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THE ACTUALIZATION OF ECONOMIC FIQH IN EMPOWERING THE SMALL TRADERS TO CHALLENGE ASEAN ECONOMIC COMMUNITY

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Abstract

The small traders in traditional markets have become a unique phenomenon. In actualizing the Fiqh of Economy, they should be empowered. However, in socio-economic facts, small traders often face difficulties in obtaining fund assistance from formal financial institutions. This qualitative study reveals the role of the Economic Fiqh actualization in empowering small traders in the era of ASEAN Economic Community (AEC). They still face the classic problem i.e. limited access to capital. The credit distribution from conventional financial institutions should have been accessible for small traders to increase capital. However, in fact, it is not that easy due to lack of collateral and less elastic administrative management. Interestingly, amid the unfortunate situation, Sharia Microfinance Institutions (SMI) provide capital access for small traders. SMI transforms the existing system by providing easy access without collateral and elastic administration. Since 2015, Indonesia has entered the AEC committed to realizing economic equality in the ASEAN region by prioritizing the Micro, Small and Medium Enterprises (MSMEs) sector. With easy access to capital, it will encourage people's welfare and increase the economic growth of the community.

Keberadaan pedagang kecil di dalam pasar tradisional menjadi fenomena unik. Secara aktualisasi fiqih ekonomi pedagang kecil mestinya harus diberdayakan. Namun, dalam fakta sosial-ekonomi, pedagang kecil kerap kali kesulitan mendapatkan bantuan modal dari lembaga keuangan formal. Penelitian kualitatif ini, mengungkapkan peran aktualisasi fiqih ekonomi dalam pemberdayaan ekonomi pedagang kecil di era Masyarakat Ekonomi ASEAN (MEA). Pedagang kecil masih menghadapi masalah klasik yaitu keterbatasan akses permodalan. Penyaluran kredit dari lembaga keuangan *konvensional, yang mestinya dapat diakses pedagang kecil untuk menambah modal, namun tak bisa diakses karena ketiadaan agunan dan pengelolaan administrasi yang kurang elastis. Menariknya, di tengah persoalan yang menghimpit para pedagang kecil, Lembaga Keuangan Mikro Syariah (LKMS) memberi akses pedagang kecil untuk mendapatkan modal. LKMS mentransformasi sistem yang ada, yaitu dengan memberikan kemudahan akses tanpa jaminan dan administrasi yang elastis. Sejak 2015, Indonesia telah memasuki MEA yang berkomitmen untuk mewujudkan pemerataan ekonomi di kawasan regional ASEAN dengan mengutamakan sektor Usaha Mikro Kecil Menengah (UMKM). Dengan akses permodalan yang mudah akan mendorong kesejahteraan masyarakat dan meningkatkan pertumbuhan ekonomi masyarakat.*

Keywords: *economic fiqh, actualization and economic empowerment*

Introduction

This article reveals the role of the informal sector in empowering small traders. This informal sector, in academic study, is known as the economic *fiqh* which empowers and uplifts the small traders in the limited facility. That facility is giving conventional bank credits which cannot be accessed by small traders because of the absence of collateral and the inelastic administration. They eventually get the access to add the capital from the Sharia Microfinance Institutions (a.k.a. *Lembaga Keuangan Mikro Syariah*) in the forms of *zakat*, *infaq*, and *shadaqah* (ZIS) funds as well as other facilities without interest.[1]

In socio-economic structure, small traders are included in the Micro, Small and Medium Enterprises (MSMEs). In 2015, Indonesia was a part of ASEAN Economic Community (AEC) and in 2020, we should have been in the Asia-Pacific Economic Community. The principal characteristics of both big business environments is the liberalization of trading and investment.[2]

In other words, Indonesia is currently in the area of liberal business sector. In this position, we are supposed to be in "the economy of iron law". Those who are ready and stronger will dominate the economy. This era is undoubtedly challenging that, willy-nilly, Indonesian citizens, including the small traders, will be integrated in the global market. The problem is if Indonesian small traders are able to compete in the global market.

The article on empowering society, in this case small traders, is not a new topic. There have been many studies discussing it and they also found novelty

1 Umrotul Khasanah, *Kajian Model Pembiayaan Syariah Berbasis Penyertaan (Studi pada Masyarakat Pedagang di Pasar Merjosari Lowokwaru Malang)* 2016, 1-8.

2 *Merdeka.com, 2020.*

thanks to the research. To find the gap from the previous studies, the author will discuss it as follows.

Khasanah[3] revealed that low-economy society faces a dilemma. They need additional capital yet cannot obtain it. The credit facility offered by the government, both distributed by bank and non-bank institutions, is not reachable for small traders. Even if there is any chance of getting the capital, it comes from the informal sectors such as moneylenders, *bank titil*, and illegal financial institutions. Hence, the interest is too high, around 20% to 30%, even 40%. Many small traders have become victims because of this interest. They cannot continue their business and eventually must close it. *Fiqh* provides alternatives so that society is in line with the Prophet's teachings (*sunnah*), by giving *Qardhul Hasan* (benevolent lending) facility to improve the capital without interest. They only need to repay the principal amount. All *Ulama* contextualize *fiqh* to integrate Islamic values into society's real life, mainly in economic empowerment.

Unlike previous findings, Suwandi and Teguh revealed the role of *fiqh* in the context of empowerment in society, its reality is not always confrontational with the positive law.[4] Both can match in harmony to construct society in developing the economy. *Fiqh* establishes partnership with proportional role and function. In this context, humanization, liberalization, and transcendence can be a meeting point to construct society in the economy. Hence, the holy text needs to objectify and contextualize in developing religious and productive society.

Roibin[5] states that *fiqh* can transform and contribute through the prophetic approach i.e. humanization, liberalization, and transcendence, that becomes the socio-economic system which can stimulate society to be dynamic and sportive in economy. The prophetic concept such as humanization, sees humans as a subject that deserves recognition, appreciation, protection, and preservation in the cosmic realm. Meanwhile, the liberalization concept accentuates the supremacy of holy text for reflecting *fiqh* values objectively. In this context, there will apply dialectic law in dialogic and rational ways to realize *fiqh* substance when constructed in real life.

Basically, *fiqh* realization in life cannot deny rationality. When people deny it, it will be a boomerang because they will have the so-called legal unconsciousness.

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3 Umrotul *Khasanah*, *Dampak Pembiayaan Bisnis Tanpa Bunga Terhadap Pemberdayaan Pedagang Kecil di Pasar Tradisional, 2017, 1-3*.

4 Suwandi and Teguh, "Sintesa Hukum Islam dan Kebudayaan Jawa Suatu Pendekatan Profetik", *De Jure: Jurnal Hukum dan Syariah*, Vol. 12 no. 2 (2020): 255-256.

5 Roibin, "Agama Dan Budaya: Relasi Konfrontatif Atau Kompromistik", *Jurisdictie: Jurnal Hukum dan Syariah* Vol. 1 no. 1 (2010): 1-120.

In essence, *fiqh* transcendence is a soul or spirit of the humanized and liberalized reflection of understanding about Allah swt's existence that has unlimited authority. This is because the divine (*ilahiyah*) consciousness is a trigger for self-improvement on a high-religious side, both conceptual and actual, that can attract the holy text in heaven to be the source of consciousness for humans on earth. Here, humans realize dynamically and holistically so that life balance can be actualized in partial micro or universal macro ways.[6]

The economic *fiqh* enforcement in regulation context in Indonesia, according to Friedman, has direct and indirect effects or purposes. As applied in the economic world, the laws or regulations regarding the economic empowerment of poor society for instance, have direct or indirect effects. Subsidiary distribution to certain societies is an actualization of the investment in society, that will have positive influence i.e. the escalation of people's welfare economically. On the other hand, the subsidiary might not indicate a thing that can establish a society's economy. Nevertheless, the subsidiary that has been realized usually became a trigger of economic growth.[7]

In the aforementioned situation, this country also faces the complicated reality that our economic growth has no effect significantly on society's prosperity. Thus, economic growth is not always the main hope because, sometimes, there might be anomalies in the economy. Hence, we should know that encouraging economic growth is not enough. High consciousness and commitment are urgently needed by the government, that economy must be distributed fair and square. It is now our chance to change the system of economic growth in this country's policies which are constantly profitable for business conglomerates only. Now is the time to give an equal chance to all the economic actors without differentiating their levels.

If we are really integrated into the AEC region, we must create one single area as the market and production basis for AEC citizens. We have become an AEC community with a mind-concept that AEC is an economic area with a challenging environment. We still spare one expectation because one of AEC's commitments is to realize economic equity in ASEAN region by prioritizing the MSMEs sector. If all the agreed steps are solid and well-consolidated, then AEC will be integrated with the global economy.

6 Mudhofir Abdullah, 'Pribumisasi Islam Dalam Konteks Budaya Jawa Dan Integrasi Bangsa', *Indo-Islamika 4,* no. 1 (June 2014): 67-90.

7 Lawrence M. Friedman, *Legal System, The: A Social Science Perspective* (New York: Russell Sage Foundation, 1975), 50.

Looking forward to the upcoming challenges, particularly regional and global economic conditions, there should be a realization: how we prepare all the existing business entities, specifically on the readiness of our markets and the doers. We are relatively ready in the modern market because the managers are conglomerates supported by strong capital. How about our traditional markets and the traders, particularly the small ones? We then become pessimistic after looking at the condition: can we even compete in the AEC region? Let alone the amount of complaints in the community of small traders, that they do their business with many limitations. The majority of small traders are the ones doing their business in the traditional markets, from whom we can get our daily necessities such as staple foods.

One thing we can use as the indicator to see the readiness of our traders in AEC is their financial performance. Our MSMEs' financial performance is indeed concerning, from a macro perspective, because of the minimum allotment of credit programs. In fact, the key success of MSMEs sector in integrating in the AEC's single market healthily is on the *competitive advantage*. The thing is, this *competitive advantage* can be achieved only by having a good financial performance. To reach that step, we must have challenging strategies and do constant innovation.[8]

Wijono[9] states that in macro perspective, Indonesian MSMEs sector still have many weaknesses in the fundamental aspects as follows: (1) the difficulty of MSMEs' products to enter the market, (2) the weak of business development and reinforcement, (3) the access limitation on capital sources, particularly from banks. The solution to these three problems cannot be done partially or individually as the three are inseparable chains, specifically the one related to capital access.

Looking at such treatment from the government, this is considered an injustice to limit the financial access for MSMEs despite their huge contribution to the national economy growth compared to the large business managed by conglomerates. In the history of the national economy, MSMEs had played a crucial role in saving this country from the monetary crisis in 1998. In contrast, the conglomerate business that got big support in the New Order experienced an unfortunate bankruptcy because of the crisis. The government even had to spend a huge amount of money to save the banking sector in the form of Bank Indonesia Liquidity Support (*Bantuan Likuiditas Bank Indonesia* a.k.a. BLBI).

8 M. Terziovski, *Achieving performance excellence through an integrated strategy of radical innovation and continuous improvement. Measuring Business Excellence, 6*(2) 2002, 5-14

9 Wiloejo Wirjo Wijono, "Pemberdayaan Lembaga Keuangan Mikro Sebagai Salah Satu Pilar Sistem Keuangan Nasional: Upaya Konkrit Memutus Mata Rantai Kemiskinan", *Jurnal Kajian Ekonomi dan Keuangan,* Special Edition November 2005.

Amid the crisis, many MSMEs still worked normally and contributed to the national economy recovery post the monetary crisis. The real contribution of MSMEs at the moment was to maintain economic growth and provide employment. According to Statistics Indonesia (*Badan Pusat Statistik*), the number of MSMEs[10] is 64 million and reaches 99,9% of business total in Indonesia. Thus, it is no doubt to say MSMEs as one of the main economic boosters. The condition then changes in the Covid-19 pandemic. 30% of the MSME sector is affected badly, meanwhile 50% to 70% can create innovation amid the pandemic. They start improving when the government provides assistance through the National Economic Recovery (*Pemulihan Ekonomi Nasional* or PEN) scheme such as the relaxation of People's Business Credit (*Kredit Usaha Rakyat* or KUR), interest subsidiary, work capital, and the Productive Presidential Assistance (*Bantuan Presiden Produktif*) for micro businesses in the form of *hibah* (gift). Since the pandemic, MSMEs' sales have increased 26% or 3.1 million per day. Therefore, The Ministry of Cooperatives and SMEs of the Republic of Indonesia always encourages the MSMEs to go digital. To follow it up, MSMEs then collaborates with big marketplaces in Indonesia, say Shopee, Blibli, Tokopedia, Grab, and so forth, to help programs held in digital platforms. At least 10 million MSMEs are expected to be included in the digital ecosystem.

Small traders need *competitive advantage* to exist and advance in the AEC Challenge. Based on the research data, there is a theory gap to apply the *competitive advantage*. There is a strict competition to be the best one in AEC market i.e. the theory of industrial organization (I/O)[11] *versus Resource Based Theory* (RBT)[12]. I/O theory focuses on the external factors, meanwhile the internal ones are covered in RBT.

Research Methods

The focus of this study is "to actualize the economic *fiqh* in empowering the small traders to challenge ASEAN Economic Community (AEC)". The data is obtained from a direct observation as primary data. The secondary data are from the interviews with 7 (seven) informants and documented information such as books, leaflets, scientific journals and papers, and also research reports. To get the

10 Liputan6.com, Friday (4/9/2020), September 4, 2020, 07:00 WIB, updated in September 13, 2020, 17:04 WIB.

11 M. E. Porter, *Competitive Advantage: Creating and Sustaining superior performance* (New York: Free Press, 1985)

12 M. Wright J. Barney and D. J. Ketchen. The resource-based view of the firm: Ten years after 1991. *Journal of Management,* Vol. 27 no. 6 (2001): 625-641

best result, the author uses qualitative research[13]. The methods done include: study approach, data collection, and data analysis. The issue brought up here uses social paradigm; not only does it find the cause and effect, but also seeks for in-depth understanding. Weber calls it *versetehen* i.e. an attempt to thoroughly comprehend something. The comprehension is obtained not only by seeing the cause-effect relation, but also by seeking for deep meaning and values.

Quantitative data are used to portray the comparison of economic behavior achievement such as the number of traders' income and social problems. The data collection is done through observation and interview. The observation is to see the objective condition, while the interview is to get the thorough image. Besides, the researcher also uses literature review. The researcher acts as a data collector to directly observe and comprehend the condition. Data validity is tested by self-familiarizing, discussing with the experts, and triangulation i.e. the examination of information trustworthiness to get the objective data.[14]

Data analysis is done along with data collection and processing. The data are collected step by step, then it is classified, filtered, identified, generalized, and finally the theoretic constructions are drawn. In the process, the researcher tried to understand the data, categorized, and identified the characteristics of each category to be able to differentiate one to another. The deep understanding is achieved through data analysis and process. Data validity and reliability are analyzed using a theoretical approach to draw the conclusion. The data analysis is done by applying "the Flow Model of Data Analysis" by Miles & Huberman[15] as pictured below:

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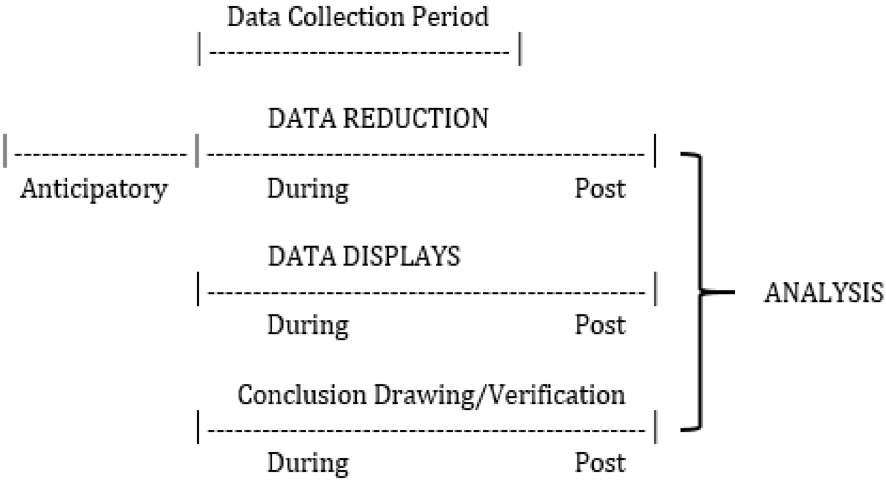
13 M. Burhan Bungin, *Penelitian Kualitatif*, Edisi Pertama Cetakan ke-4 (Jakarta: Kencana Prenada Media Group, 2010)

14 Suparmono, *Metodologi Penelitian dan Survei* (Yogyakarta: Badan Penerbit FE-UGM, 1993), 24.

15 Matthew B Miles and A.Michael Huberman, *Qualitative Data Analysis*, Tjetjep Rohendi Rohidi (trans,) (Jakarta: UI-Press, 2009).

Figure 1. The Flow Model of Data Analysis



Source: Miles & Huberman

The System of Islamic Finance and Small Traders Funding

Economic *fiqh* is related to Islamic *fiqh* or Islamic law which is interpreted as *Ulama*'s efforts those deepening *fiqh* knowledge are called *fuqaha'*. The efforts done are searching for law-based *dalil* (evidences) in the Quran and hadith, as well as the thoughts of *ulama tabi'in* (referred as the second generation of Muslim after the Prophet Muhammad) in applying sharia based on people's needs.[16] Meanwhile Josept Schacht defines Islamic law as religious values or norms and the integrity of Allah's commands which control Muslim's life behavior as a whole.[17]

El-Komi expresses, one thing that makes poor people uninterested in accessing micro financial credit is because of the interest.[18] Their belief in Islam forbids the interest-based financial transaction as *ulama*'s fatwa (Islamic law) clearly states that interest system is *riba* (usury), thus forbidden/*haram*. Hence, financial authority innovates the Islamic financial system without any interest. There are two models in Islamic financial system used as substitutes of interest system, those are Profit and Loss Sharing (PLS) contract and *akad bay'* (sales contract) either it

16 Teungku Muhammad Hasbi Ash-Shissieqy, *Falsafah Hukum Islam* (Semarang: Pusataka Rizki Putra, 2001), 29.

17 Najitama, *Sejarah Pergumulan Hukum Islam dan Budaya Serta Implikasinya Bagi Pembangunan Hukum Islam Khas Indonesia.*

18 Muhammed Salah El-Komi, "Poverty: Alleviation through Microfinance and Implications on Education"' (Dissertation Doctor of Philosophy in Public Policy and Political Economy, The University of Texas at Dallas, AS, 2010).

is *bay' salam* or *bay' murabahah*.

Micro finance's role is indeed strategic and significant in alleviating poverty. Opening the capital access for small traders has double effects: it can improve the poors' welfare and their education quality. Welfare and education, in fact, play a crucial role in encouraging the poor to make a socio-economic leap. For small traders, the improvement of welfare and education will encourage them to level up to be the strong middle-class entrepreneurs.

The inhibiting factors in financial access for small traders is not only about the inflexibility of conventional financial institutions and interest system which is considered *haram*. Furthermore, the interest system is questioned theoretically. Ideally, it can be a control of financial stability and inflation. In fact, after the repetitive economic crisis, economists started questioning the reliability of the interest system in stabilizing the economy and decreasing inflation.

The interest system, according to Bashir,[19] is in the form of the settled interest payment in conventional finance transactions that makes the economy inflexible. Interest system even in some cases, particularly in several monetary crises, is considered as the cause of inflation. Instead of increasing the economy, inflation decreases the goods price or money values. So, we can say that inflation has double impacts – impeding economic growth and lessening the goods price value or decreasing society's welfare.

Meanwhile, the money lender or financial institution worries about the benefit they get after giving out the financing program if they have to switch the interest system to Islamic finance. Another worry is about the loan repayment, especially at the due date, will the Islamic finance be effective in increasing the loan repayment?

Makiyan[20] proves that in some studies, the rate of loan repayment in the Islamic finance is better than the conventional one. In Iran banks, the transaction of Islamic financial system is dominated by PLS system, especially for *mudharabah* contract. Islamic financial system also turns out to be more effective in controlling inflationary pressure. Talking about the effectiveness of financing distribution allotment to small business sector, it depends on the government in designing the policy. Thus, the realization of small business financing program requires

19 Abdel Hameed M Bashir, "The Welfare Effects of Inflation and Financial Innovation in a Model of Economic Growth, An Islamic Perspective" *Journal of Economic Studies*, Vol. 29 no. 1 (2002): 21-32.

20 Makiyan Seyed-Nezamaddin, "Role of Rate of Return on Loans in the Islamic Banking System of Iran", *Managerial Finance*, Vol. 29 no. 7 (2003): 62-69.

the intervention of government so it hits right on the target. This research was conducted during the 1984-1994 period when nationalizing all Iran banks to be the Islamic Bank.

A good policy is made based on the real problem and need within society, so in the realization of a program, a policy is a problem solving for society as the benefit recipients of the economic growth. If the economic program is not based on the real problem of society, it may not reach the desired target in the economy. The system used also determines the level of success of an economic program because it is made to work effectively.

Al-Harran[21] states that several countries, particularly the developing ones, failed to achieve economic growth because they neglected society's perception. Basically, a country's economic growth is all for society as the benefit recipients of economic development. In the past, Sudan experienced several failures in their economic programs because the policy makers ignored the real problem faced by their society. Sudan eventually made up for their mistakes by making innovation in their financial system which was originally based on the conventional system that is interest-based transaction. They changed it into a PLS i.e. *musyarakah* contract.

Musyarakah financial instrument is made to facilitate the demand for agricultural sector financing needed by Sudanese villagers. This instrument successfully fills the financing needs of farmers there and the change of financial system surprisingly gives huge impact to the economic growth in Sudan. Sudan's economy keeps getting better and its economic growth is elevated. The most important thing is the distribution of society's income in Sudan works effectively so there is no social gap that will cause social fluctuation.

If we look into the problem of small traders in traditional markets who often face difficulties in accessing the capital to fund their business, what government or financial authority needs to do is to change the financing instrument based on the core problem of those small traders. There are so many transaction models or *muamalah* contracts in the Islamic financial system which can be used for financing programs of the small business sector. The administrative problems – for example: the existence of collateral, the period of running the business, and the complicated financial disbursement process must find its solution.

This research reveals that people working as traders in traditional markets do not originally choose this job. They eventually decided to be traders just because

21 Saad Abdullah Sattar Al-Harran, *Islamic Finance: Partnership Financing*, 2nd Printing (Malaysia:,Pelanduk Publications, 1996).

they have the needs to fulfill. At first, they have already experienced several jobs, applying for employment here and there, and also running some businesses. After knowing themselves, they realize that they are into trading and that is how they then put their hearts to be traders. So, without question, traders in markets, particularly those in traditional ones, have sturdy behavior in business. When they decided to be traders, they were well-experienced because they were trained to face any challenges in life.

Similarly, in choosing the financing model to support their business, the traders have tried a number of financial system models. In the market, business financing models which can be accessed by traders are quite varied, such as non-bank financial institutions and banks, also those with and without interest. These choices make them aware of choosing the financing model since it is related to their business' future. They have numerous opinions or views on the various models of financing in the traditional market. Globally, it can be categorized into two: conventional and Islamic financial systems, as well as interest-based and non-interest based financing. The traders' point of view about conventional and Islamic financial institutions is worded in the following explanation.

First, the Conventional Financial Institution. There are two models of conventional financial institutions in the market: bank and non-bank. Those included in bank and non-bank financial institutions are interest-based financing systems. The non-bank institutions are classified into three; moneylenders, *bank titil*, and Saving and Loan Cooperatives. Those are explained below: 1) Moneylenders; Moneylenders (or called *rentenir* in Indonesia) are commonly found in traditional markets. They are seen negatively in the traders' perspective because they are considered usurers. That is since they gain high profit by charging exorbitant interest after giving out loans to the traders. However, they are very helpful for the small traders due to their elastic service; no collateral and even no predetermined requirements are needed to borrow some money. They can easily lend the money in an instant only when the traders state that they urgently want to borrow it. Usually, the common applied system known among traders is called *rong welasan* (twelve). It means that, if we borrow IDR 100 thousands or IDR 1 million, we will repay IDR 120 thousand or IDR 1.2 million to the moneylenders, thus, the interest is 20%. The debt repayment period can be done every day starting from the morning until the afternoon (based on the operation time of the market). 2) *Bank Titil*; The term is only known and used among traders since it is not a banking institution. They give the nickname just because the ones running *Bank Titil* once worked in a bank whose consuments are in the market in majority. Many traders choose *Bank Titil* because the loan process is very easy. They only need to submit a copy of the ID card. When the traders agree on the terms determined by *Bank Titil*, they can get the cash at that time. The fund is usually bigger in amount than the one given out by moneylenders. If they need to borrow IDR 1 to 5 million, the good choice is to go to *Bank Titil*. The interest is similar with moneylenders that is around 20% to 30%, depending on the installment period; one, two, or three years. The longer it takes, the bigger the interest is. 3) Cooperatives; The one commonly running and operating in the traditional market is Saving and Loan Cooperatives. Cooperatives which lend the money to traders in the market, basically, have applied banking practice because the lenders are not the members of the cooperative but the customers as we usually witness in the banking world. The fund actually belongs to private or personal parties. The traders borrowing money from cooperatives say that the pre-requirements are flexible and the fund disbursement is uncomplicated. The amount provided is usually similar or even bigger than *Bank Titil*, ranging from millions to hundred million. The pre-requirements however are stricter than moneylenders and *Bank Titil*. Cooperatives usually ask for collateral such as Ownership Certificate of Motor Vehicle (*Buku Pemilik Kendaraan Bermotor* or BPKB) for either two-wheeled or four-wheeled vehicles, or other assets. The better the collateral is, the bigger amount of money they will get. The interest is varied depending on the repayment period; one to five-year period. The longer it takes, the bigger the interest is; ranging from 20% to 40%.

Looking at the Conventional Financial Institutions used by traders, they can be categorized as follow: *1) Microfinance Institutions*. In reality, small traders in the traditional markets are realistic and pragmatic people. So, they are willing to reach financial institutions which give capital loans with easy requirements and do not complicate them in getting the cash. For them, the financing aspect is an urgent matter for it is related to their business continuity. Therefore, they choose the financial institutions which facilitate them with the ease of capital access. Microfinance institutions and other financial institutions in the form of General Bank, basically, have administrative requirements which relatively complicate the traders. Thus, before going to banking institutions, they first went to the non-bank ones. Generally, those reaching the bank are the established traders since one of the requirements of the bank is the business which already runs around one or two years. When choosing the bank for proposing the loan, the consideration taken by small traders are the requirement and the disbursement process. If it is easy and reachable, not too bureaucratic and too long in the process of disbursement, the small traders will definitely choose the one faster in service.2) General Banking Financial Institutions. Majority of the small traders say that proposing loans in the general bank is out of their level. This is perhaps because the capital they need for running the business is not that big, so, on average, they choose micro-scale banking finance. Moreover, the conventional general bank usually requires significant collateral that small traders do not have. As a result, only a few small traders can access the general banking sectors.

Second, Islamic Financial Institution. There are two models of the Islamic Financial Institution in the traditional market: non-bank and Islamic-principle banking institutions. Those categorized in the Islamic Financial Institution are the ones with non-interest basis or *free interest* in their transactional operation. There are four Sharia-based financial sources for business capital of the small traders in the traditional market: *1) Personal.* Financing source based on the Islamic finance from personal is created because of the existence of kinship and friendship factors or via the pilgrims of *salawatan*, *pengajian* (Quranic study group), and *tahlilan* in the society. Small traders' needs are not that big. They only need a certain amount for capital expenditure or the money to buy items which later are processed and sold in the market. The loan range made by small traders in the traditional market starts from IDR 50 thousands to IDR 500 thousands. They can get that money by borrowing from their close relatives, friends, or fellows in *pengajian*, *salawatan*, *tahlilan*, and other groups. *2) Amil Zakat Institution*. Basically, society's interest, particularly the small traders in traditional markets, to get financing help as capital business from *zakat* institutions is huge. However, compared to the demand, the *zakat* fund supply in the traditional markets is considered very small. The operating fund in the market is usually via *sodaqoh* (alms), *qardul hasan*, and also *akad bay' murabahah*. The most dominant one is *qardul hasan*; the trader as a borrower only repay the principal amount to the *amil* institution. The traders are desired to access the loan facility from Amil Zakat Institution but it is difficult since only a few operate in the market. The traders say that they are the one deserving the *zakat* funds because small traders, in reality, are in the poverty line. Legal wise, they are considered *mustahiq* (the *zakat* recipients). *3) Baitul Maal wat Tamwil (BMT).* BMT, categorized as a non-banking, is one kind of Islamic financial institution that starts to run in the traditional market. It is needed by the small traders because one of its programs is to offer the business capital for small trading. Thus, the majority of the BMT members are the small traders. Financing facility offered by BMT is *murabahah* transaction. It is a sale and purchase agreement in which BMT acts as a goods seller and the buyers are their customers. They do transactions based on the estimated needs of the purchased goods. In the process, BMT presents the goods price and its profit. The transaction profit can be in the form of direct one or percentage. The payment is done in cash or installment. Since there is no interest, the installment period has no effect on the profit. BMT, like other Amil Zakat Institutions, is familiar for traders. Yet, because the number of BMT is still small, they do not accommodate all financing supply for all traders. Thus, they expect that there will be many BMTs founded so it can facilitate the traders needs in capital access. *4) Sharia Banking.* The loan products for business capital provided by Sharia General Bank (*Bank Umum Syariah* or BUS) are almost similar with the ones in other Sharia Microfinance Institutions. The ones provided by BUS are bigger so small traders think that the loan products are not decent for them. This is because the amount of money lent by BUS is relatively big, whereas small traders only need small loans, around IDR 5 million or lower. Because of this factor, they rarely take the opportunity provided in BUS. In BUS, small traders usually propose the loan through *qardul hasan* which collects the fund from CSR (Corporate Social Responsibility) of the related bank and the mobilization of *zakat* fund is from the sharia banks staff.

Basically, Islamic financial system is created to provide solutions and ease for society in need. There is only justice and no exploitation as well as the principle of helping one another in the trading. All these factors should be present in the Sharia-based financial institutions.

The Qardul Hasan Empowerment Principle with Akad Bay' Murabahah and Akad Salam

The main principle in Islamic financial system is to avoid *ribawi* (containing the elements of usury) transactions since *riba* is considered *haram* in Islamic law. Related to facility access for financing needs, Islamic financial system has provided many contract or transaction models which are clearly interest free. They are based on a debt system, *bay'* (sale-purchase), and PLS or profit sharing system.

The variation of transactions is based on society's necessity that needs financing access in their daily lives. Various *akad* (contracts) are also related to financing characteristics which reflect the degree of financing needs. For example, people fulfilling their basic needs i.e. eating, are the ones categorized as poor. They usually take advantage of *qardhul hasan* program. Another example, if people want to fulfill their financing needs for business, they can choose *akad bay' salam* or *murabahah*.

The role of Conventional and Islamic Microfinance Institutions can be differentiated from the financing service done by each institution. Basically, it can be classified into two financing models: interest-based and free interest financings. There are two models of conventional financial institutions operating in the market: non-bank and bank. The explanation is in the following paragraphs.

First, although conventional finance is forbidden based on *ulama*'s *fatwa* (a legal opinion on a point of Islamic law given out by qualified authority), society in reality still utilizes the facility from both bank and non-bank. The non-bank institution used by traders is varied but can be categorized into three: moneylender, *Bank Titil*, and Saving and Loan Cooperative.

A) Borrowing from moneylenders. Moneylenders dominate the traditional markets. Perhaps, since they have no legal entity, their work is aggressive and somehow wild. They give no pre-requirements for traders who want to borrow a sum of money. The process is instant, when they throw the bait and the traders (consumer) take it, the money will be received at that very moment. It is understandable since the amount is not that big, below IDR 1 million on average. The small traders tend to borrow from moneylenders because the process is very simple and there is no requirement. *B) Borrowing from Bank Titil*. The official name is not *Bank Titil*. It is just a nickname for a person or institution giving out loans with high interest. In majority, they are not legal-corporated, only one or two is corporated with cooperatives - it is complicated to say since usually the cooperative partnering with *Bank Titil* is not even legally called cooperative. They have no members like other cooperatives. Small traders prefer borrowing from *Bank Titil* since it has flexible requirements and the disbursement process is easy. What makes it different from moneylenders is that it has administrative management. It can also give a bigger amount of loan than moneylenders. *C) Borrowing from Cooperative*. Cooperative is legal. However, in the market, the legal entity of the cooperative is misused. It is because this Saving and Loan Organization disguised as a cooperative does not even function and run like other cooperatives in villages in the past, for instance: Village Unit Cooperative (*Koperasi Unit Desa* or KUD), Business Organization Cooperative (*Koperasi Paguyuban Usaha*), and other, that collected its members based on their characteristics. The cooperative in the traditional market is just like a bank in practice. They belong to a personal party. The thing differentiating it with moneylenders and *Bank Titil* is that they have legal entities, even though in the real practice it is misapplied. The reason is that they do not work as a common cooperative, but more like a banking institution. Another difference is that they give bigger amounts of loan than moneylenders and *Bank Titil*. The requirement and disbursement process are also flexible.

Meanwhile, conventional financial institution used by traders is explained as follows: a) Microfinance Institution. It is an institution providing loan service for micro credit which operates in the market and its surrounding. Only a small percentage of the traders can access this Microfinance Institution because of its strict regulations. A newbie to trading cannot access the facility because they are excluded from the requirements, thus, it is only applicable for people who have already run the business for one or two years. This is unfortunate since usually the business starts from a small one. They still try to find passion in trading. Once they feel enjoyed, they will put their heart into it by using all existing resources. Financial institutions should have assisted the business since the earlier period. In principle, starting the business is included in the strategy of national economic growth, that is to establish new businesses for elevating and reaching the target in the economic development. b) Banking Financial Institution. There are some general banks operating in traditional markets to help the traders but not all of them can access it. That is because they have strict requirements such as having a collateral for those who wish to borrow money. Furthermore, small traders do not need huge capital for their business, only IDR 5 million or even lower. Hence, the existence of general banks is almost invisible in traditional markets. Moreover, it is rare to see bank staff go inside the traditional market to offer their products.

Second, the Islamic Financial Institution. The one operating in the traditional markets has two models: bank and non-bank financial institutions. All included in this category, basically, are the ones without interest or *interest-free* in their business transactions. The financing sources of traders in the traditional markets are presented here: *a) Personal*. What it means here is that sources are from the rich who have the conscience to lend their money to help the struggling small traders. We cannot find many people doing this. If any, it is very helpful for the small traders since they only need below IDR 1 million for their business capital. They do this purely based on *ta'awun* or mutual help. When the traders have the money, they will use it to repay the debt without any additional cost. Sometimes, the lenders even let the traders use it without having to repay the debts because they consider it as a donation for those in need. *b) Amil Zakat Institution.* The role of this institution is to mobilize the collected *zakat* funds from society to the recipients. There is a term of productive *zakat* i.e. the fund is given to start a business. There is also the so-called *revolving fund*, a *zakat* fund which is used by the small traders in turn, so everyone can feel the advantages of *zakat*. The system is *qardhul hasan*, the small traders only repay the principal amount without interest fee. The staff of Amil

Zakat Institutions has reached small traders in the traditional market, however, volume wise, they are still behind the conventional financial institution. *c) Baitul Maal wat Tamwil.* It is the realization of Islamic Microfinance Institution. They manage *wadi'ah* (savings) and loans for business with the principles of *akad bay' murabahah* and *qardhul hasan*. The practice in the traditional market is: BMT usually applies *akad bay' murabahah* where they act as a *sohibul maal* or capital owner. The contract is similar to sales and purchasing in which BMT will offer and sell the goods to the small traders as the buyers. The price paid by the buyers include the principal amount and the interest (profit for BMT).

The Islamic Financial Institutions used by the traders are presented in the following explanations: *a) Islamic Microfinance Institutions.* This institution is interest-free based financing which gives a small amount of loan. BMT is included in this category. They apply *akad bay' murabahah* and *bay' salam* in the practice. The former has been explained, meanwhile the latter which is practiced in the market is a contract of sale and purchasing of goods. The payment can be done in cash or installment in a certain period. The difference with *murabahah* is that the seller (or called as *sohibul maal*) in this case is the bank itself. The goods are not on the spot but are booked. The good variations are clearly known. Small traders in the market are familiar with this institution. *b) Islamic Banking Institutions*.This institution also operates in the traditional market, but the small traders rarely take advantage of it. The consumers are generally those included in higher than micro and small businesses. The loan range reaches thousand million and even billions rupiah. The products offered are similar to the Islamic Microfinance Institutions. The one which can be made use by small traders us *qordhul hasan*. The fund of this kind of product in BUS is from CSR (Corporate Social Responsibility) which realizes in the form of *revolving fund*. The small traders only need to repay the principal amount. This institution, on average, has *Amil Zakat* Institution which helps poor society in financing their business.

Financing factor influences the empowerment of small traders. The research found that interest-based financing leads to bankruptcy of small traders in traditional markets. The high interest rate discomforts them so all they think about is how to reach the target and repay the debts. As a result, they often do business recklessly such as selling and buying items ineffectively so they often get no profits. This is a proof of what Allah has written in al-Baqarah [2]: 275 that, "Those who consume interest cannot stand (on the Day of Resurrection) except as one stands who is being beaten by Satan into insanity..." Consuming something with *riba* lessens the blessing and fortune so one's life is not peaceful and in a hurry, and one's heart is agitated.

On the other hand, interest-free financing in Islamic Financial Institutions creates peaceful life. According to the small traders, the interest-free financing has several impacts in their lives: *a) calm attitude*. Without thinking about the debt interest, they feel calm. They also think that Allah swt blesses their business because they got something in a *halal* (rightful) way. In trading, people need to be calm to be able to think clearly so their decision is effective. *b) patience.* Since the financing source is *halal*, they need to be patient in waiting for the good result. In serving others, they also need to be patient so that others will feel respected. *c) sincerity.* Sincerity is from our conscience in accepting the condition. If we strive to work hard and be sincere, Allah will help us to run the business. Sincere feeling affects positively to our business environment so we have no prejudice toward others in our business circle. *d)* wise. Being wise is the must-have attitude in trading because those in a rush are usually wrong in taking decisions. By taking the interest-free loans, traders do not need to be in a rush to reach their daily target. They can be wise in deciding everything as long as their business runs smoothly. *e) kinship and brotherhood.* A financing from a partner or family creates a positive vibe in a relationship, thus, they will do their best not to break the *silaturahim* (bond). Giving loans with no interest is a form of sincere support someone can give to others. In the future, they can continue to help each other so that their kinship is becoming stronger. Such relationships create a positive and healthy atmosphere in business. *f) mutual help.* In Islam, life is all about helping one another and solving problems together for mutual advantages. In interest-free Islamic financing, the system is based on mutual help principle in business. By helping each other, we avoid exploitation and being harmful to others for our own benefits.

The aforementioned positive values in traders' self will empower them. Those values create a dynamic and healthy business environment. The work ethics also encourage the improvement of their trading business. Ayub[22] say that the terms in Islamic finance such as *qard*, *salaf*, and *dayn* are from the Quran, hadith, and *Fiqh* books or Islamic law. *Qard* and *salaf* are related to giving and taking loans, meanwhile *dayn* is related to contract or credit transactions or *akad bay'* (sale and purchase). *Qard* means "cutting" because the goods are being cut from the lenders when it is given to the borrower. Islamic law wise, *qard* is giving others valuable items based on the generosity principle so another party will feel the similar benefits. The only requirement is to repay the same number of items to the real owner when asked or within a certain period.

22 Muhammad Ayub, *Understanding Islamic Finance*, Aditya Wisnu Pribadi (penerjemah) (Jakarta: PT. Gramedia Pustaka Utama, 2009).

Arifin[23] explains, *qard* is lending property to others without expecting something in return. In *Fiqh*, *qard* is categorized as *aqd tathawwu'* (mutual help) and is not included in commercial transactions. In realizing social responsibility, Islamic banks have a *qardhul hasan* program; the bank provides funds for those in need and deserve. In this program, the borrower only needs to repay the principal amount.

In *Matn al-Ghayah wa at-Taqrib*, Al Asfihani[24] utters that *aqad bay'* has three types: 1) selling-purchasing the *musyahadah* (visible) items which is allowed in Islam, 2) selling-purchasing items that is only mentioned its characteristics in the agreement. It is also allowed if the characteristics match the description, and 3) selling-purchasing the non-existent (*ghaib*) and invisible items. The last one is forbidden in Islamic law.

The two contracts (*aqad*) i.e. *bay' murabahah* and *bay' salam*, are categorized as the second type as mentioned in the previous paragraph.[25] So, they are allowed in Islamic *fiqh*. *Salaf* and *salam* are similar in meaning, that is order. Sharia wise, *salam* is selling something (items) after its characteristics or specifications are stated clearly during the contract. *Aqad salam* is not valid without *ijab-qabul* (lit. consent and agreement) when handovering the items. It is a spoken statement between seller and buyer. The payment can be done in cash and installment.

Furthermore, *bay' murabahah* is defined by Az-Zuhaili as a selling-purchasing item based on the agreed price plus the certain benefits of that purchase.[26] *Ulama* from *mazhab malikiyah* (one of Islamic schools) presents the example of this *aqad*; the item's owner will state the item's purchasing price. He then will mention in detail how much profit he wants in reselling it. In other words, the owner (here as a seller) deserves asking profit in a certain percentage. Meanwhile, *Syafi'iyah* and *Hanabilah* define *murabahah* as selling items based on the capital spent by the seller and he will get profit for every 10 *dirhams* (or the equivalent price). One requirement is both parties know the capital spent by the seller. The last, according to *Hanafiyah ulama*, *murabahah* is a property transfer based on the transaction and the first (purchasing) price plus the certain profit.

23 Zainul Arifin, *Dasar-Dasar Manajemen Bank Syariah* (Jakarta: Alvabet, 2002).

24 Al-Asfihani, *Mat al-Ghaayah wat Taqrib* (Surabaya: Ampel Mulia, 2008).

25 Syaikh al-Imam al-Alim Al-Allama Syamsuddin Abu Abdillah Muhammad bin Qosim Asy-Syafi'I, *Fathul Qorib al-Mujib* (Kudus: Menara Kudus, 1983).

26 Wahbah Az-Zuhaili, *Al-Fiqhul al-Islamy wa al-Dillatuha* (Gema Insani-Darul Fikri, 2011).

Conclusion

There are two funding source models in the traditional market i.e. interest-based (conventional financial system) and free interest (Islamic financial system). The two findings have two patterns: bank and non-bank. The interest-based funding provider in traditional markets has three kinds: moneylender, *Bank Titil*, and cooperative. Out of these three, only the cooperative has a legal entity although in the practice, they misapply it (or more like banking system) because they treat the traders as customers. They give easy process in giving out loans but at the same time are troublesome because of the high interest that leads to bankruptcy. On the contrary, Islamic finance rightly serves the society without giving interest and also gives ease. The funding facility is complete and is applied based on the borrowers' characteristics. For the small traders categorized as poor citizens, Islamic financial system provides a qardhul *hasan* program, in which they only need to repay the principal amount of loan. No other additional costs in the forms of "recompense" are required. Other facilities provided are Profit and Loss Sharing (PLS), *bay' murabahah*, and *bay' salam* programs. We can see that in Islamic financial system, the thing emphasized is to empower the businessmen, mainly the small traders. The interest-free funding providers are personal, *Amil Zakat* Institutions, and *Baitul Maal wat Tamwil* (BMT). The interest-free payment in Islam reflects the empowerment on the recipients. This is because Islam wants its believers to be calm, patient, sincere, wise, prioritizing kinship and brotherhood, and also get used to help each other in goodness. These positive attitudes create good energy which can improve traders' performance, capacity, and personality. They are also expected to be creative, tough, inspiring, progressive, and dynamic in doing their business.

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