values in society, the legal system provides awareness of the balance in the state's efforts to carry out economic development.
- c. Definition and clarity about status in addition to the function of law that provides predictability, it can be added that the function of law also provides assurance

¹¹ Luqman Nurhiyam, "Sharia Compliance in the Islamic Finance Industry," *IUS QUIA IUSTUM Law Journal* 23, no. 1, (2016): 78.

¹² Nadjib Emha Ainun, *Religion as a Spirit for Industrialization* (Surakarta: Muhammadiyah University Press, 1995), 191.

¹³ Syadullah Makmun, *Towards a Green Economy* (Yogyakarta: Ekonisia, 2009), 196.

¹⁴ I.S Susanto, *Law, Political Ethics and Business Ethics* (Jakarta: Kompas, 1995), 56.

about the status of people and goods in society.

- d. Accommodation of rapid changes will essentially lead to the loss of the old balance both in the relationship between individuals and groups in society, this situation naturally requires the restoration of the balance through one way or another point here the legal system that regulates the relationship between individuals both materially and formally provides an opportunity for the disturbed balance to adjust to the new environment as a result of these changes this recovery is possible because in this shock the legal system provides certainty through the formulation of clear and definitive formulations opens up opportunities so that justice is restored through orderly procedures and so on.
- e. The procedural capacity of development in the field of procedural law allows the material law to realize itself properly in the sense that procedural law includes not only the provisions of statutory law but also all settlement procedures agreed upon by the parties to the dispute, for example, forms of arbitration, conciliation and so on.
- f. The codification of the objectives of legislation can be seen as a codification of the objectives and intentions as desired by the state in the economic field, for example we will be able to find these objectives as formulated in several laws that directly or indirectly have an influence on the economic field. In the process of establishing Islamic banking, it is not enough only with the fatwa of the National Sharia Council which is then adopted by Bank Indonesia in the form of Bank Indonesia Regulations. However, regulations are needed whose legal predictability must have the ability to provide a definite picture in the future of the circumstances or relationships carried out in the present. Based on this, finally the legal product of Law Number 21 of 2008 concerning Sharia Banking was born as an answer to legal predictability.

The development of Islamic economic practices, especially in the field of finance and banking, both in the world and in Indonesia is very encouraging. At the world level, there are already many countries with Islamic finance and banking industries. The development of Islamic economic practices in Indonesia also shows encouraging facts. The development of Islamic economic discourse in Indonesia has received the attention of many circles, both from the conceptual / academic aspects and practical aspects.

From the academic side, the development of Islamic Economics is marked by the number of educational institutions that offer training programs and courses in Islamic

Economics, Islamic Finance and Islamic Banking both at the Undergraduate level (S1) and the Postgraduate level (S2 and S3). In addition, the discussion of the development of Islamic Economics is also carried out through seminars, symposiums, conferences, book reviews and other activities that examine more deeply the development of Islamic Economics and its application in the world of economics and business.

In its application, the development of the Sharia Economic system is characterized by the number of Sharia financial institutions established such as Sharia Banking, Baitul Mal Wat-Tamwil, Sharia Capital Markets, Sharia Mutual Funds, Sharia Pawnshops, Sharia Insurance and other institutions that run on Sharia principles. The increasing number of financial institutions based on the basic principles of Sharia provides greater alternatives to the public to use financial institutions that are not based on the interest system (conventional financial institutions).

Observing the rapid development of Islamic economics both at the global and local levels, in the context of economic development in the era of globalization, a more focused and clear strategy is needed so that Islamic economics will increasingly gain a solid place in future economic development, so that an economic era that is moral, just and godly will soon be realized.

Based on the existing situation, the development strategy of Islamic Economics at least needs to pay attention to two fundamental aspects, namely the conceptual/academic and implementative/practical aspects of Islamic Economics. The development of conceptual aspects emphasizes more on the development of Islamic economics as a science or system, while the development of implementative aspects emphasizes the development of Islamic economics applied to business institutions that apply Sharia principles in running their business.

Both aspects should be developed together so as to form an Islamic Economic System that can be used to explore the potential and ability of the community to build an alternative economic system as a substitute or complement to the existing conventional economic system.

The development of Islamic economics continues to be endeavored by involving various parties both individually and institutionally. Thinkers continue to try to explore and discuss the Islamic Economic system seriously and then inform the public either through seminars, symposiums, book writing or through the internet and other media.

Economy and Growth System According to Islam

In various literature on Islamic economics. Islamic economics basically views that economic growth is part of economic development. Economic growth is defined as: "*a sustained growth of a right kind of output which can contribute to human welfare*". Based on this understanding, economic growth according to Islam is value- laden. An increase in the factors of production is not considered economic growth if the production includes goods that are proven to have adverse effects and harm human beings. Based on these two basic characteristics, the analysis of development economics can be a branch of economics that aims to analyze the problems faced by developing countries and find ways to overcome these problems so that these countries can develop their economies more quickly. In its development, experts provide an understanding or limitation of development economics based on this background.

Economic growth according to Islamic economics, is not just related to the increase in goods and services, but also related to aspects of morality and moral quality as well as a balance between worldly and ukhrawi goals. The measure of the success of economic growth is not solely seen in terms of material achievement alone or the results of quantity, but also in terms of the improvement of religious, social and community life. If the economic growth that occurs actually triggers backwardness, chaos and away from the values of justice and humanity, then certainly the growth is not in accordance with Islamic economics. There are several factors that will affect economic growth. These factors are: (1) *Invisible resources*, (2) *Human resources*, and *entrepreneurship*, and (3) *Technology*. Islamic economics sees that the above factors are very important and desirable in achieving economic growth.

The Nature and Purpose of Sharia Economic Law

Islamic economic principles are a number of Islamic moral teachings that form the basis and orientation of economic activity. These principles include: *First*, tawhid, that production and consumption activities must be firmly grounded in the principle of servitude to Allah alone. *Second*, isti'mar and istikhlaf, that the mandate to humans to manage life in the world must be morally accountable to God and humanity. *Third*, the benefit, that economic activity can be done as long as it brings benefits to reject damage to humans and the universe. *Fourth*, justice, that economic activity must be carried out within the framework of realizing social justice for all levels of society.

Fifth, the welfare of the hereafter, physically and mentally.¹⁵ Thus, economic activity and production in the perspective of Islamic economics is measured by the extent to which it can integrate economic activity and production with divine and human values. Economic activity and production should not be secularized into mere material activity and capital accumulation. Therefore, Islamic economics should not limit itself to the issue of usury-free transactions alone but must also talk about social justice, humane industrial processes and relations, community empowerment, environmental sustainability, and even a more equitable international economic system. Referring to the principles of Islamic economics above, the purpose of economic activity in the Islamic view is maqoshid sharia, benefit, and blessing.¹⁶ Because it is based on religious texts, Islamic economics requires mastery of ushul fiqh as a methodology for determining religious laws related to economic concepts and activities. The methodology is needed in order to determine which are classified as tsawabit laws (universal normative principles that must be maintained) and which are mutaghayyirat matters (particular matters that continue to change and develop) in economic law issues.¹⁷

Development and Renewal of Indonesian Sharia Economic Law

This section will briefly present the development of sharia economic law in contemporary Indonesia. Its development began with the emergence of various bank and non-bank financial institutions that claim to be based on sharia principles. The emergence of these institutions encouraged the government to formulate various regulations to regulate and strengthen their existence and activities. In 1991, Bank Muamalat Indonesia (BMI) was established. This was the first Islamic bank in Indonesia and began operations in 1992. In the 90s, the development of Islamic financial institutions in Indonesia was not rapid as there was no legal umbrella to regulate them and no institutional support for them from the government.

The emergence of similar institutions that took inspiration from BMI such as BPR Syariah and Baitul Mal wat Tamwil (BMT) in that era was based more on the awareness of some groups of Muslims of the opportunity to present Islamic alternatives as a manifestation of Islamic consciousness and perhaps also identity politics in the midst of

¹⁵ Fasiha, "Islamic Economics" in National Executive Board of FORDEBI and ADESY, *Islamic Economics and Business: Series of Concepts and Applications of Islamic Economics and Business* (Jakarta: PT. Raja Grafindo Persada, 2016), 445-450.

¹⁶ Fasiha, *Islamic Economics* 451-457.

¹⁷ Oni Sahroni, *Ushul Fiqh Muamalah: Rules of Ijtihad and Fatwa in Islamic Economics* (Jakarta: Rajawali Press, 2017), 7-19.

the New Order regime which was classified as totalitarian. During the reformation period and afterwards, which was characterized by the regime's accommodation of political freedom and recognition of greater primordial identity, the strengthening of regulations and institutions for Islamic economics developed dynamically. The developments that occurred in this era can be explained as follows. *First*, on February 10, 1999, MUI established the MUI National Sharia Council. *Second*, the government enacted Law No. 38 Year 1999 on Zakat. *Third*, the government enacted Law No. 41 of 2004 on Waqf.

Fourth, Law No. 3 of 2006 on the Amendment to Law No. 7 of 1989 on Religious Courts authorizes the Religious Courts to handle, decide and settle cases at the first level among people of the Islamic faith in the field of sharia economics. *Fifth*, Perma No. 2 of 2008 enacted the Compilation of Sharia Economic Law (KHES). *Sixth*, the President launched the Cash Waqf Movement on January 8, 2008 where the management was handed over to the Indonesian Waqf Board (BWI). *Seventh*, on May 7, 2008 Law No. 19/2008 on State Sharia Securities (SBSN) was enacted by the government. *Eighth*, on June 17, 2008 Law No. 21 of 2008 on Islamic Banking was enacted. Several state-owned banks established sharia divisions such as Bank Syariah Mandiri, BRI Syariah, and BNI Syariah. *Ninth*, the Directorate of Islamic Financing was established at the Ministry of Finance. *Tenth*, the government issued Government Regulation No. 39 of 2008 on Sharia Insurance.¹⁸

BMI was founded on the idea of the Indonesian Muslim Scholars Association, MUI, and Muslim Entrepreneurs who were then supported by the State. The idea was triggered by the anxiety of some Indonesian Muslims. They believed that interest was haram and that even dealing with conventional banks was forbidden. Indeed, at that time the government was still distanced from the expression of Islam in the public and economic spheres, but with the support of ICMI as a Muslim group under the regime's patronage, the government could be convinced that BMI had nothing to do with the political expression of Islam, and could actually provide political legitimacy to the government as a democratic and Islamic regime. The bank, originally named Bank Muamalat Islam Indonesia, was subsequently approved by the government under the name Bank Muamalat Indonesia. At the direction of President Soeharto, the name Islam was removed on the grounds that the Islamic element was already covered by the word muamalat. Government support at that time for BMI was

¹⁸ Ana Indriana and Abdillah Halim, "The Politics of Sharia Economic Law in Indonesia," *El-Wasathiya: Journal of Religious Studies* 8, no. 1 (2020): 79-98.

very strong. President Soeharto at that time urged the pilgrims to buy BMI shares at a minimum of 10 thousand rupiah per person so that it greatly helped BMI's initial capitalization.

During the 1998 economic crisis BMI seemed to remain strong despite the fact that the number of bad loans amounted to 60 percent and lost Rp. 105 billion rupiah. BMI was then saved after global funds entered through the Islamic Development Bank (IDB). Since 2015 BMI has experienced a lack of capital, partly due to poor governance and too much credit given to corporations whose businesses turned out to be bad and could not repay the credit. In 2019 BMI's net profit was only Rp. 5.08 billion, down 95 percent from the previous year which reached Rp. 103.7 billion. OJK stated that to save BMI, a fund of 4-8 trillion rupiah is needed.¹⁹

The existence of the MUI National Sharia Council has an important role in the development, control, and strengthening of syariah financial institutions in Indonesia. The tasks of the MUI DSN are as follows: stipulate fatwa on systems, activities, products, and services of LKS, LBS, and other LPS; supervise the implementation of fatwa through DPS in LKS, LBS, and other LPS; make Fatwa Implementation Guidelines to further elaborate certain fatwa so as not to cause multiple interpretations when implemented in LKS, LBS, and other LPS; issuing Circular Letter (Ta'limat) to LKS, LBS, and other LPS; providing recommendations for prospective members and/or revoking recommendations for DPS members at LKS, LBS, and other LPS; providing Recommendations for ASPM Candidates and/or revoking ASPM Recommendations; issuing Sharia Conformity Statement or Sharia Alignment for products and provisions issued by the relevant Authority; issuing Sharia Conformity Statement on systems, activities, products, and services in LKS, LBS, and other LPS; issuing Sharia Conformity Certificate for LBS and other LPS that require it; organizing Sharia Expertise Certification Program for LKS, LBS, and other LPS; conducting socialization and education in order to improve financial literacy, business, and sharia economy; and fostering the application of sharia values in economic activities in general and finance in particular.

This provision ended the freedom to choose to resolve sharia economic cases through general courts and made sharia economic cases the absolute competence of religious

¹⁹ "Savior of Bank Muamalat," Accessed on August 21, 2024 <https://kolom.tempco/read/1201328/juru-selamat-bank-muamalat>.

courts.²⁰ Subsequently, the Supreme Court strengthened this absolute competence through Perma No. 2 of 2008 concerning the Compilation of Sharia Economic Law (KHES) as an important material law in the field of Sharia economics, Perma No. 5 of 2016 concerning Certification of Sharia Economic Judges, and Perma No. 14 of 2016 concerning Procedures for Settling Sharia Economic Disputes. Prior to the issuance of the latter, judges in the Religious Courts used general civil formal law (HIR, R.Bg, and Rv) in resolving Sharia economic disputes. The Perma also allows the submission of sharia economic dispute resolution in the form of a simple lawsuit, emphasizes the existence of sharia arbitration institutions, and emphasizes the authority of religious courts to execute mortgages and fiduciary rights that use sharia contracts. The enactment of Law No. 21 of 2008 on Sharia Banking and Government Regulation No. 30 of 2008 on Sharia Insurance marked an extraordinary response from the government to answer the growing public aspirations for the existence and services of Islamic economics developed by many Islamic economic and banking businesses.

Development of Sharia Economic Law in Indonesia

The purpose of law in Islam is to realize human benefit in this world and in the hereafter. Beneficence is maintaining the objectives of sharia by achieving benefits or goodness and preventing kemadharatan or damage. The aspects that must be protected are the aspects of religion, reason, self, property, and offspring.

The development of Islamic economic law in the future must increasingly refer to the protection of the benefits of the people by using maqashid sharia as a methodology and perspective. To establish economic law that falls within the scope of muamalah fiqh, a comprehensive mastery of ushul fiqh is absolutely necessary, especially to find and determine the legal illat for ongoing economic practices. Failure to determine the illat leads to failure to master the source of the problem.

The existing Islamic economics has only talked a lot about distribution and consumption, such as the distribution of money and capital claimed without usury and halal product certification, and has not appeared to talk much about production and all aspects related to it, such as ownership of land, resources, capital and by the private sector and conglomerates, including the fulfillment of labor rights, destruction of nature by production activities, and so on. The determination of illat and maqashid sharia in the economic field

²⁰ Law of the Republic of Indonesia, "Law No. 3 of 2006 Concerning the Amendment to Law No. 7 of 1989 Concerning Religious Courts," 2006.

is also expected to pay more attention to the material conditions in which unequal production relations between community groups have resulted in economic and political colonization that is very detrimental to the community, especially those who are in a weak position in terms of capital, resources and political power.

Muamalah jurisprudence as the basis of sharia economic law should depart from the analysis of unequal and manipulative production relations to then move to religious texts to determine appropriate legal attitudes towards reality. Not stopping there, the legal stance taken must then be able to inspire and mobilize actions and policies that can change reality from *madharat* to *masalah*. Here, it is important to integrate social and political economy perspectives in muamalah fiqh, so that it is expected that sharia economic law also talks about water privatization, industries and mining that destroy nature, land ownership reform, neo-liberalism, free trade regimes, food security and sovereignty, control of tobacco and cigarette trade, outsourcing, omnibus laws and labor rights, and so on. Not only that, the maqoshid orientation of sharia related to sharia economic law needs to be supported by in-depth analysis and research into the ethics or moral philosophy of sharia economics, and this clearly requires a comprehensive study of the *nashas*, prophetic traditions, and other Islamic treasures. This is primarily to strengthen and underpin the clichéd assertion that Islamic economics is a middle way or alternative to capitalism and socialism.²¹

4. CONCLUSIONS

Muamalah jurisprudence as the basis of sharia economic law should depart from the analysis of unequal and manipulative production relations to then move to religious texts to determine appropriate legal attitudes towards reality. Not stopping there, the legal stance taken must then be able to inspire and mobilize actions and policies that can change reality from *madharat* to *masalah*. Here, it is important to integrate social and political economy perspectives in muamalah fiqh, so that it is expected that sharia economic law also talks about water privatization, industries and mining that destroy nature, land ownership reform, neo-liberalism, free trade regimes, food security and sovereignty, control of tobacco and cigarette trade, outsourcing, omnibus laws and labor rights, and so on. Not only that, the maqoshid orientation of sharia related to sharia economic law needs to be

²¹ Abdurrahman Wahid, "Sharization and Sharia Banks" and "People's Economy or Islamic Economy", In Abdurrahman Wahid, *My Islam, Our Islam, Your Islam* (Jakarta: The Wahid Institute, 2006), 191-200.

supported by in-depth analysis and research into the ethics or moral philosophy of sharia economics, and this clearly requires a comprehensive study of the nashas, prophetic traditions, and other Islamic treasures. This is mainly to strengthen and underpin the clichéd statement that Islamic economics is a middle way or alternative to capitalism and socialism.

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