



**DISSENTING APPROACHES OF ISLAMIC ECONOMICS:
THE CONTEMPORARY JURISTIC DISCUSSION OF *RIBA***

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Abstract: Along with the rapid growth and spread of Islamic economic enterprises, some of their products have prompted debates among the Islamic scholars about their permissibility and whether they comprise usury (*riba*). Eventhough *riba* is one of the central concepts in Islamic economics, the ruling of *riba* and its definition are still among those objects of the ongoing long debates and discussions among Islamic scholars and economists. This issue comes about from a broader question about which kind of Islamic economic system should be developed as an alternative of its conventional counterpart. By examining discussions on *riba* found in contemporary literatures, it can be seen that the question is discussed through different approaches. At the same time, these approaches are used to understand and implement Sharia juristic principles in the field of economy. In general, there are three approaches; the modernist approach, the revivalist approach, and the literalist approach. To further understand these approaches, this paper identifies some main topics of the ongoing debate among the proponents of these approaches, namely, the position of Fiqh opinions in defining Islamic economic concepts, the objectives of Sharia to comply in economic activities, and also the question of the applicability of concepts concluded by each approach.

Abstrak: Seiring dengan cepatnya pertumbuhan dawn penyebaran perusahaan berbasis ekonomi Islam, beberapa produk dari perusahaan tersebut telah memicu perdebatan di antara para sarjana Islam tentang legalitas dan keterkandungan unsur *riba* di dalamnya. Meskipun *riba* adalah salah satu konsep sentral dalam ekonomi Islam, legalitas *riba* dan definisinya masih menjadi objek perdebatan panjang yang terus berlangsung di antara para sarjana dan ekonom Islam. Masalah ini muncul dari pertanyaan yang lebih luas tentang bagaimana seharusnya model sistem ekonomi Islam yang dikembangkan sebagai alternatif dari ekonomi konvensional. Dengan menelaah diskusi tentang *riba* yang ditemukan dalam literatur kontemporer, dapat dilihat bahwa pertanyaan tersebut didorong oleh berbagai pendekatan yang digunakan untuk memahami dan menerapkan prinsip-prinsip Syariah di bidang ekonomi. Secara umum, ada tiga pendekatan; pendekatan modernis, pendekatan revivalis, dan pendekatan literalis. Untuk lebih memahami pendekatan ini, makalah ini mengidentifikasi beberapa topik utama dari perdebatan di antara para penganut pendekatan tersebut, yaitu posisi fikih dalam mendefinisikan konsep-konsep dalam ekonomi Islam, *maqāsid al-Syariah* yang harus dipedomani dalam aktivitas-aktivitas ekonomi, dan juga pertanyaan tentang efektivitas penerapan konsep-konsep yang dihasilkan.

Keywords: *Riba; Islamic Economics; Fiqh; Objective of Sharia.*

INTRODUCTION

Islamic economy and its enterprises have gained their momentum in the last few decades. The visible phenomenon is that people are starting to move from conventional banks to Islamic ones. The hope is that they are able to conduct their economic activities in a valid and halal way according to Sharia while at the same time they still can meet their various needs through those activities. Not only spread over Muslim-majority countries, Islamic economic enterprises are also emerging in other countries like UK, USA, and Japan.

Although this wide acceptance, up until the present day, Islamic economy is still facing challenges for the basics it stands for. The issue of interest in conventional banks, as one of these challenges, is still a subject of debate among Muslim scholars and economists. In a fatwa issued by Dar al-Ifta in 2016, Shauqi Allam, Grand Mufti of Egypt, stated that the interest of conventional banks is halal, as long as there is no element of uncertainty (*gharar*) and harm (*dharar*). Contracts at conventional banks that contain interest can be considered as new contracts that the legal origin is permissible.¹ This statement is certainly contradictory to the idea of establishing Islamic banks that continue to spread everywhere, namely to get away from conventional interest. It also opposes the resolutions of International Islamic Fiqh Academy and The Islamic Fiqh Council of Muslim World League².

However, in their development, Islamic banks began to provide some financing products that have similarities with conventional products with the same functions. This prompts the question to what extent the products of Islamic banks differ from the products of their conventional counterparts or more broadly speaking, whether these products are really free from elements that cause the prohibition of conventional bank products. While Monzer Kahf states that there is no agreed-upon definition of Islamic economy, the question is whether the ongoing projects of Islamic economy by Muslim scholars and economists are one project or different projects according to the ideological background of each of them thus causes differences in methodology, principles, and assumptions³.

While some literatures have explored the fiqh issues by mainly focusing on fatwa shopping as the consequence of the diversity of Islamic economic approaches⁴, this paper tries to identify some methodological challenges that cause

¹ Syauqi Allam, "Fawâid Al-Bunûk Wal-Ta'âmul Ma'ahâ," Dar al-Ifta', 2016, <http://www.dar-alifta.org/ar/ViewFatwa.aspx?sec=fatwa&ID=14096>.

² al-Majma' al-Fiqhiy Al-Islâmiy, *Qarârat Al-Majma' Al-Fiqhiy Al-Islâmiy Bi Makkah Al-Mukarramah* (Mecca, n.d.), 222; Majma' al-Fiqhi al-Islamiy al-Dualiy, "Qarârat Bi Sya`ni Al-Wadâi' Al-Maşrafiyyah," accessed November 25, 2019, <http://www.iifa-aifi.org/1992.html>.

³ Monzer Kahf, "Islamic Economics: Notes on Definition and Methodology," *Review of Islamic Economics* 13 (2003): 5, <https://doi.org/10.1016/j.aanat.2010.05.002>.

⁴ Ali Malik, "Controversies That Make Islamic Banking Controversial: An Analysis of Issues and Challenges," 2011, <https://doi.org/10.5251/ajsms.2011.2.1.41.46>; Umar A. Oseni, Abu Umar Faruq Ahmad, and M. Kabir Hassan, "The Legal Implications of 'Fatwâ Shopping' in the Islamic

the diversity of the fiqh opinions related to the Islamic financial industry by qualitatively analyzing current discussions found in contemporary literatures regarding usury and various approaches used by Islamic scholars and economists to undertake Islamization of economy and develop Islamic economy that complies with Sharia. By doing this, it is expected that this paper can contribute to the discussion about the development of the Islamic financial industry.

THE BACKGROUND OF ISLAMIC ECONOMICS

The emergence of today Islamic economics started as an embodiment of Islamization of modern economics which has been identified generally as being capitalistic. Thus, the fundamental reason for this emergence is because the worldview of Islamic economics is different from that of modern economics. This difference by nature leads to differences in principles, concepts, and theories embraced by both. The scope of Islamic economics is supposedly more comprehensive to cover the economic behavior of Muslims, individuals and communities, men and women, poor and rich, in Islamic country and non-Islamic. It should include a system of values and ethics in the social, political, and legal fields⁵. However, it is still possible for Islamic economics to learn from modern economics by drawing some of its concepts and adopting them which are virtual "value-neutral"⁶ without deviation from Islamic principles and values⁷. Pertinent questions to be asked afterward are: what are the methodology and the approach to develop Islamic economics; to what extent should it refer to the Islamic traditions, namely Fiqh; and how it differs from the capitalist one.

As one of the central objects of the discussion in Islamic Economy between its scholars is the problem of usury. More than being the consensus (*ijma'*) of the Muslim scholars⁸, the prohibition of the usury is stated clearly in the Qur'anic texts and the prophetic traditions. There are at least four places in which the Qur'an condemns any action that contains any element of usury. The first verse (30:39) was revealed in Mecca declaring that usury will cause the deprivation of blessing from God and will not multiply one's treasure. It is on the contrary of the zakat which is given for the sake of seeking the face of God. The zakat will bring the increase and the abundance of blessings. The second verse (4: 161) that was

Finance Industry: Problems, Perceptions and Prospects," *Arab Law Quarterly*, 2016, <https://doi.org/10.1163/15730255-12341319>.

⁵ Kahf, "Islamic Economics: Notes on Definition and Methodology."

⁶ For whatever concept, even when it is described as value neutral, someone may argue that it is not. However when some rules prove to be true under different sets of value system we can describe them as almost value neutral.

⁷ Abdelrahman Yousri Abdelrahman, *Fundamental Issues in Islamic Economics* (Saarbrücken LAP LAMBERT Academic Publishing, 2013), 35.

⁸ Abdul Azim Jalal Abu Zaid, *Fiqh Al-Ribâ : Dirâsah Muqâranah Wa Syâmilah Li Al-Taṭbîqât Al-Mu'âsirah* (Beirut: Resalah Publisher, 2004), 57.

revealed at the beginning of the Medina period clearly explains the prohibition of taking usury. It asserts that this prohibition is also found in the Shari'a of the previous prophets. In addition, it mentions that Allah has established a painful punishment for the perpetrators who dare to consume the people's wealth unjustly. Whereas in the third verse (3: 130) which also revealed on the period of Medina, Allah forbids usury firmly and directs the Muslims to stay away from it if they expect prosperity in the world and the hereafter. The fourth place (2: 275-281) which forbids usury is among the last verses revealed from the Qur'an. Beginning with the analogy of the person who takes usury with the one being beaten by Satan into insanity, Allah then asserts that usury is different from the sale. In this place also, Allah affirms that one's *taqwa*/ devotion should carry the consequence of him leaving usury. Allah on behalf of Himself and His Messenger then pledges war against the perpetrators who still didn't want to get away from usury after the clear evidence came to them. All of these verses encourage Muslim scholars to realize a Sharia-based economic system.

THE APPROACHES OF ISLAMIC ECONOMICS

The difference of the approaches in Islamic economics can be traced to the understanding of usury (*riba*) and its prohibition. Although there is a unanimous consensus of the prohibition of usury, Islamic scholars and economists have no agreement on how this prohibition of usury should be interpreted, understood, and applied especially in this modern time. Therefore according to an Egyptian scholar, Rashid Rida, "*riba* is the Islamic jurists equivalent to the theological debate on predestination which gives rise to endless and controversial debates"⁹.

In general, the views of the Islamic scholars and economists on usury can be identified by categorizing them to three approaches, namely modernist, revivalist, and literalist. The revivalist and literalist approaches hold the orthodox and traditional definition of *riba* encompassing *riba qardh*, *riba fadhl*, and *riba nasiah*.¹⁰ According to both of these approaches, all kinds of interest in conventional banks are precisely equivalent to usury. The Pakistan Council of Islamic Ideology coherently asserted, "The term *riba* encompasses interest in all its manifestations irrespective of whether it relates to loans for consumption purposes or for productive purposes, whether the loans are of a personal nature or of a commercial type, whether the borrower is a government, a private individual, or a concern, and whether the rate of interest is low or high"¹¹. Nevertheless, the two approaches

⁹ Rasyid Rida, "Al-Istiftā' Fi Ḥaqiqat Al-Ribā," *Al-Manar*, March 1930; Alexandre Caeiro, "The Social Construction of Shar'a : Bank Interest, Home Purchase, and Islamic Norms in the West," *Welt Des Islams* 44, no. 3 (2004): 351-75, <https://doi.org/10.1163/1570060042562516>.

¹⁰ Zaid, *Fiqh Al-Ribā : Dirāsah Muqāranah Wa Syāmilah Li Al-Taṭbīqāt Al-Mu'āsirah*, 42-55.

¹¹ M. Umer Chapra, "The Nature of Riba in Islam," *The Journal of Islamic Economics and Finance (Bangladesh)*

differ in the inclusion of some kinds of products containing what the revivalists call as legal stratagem (*hiyal*) contracts. These contracts are used to engineer some products as alternatives of products containing interest. In contrast, some muslim intellectuals adhering modernist approach will argue that the general view that interest is equal to usury should be reviewed. Not any kind of interest is usury or a part of it. Departing from the reasoning that the prohibition of usury is to avoid injustice (*zulm*), the proponents of this approach try to sort out kinds of interest that are parts of usury from that are not. An opinion allows interest when interest is taken through commercial transactions. Another opinion allows interest taken from financing services whether for commercial purposes or consumption as long as the rate is not excessive, hence it is not seen as an unjust contract. Whilst, another confines the scope of usury only on the increase in capital that raised the principal amount several-fold by continued redoubling¹². This is what the proponents of the modernist approach try to propose. Like the scholars' debates on usury, the debates on other issues in Islamic economics can also be traced according to these three approaches. Which kind of Islamic economic system and how to develop it should be may also determined by which approach is used.

The first approach is the modernist approach. This approach asserts to build its concepts and theories by mainly referring to Al-Qur'an and Sunna and understanding them according to the socio-economic contexts that happened in the early period of Islam. By this approach, 'pure' economic concepts and theories are supposed to be constructed, without mixing between Shari'a and Fiqh - between the divine and the product of human thought.¹³ Those concepts and theories will not be particular for any certain time or place. Thus, this approach mainly depends on the historical framework. This approach points out that a historical examination of what so-called Fiqh today reveals that it has been developing over time and undergoing changes along the different civilizations and cultures that Islam encountered after its fast and wide spread. The purpose of this approach is "to renew religious concepts and to keep them alive as valid responses to the problems of the time being, because the circumstances and practices that are related to the pre-Islamic and early Islamic era, which many verses of the Qur'an corporate, do not correspond identically to the contexts of the contemporary world where Muslims live today"¹⁴.

2 (2006): 7–25.

¹² Fazlur Rahman, "Riba and Interest," *Islamic Studies (Karachi)* 3, no. 1 (1964): 1–43; Muhammad Akram Khan, "What Is Wrong with Islamic Economics? : Analysing the Present State and Future Agenda" (Edward Elgar Publishing, 2013), 174–81, <https://doi.org/10.1080/1600910X.2010.9672755>.

¹³ Khan, "What Is Wrong with Islamic Economics? : Analysing the Present State and Future Agenda," xi.

¹⁴ Rania Kamla and Rana Alsoufi, "Critical Muslim Intellectuals' Discourse and the Issue of 'Interest' (Ribā): Implications for Islamic Accounting and Banking," *Accounting Forum* 39, no. 2 (2015): 144, <https://doi.org/10.1016/j.accfor.2015.02.002>.

Since the Qur'an was revealed to offer solutions for specific historical issues, as the modernists assert, many of the rulings mentioned therein are not general principles that apply across times and places, including those rulings related to economic activities. What is universal from Sharia is its ethics and common goods (*maslaha*) which are the reasons for Sharia rulings. Therefore, to offer a rational and consistent view and solution, ethics and *maslaha* of Syariah must be explored and followed¹⁵. In the case of usury, the main ethics is the principle of justice. The prohibition of taking interest in every kind of loans does not necessarily represent fairness as does the measured interest in loans for investments where most of borrowers are rich people¹⁶. Besides that, according to proponents of this approach, the orthodox notion of usury causes the limitation of the prohibition of injustice in certain forms and practices of usury. The concept of usury becomes narrow and substantially empty. As a result, many other moral obligations are ignored¹⁷.

Moreover, the global economic system that is dominated by western thought makes the escape from usury into something that is almost impossible. Therefore, Fazlur Rahman stated, "The abolition of interest in the present state of our economic development would be a cardinal error"¹⁸. The second approach is the revivalist approach. This approach builds its concepts and theories by returning to the Qur'an and Sunna, but maintains the framework provided by the Islamic scholarship tradition, namely Fiqh, and refers to it as an authoritative source. This also includes the field of Islamic economy. Yousri points out, "Islamic thought in the field of economics has decent root in the immense intellectual heritage of Islamic scholarship"¹⁹. The objectives of Shariah (*maqâṣid al-Sharī'ah*) also play a big role in this approach. In determining a ruling for a case, it is not only necessary to consider what is the objective of Sharia, but also the objective of the legal subject. The objectives of the legal subject must not contradict Sharia. If there is a contradiction between the two, a case can be considered as illegal. Proponents of this approach criticize the existence of several financial products that have similarities with usury-based products. Using the *maqâṣid* framework, while trying to distinguish concepts which are principle from which are not, proponents of this approach extend the prohibition of *riba* to include products comprising an element of *hiyal* such as *'inah* and *tawarruq* on the base of giving contracts which have same characteristics and

¹⁵ Fazlur Rahman, *Islam & Modernity: Transformation of an Intellectual Tradition* (Chicago: Center for Middle Eastern Studies, 1982), 156-57.

¹⁶ Maha-Hanaan Balala, *Islamic Finance and Law: Theory and Practice in a Globalized World* (Tauris Academic Studies, 2010), 64.

¹⁷ Balala, 82.

¹⁸ Rahman, "Riba and Interest," 40.

¹⁹ Abdelrahman Yousri Abdelrahman, "The Scientific Approach to Islamic Economics: Philosophy, Theoretical Construction and Applicability," in *Theoretical Foundations of Islamic Economics*, ed. Habib Ahmed (Jeddah, 2002), 19-58.

function same ruling. However, some considers this approach too idealist which may not be suitable for the current economic situation.

The last approach which is close to the revivalist approach is the literalist approach. This approach is adhered by many of Islamic economic enterprises nowadays. The distinctive feature of the latter from the former is that the latter reads texts of Qur'an and al-Sunnah also texts of *Fiqh* in more literalist way and emphasizes formalities to validate contracts, especially those of finance. This is because the basic assumption being held by its proponents is that the review and the rule passed in Shari'a law for any conduct should be determined by considering its formalities seeing that how its conditions and *arkan* are achieved. Matters relating to the intentions and objectives of parties in a contract are not the area of jurist to adjudicate. As long as a contract is able to meet its conditions and does not miss any of *arkan*, it should be considered as valid and halal.

This approach often gets criticism from both revivalist and modernist groups. This approach tends to produce financial products that contain legal stratagems. For example, a product that offers personal finance is engineered by using organized *tawarruq* form. In this product, when someone comes to a bank with the intention of getting money, the bank offers the purchase of an item with a *murabaha* formula and offers assistance and facilities to arrange the resale of the item to a third party. Typically, the third party that the consumer will sell to him is the seller of the item at the first place. Oftentimes, the items in the transaction do not move from their places. Through this product, the costumer gets money he needs from reselling the item he bought but then has an obligation to pay to the bank an amount of money as the first purchase price which is usually higher than the resale price. For literalists, this product is legal and lawful. Although in substance some may look at this product as same as a loan with interest, this product is different because the bank's profits are obtained not from loans but from sales²⁰. This is possible because one of the main principles on which this approach is based that the provision of a ruling must be based on legal formality. The objective and intention of the legal subject is not territory to judge. According to the revivalist and modernist groups, this is only a trick. Such products put Islamic economy and finance in contradiction. Islamic banks in their operations have two fundamental principles that underlie them; the elimination of interest altogether in their operating system and the use of profit and loss sharing plans as the backbone of their operation to avoid interest. From one side, the product is supposed to be an alternative for interest-based products. But from the other side, the product only binds the interest with sale contracts which are only used as the formality.

²⁰ Abdussattar Abu Guddah et al., *Asâsiyyat Al-Mu'âmalât Al-Mâliyyah Wa Al-Mashrifîyyah Al-Islâmiyyah* (Rabat: Dar al-Aman, 2015), 144-45.

The following paragraphs will try to analyze the differences between the above approaches by identifying the main arguments underlying them. Among those arguments, there are three brought forward i.e. the preference of the meanings of *riba* as described in traditional texts, the objectives of Shari'ah of its prohibition in light of contemporary circumstances, and the issue of feasibility of an approach for current possibilities.

THE ROLE OF THE FIQH TRADITION IN DEFINING *RIBA*

As mentioned before, the modernists challenge the validity of the orthodox definition of *riba* held by the revivalists and literalists. This approach concerns about the lack of historicity and contextualization in Islamic scholarship tradition. They criticize the orthodox definition for being too literalist. Sharia must not be mixed with fiqh. This orthodoxy is caused by the failure to discern the difference between the context of the Arab world during prophetic time and the contemporary context of the Islamic world. It has failed to recognize that the interpretations found in the previous tradition have biases. This failure has resulted in an increasingly rigid interpretation of Qur'an and Sunnah since it put aside contexts from its consideration. Thus, the modernist proposes to disentangle Islamic legislation from a narrative perspective in favor of wider cultural diversity beyond the specific legal conditions of the Arab in the era of the Prophet²¹. In the issue of usury, the modernist also blames the fiqh tradition for expanding the meaning of usury for that does not belong to the Prophetic times. By assuming that the Qur'an does not provide a sufficiently precise definition of *riba* for legal purposes, the fiqh tradition takes the step to do so²². Thus, Islamic scholars and economists should now first carefully identify what Sharia tells as the divine law from which is a mere fiqh opinion.

Unlike the modernists, the revivalists considers the fiqh tradition as an indispensable source of knowledge for Islamic economics which it should refer to in defining concepts, including *riba*²³. Hermansen points out that Islamic economist should actually explore the basic concepts of Islamic economics or Islamic science in general, its basic assumptions and its methodology in this tradition²⁴.

The Islamic tradition throughout its history is rich with experiences to translate divine guidelines from Al-Qur'an and Sunnah and then to implement them in daily economic activities. Even so, there are also many rules concluded

²¹ Kamla and Alsoufi, "Critical Muslim Intellectuals' Discourse and the Issue of 'Interest' (Ribā): Implications for Islamic Accounting and Banking," 149.

²² Rauf A. Azhar, *Economics of an Islamic Economy*, 2010, 279-80, <https://doi.org/10.1163/ej.9789004179370.i-470>.

²³ Kahf, "Islamic Economics: Notes on Definition and Methodology," 28.

²⁴ Nurizal Ismail, "Scrutinizing The Epistemology of Islamic Economics: A Historical Analysis," *Tsaqafah* 12, no. 1 (2016): 19-46.

by Islamic scholars from practices of people in real life. In such manner, “a continuous process of the feedback and revision of the operational rules of fiqh, including those related to the Islamic economic system, takes place, enabling it to adjust with the changing conditions and circumstances of the human and material resources of the Muslim society”²⁵. For that reason, it can be said that Islamic economic theories and concepts have a strong root in the enormous intellectual heritage which the fiqh sources is full of and also other literature authored by medieval muslim thinkers²⁶. In other words, as Kahf mentions, the development of Islamic economic system takes advantage of Islamic history for derivations of many tests and lessons²⁷. The main principles of fiqh crystallized through the historical process can thus be argumentative to be general and sustainable for different situations and conditions.

However, the modernists’ claimed of muslim scholars’ insufficient attention to contexts when the fiqh literature was developed and written is not justifiable. It opposes the well-known emphasis of the fiqh scholars to consider and analyze conditions of every single case when passing its ruling. This emphasis is obvious when looking at what Islamic scholars consider as ‘urf²⁸. All madhhabs use it as indispensable source. Al-Qarafi mentioned, “As for *urf*, it is common among the madhhabs and whoever examines them, will find them state to do so”²⁹.

From another perspective, what the modernists try to offer is to come with a new meaning of contextualization of Sharia injunctions different from what the Islamic scholars from *salaf* and *khalaf* understand. For the example, there is no single *fiqh* opinion that sees giving a loan with the condition to pay back after some time with an extra as valid, whether fixed or variable³⁰. However, the proponents of the modernist approach try to question the validity of this view. The mainstream view in the *fiqh* literature does not necessarily represent the true meaning of *riba* that should be followed. Even though the central idea of the meaning of *riba* may stay unanimously throughout the Islamic history and remain above controversy, they try to tolerate the prohibition by making some exceptions. Attempts to elicit divergent opinions with the widely accepted one become ultimately characteristic of the modernist approach.

²⁵ Kahf, “Islamic Economics: Notes on Definition and Methodology,” 29–30.

²⁶ Abdelrahman, “The Scientific Approach to Islamic Economics: Philosophy, Theoretical Construction and Applicability,” 20.

²⁷ Kahf, “Islamic Economics: Notes on Definition and Methodology,” 30.

²⁸ This concept shows that the words and actions that have been carried out and widely accepted by a group of people become something that can be used as a legal basis. Sunan Autad Sarjana and Imam Kamaluddin Suratman, “Konsep ‘Urf Dalam Penetapan Hukum Islam,” *Tsaqafah* 13, no. 2 (2017): 279–96.

²⁹ Abu al-‘Abbas Syihabuddin Al-Qarafi, *Syarh Tanqih Al-Fuṣūl*, vol. 1 (Syirkah al-Tiba’ah al-Fanniyah al-Muttahidah, 1973), 448.

³⁰ Mohammad Nejatullah Siddiqi, *Riba , Bank Interest and the Rationale of It’s Prohibition* (Jeddah: IRTI, 2004), 53.

Conversely, from the traditionalist perspective, there is still a strong concern over reaching beyond the primary ruling of recognized *madhhabs*, or crossing between them.³¹ It is considered that a ruling adopted by a *madhhab* of the recognized *madhhabs* is based on a vigorous methodology which allows it to last in the long period with various conditions and circumstances. Another objection is that a ruling passed by a contemporary scholar which claims back directly to Qur'an and Sunnah is very susceptible to influences of the interpreter's agency and bias which will bring out the issue of the objectivity of the ruling produced.

However, there is a challenging issue when referring to Fiqh tradition in developing Islamic economic system. This issue is related to the diversity and flexibility of the fiqh opinions. While this diversity has given advantages to the development of varied Islamic financial products, it may soon become a constraining factor for the global growth of the industry that requires some degree of certainty. Therefore, this issue requires attention whether standardization is needed or only codification³².

In the nutshell, the discussion on the position of the fiqh opinions and its authority in defining Islamic economic concepts also leads to the issue of the objectivity of each approach. On the one hand, the modernist approach considers that the opinions contained in the fiqh literature have a less robust methodology that cannot be immune from biases. On the other hand, the traditionalist approach also assumes that the new interpretations brought by the modernist approach are also influenced by their interpreter's agency. The methods used by the modernist are often from western methods that are foreign to Islamic epistemology. The revivalist approach tries to mediate these two sides by proposing objectives (*maqasid*) of Sharia as the foothold, although both previous approaches later refuse the proposal and claim that they also seek to achieve objectives of Sharia in their approaches.

THE STRUGGLING FOR OBJECTIVES OF SHARIA

The enterprise called Islamic economy is a result of a very strong dislike of the institution of interest³³. The objective of all Islamic economic enterprises is to provide an alternative to conventional ones. However, in practice, Islamic banks consider strong adherence to the prohibition of interest as difficult and unrealistic, given

³¹ Jonathan A. C. Brown, "Reaching into the Obscure Past: The Islamic Legal Heritage and Reform in the Modern Period," in *Reclaiming Islamic Tradition: Modern Interpretations of the Classical Heritage*, ed. Elisabeth Kendall and Ahmad Khan (Edinburg University Press, n.d.), 119.

³² M. Fahim Khan, "Setting Standards For Shariah Application in the Islamic Financial Industry," *Thunderbird International Business Review* 49, no. 3 (May 2007): 285-307, <https://doi.org/10.1002/tie.20145>.

³³ Azhar, *Economics of an Islamic Economy*, 279.

the current economic and financial situations³⁴. Yet, through financial products engineering, most of those banks are able to manage by creating products that function like conventional products containing interest, such as financing products that use the principles of *inah* or *tawarruq*. The availability of such financing products is itself a *maslaha* that it meets the need of personal finance for many Muslims in these days. The engineering of such products, which mainly dominates the modern Islamic banking system, is possible and easily done through the literalist approach in reading the fiqh literature which it derives its validity from.

Many scholars adopting the revivalist approach and the modernist one refuse the validity of these products. From the revivalist perspective, instead of offering *halal* alternatives of interest, these products by Islamic banks are perceived to offer interest with more complicated mechanism than the conventional. In the same time, the modernist scholars also criticise the literalist attitude. They say that by creating such products, it will be difficult to establish a connection between the injustice, which is the *raison d'etre* of *riba* prohibition and what it defined as the effective cause, the *'illa*, of enforcing the prohibition of it³⁵. Thus, it is said that these products tend to sacrifice the universal value of Sharia in favour of momentary particular economical and political interests³⁶.

The various approaches also cause different approaches is how to define the objectives of Sharia, including the objectives related to the economy. Although it may be agreed upon certain moral values such as justice, fairness, and equity as the objectives of Sharia, the definition and derivative concepts of each value can be different for each approach. In the study of worldviews, the concepts contained in every single word, even though there is a realm of similarity among worldviews, will be certainly different whether fundamentally or not. However, focusing on the values so much as the objective of Sharia, like what the modernist approach appeals, is also vulnerable to falling into the abyss of ad-hoc-ism and opportunism³⁷. Therefore, to avoid such mistakes, there must be a balance between following the textual meaning of injunctions being the reference and identifying the objectives of them. Also, there must be attention to *maqasid juz'iyah* (partial objectives) when applying *maqasid kulliyah* (integral objectives). Here, the revivalist offers to emphasize a more holistic and moderate approach namely *wasathiyah* in reading texts of Sharia and the Islamic tradition in the light of the *maqasid* to achieve better socio-economic justice.

³⁴ Kamla and Alsoufi, "Critical Muslim Intellectuals' Discourse and the Issue of 'Interest' (Ribā): Implications for Islamic Accounting and Banking," 142.

³⁵ Azhar, *Economics of an Islamic Economy*, 410.

³⁶ Kamla and Alsoufi, "Critical Muslim Intellectuals' Discourse and the Issue of 'Interest' (Ribā): Implications for Islamic Accounting and Banking," 149.

³⁷ Siddiqi, *Riba, Bank Interest and the Rationale of It's Prohibition*, 57.

THE QUESTION OF FEASIBILITY

Since the emergence of Islamic economics as a discipline, it is an attempt to build a bridge between the “is” and the “ought” from an Islamic perspective. Thus, it can be said that this discipline is not purely social science. Likewise, although Islamic economics’ dependence on norms and ethics of religious nature, it does not mean that Islamic economics is necessarily or purely normative discipline³⁸. Hence, this project has a big challenge namely reconciling between the realities and the normative divine appeals.

At present time, this challenge is even greater because of economic globalization. In this situation, a country with a strong economy will affect countries with economic power under it. The current economy is undeniably heavily influenced by western economic thought. This certainly makes explanation of the concepts of pure Islamic economics extracted from Islamic scientific tradition increasingly complicated because of differences in assumptions and principles. Even so, if we look at the issue of usury, the modernist approach tends to provide a malleable and flexible position toward the interest of conventional banks. It does not find the basic idea of interest as wrong. It tends to allow imposing interest with some restrictions which will refrain it from being exorbitant and unfair. Accordingly, it can be said that this approach has no big problem with the existing capitalist system. It just needs to adapt a little.

Similarly, the literalist approach, although it states that any interest is usury, by its alternative products, it can somehow deal with the system. The methods and forms of contracts used in engineering products can make those products function like interest-based products in providing guaranteed benefits from financing products offered. In other words, like the modernist approach, this approach also will not get a significant constraint if applied in the current global economic system.

In contrast to these two approaches, the revivalist approach takes a stern position on interest. While prohibiting all kinds of interest from conventional banks, proponents of this approach also condemn alternative Islamic banking products as allowed through the literalist approach. The revivalist approach holds that Islamic economy should be entirely distinct from the capitalist economy. Therefore, this approach has difficulties to be applied in the capitalist realm and demands a fundamental change in the current economic system. As Ismail notes, Islamic economic must be based on the conceptual foundation developed through its own sources and use Islamic epistemology³⁹. Thus, this approach evokes the question of its applicability in current circumstances.

³⁸ Abdelrahman, *Fundamental Issues in Islamic Economics*, 8.

³⁹ Ismail, “Scrutinizing The Epistemology of Islamic Economics: A Historical Analysis,” 27.

Does the revivalist approach applicable to current economic situations? Many scholars and economists still doubt its applicability. However, it requires further discussions and researches. Though proponents of the modernist approach say that this is just a flight of fantasy, the advocates of this revivalist approach believe that this is not impossible. Adequate literature is available to convince this possibility⁴⁰. Moreover, it should be understood at present times why Islamic economics built on the revivalist approach will not work perfectly in the realm where capitalism is so dominant. Nevertheless, the framework of the revivalist approach provides certain mechanisms such as *dharurat* mechanism to deal with the situation and to offer limited and temporary solutions. Those who adhere to the revivalist approach should propose an economic system that can be systematically and gradually applied. Although applying directly and comprehensively at once seems ideal, the current environment and conditions make it difficult to be accomplished.

CONCLUSION

No wonder that the issue of usury (*riba*) has been one of the most significant issues in Islamic economics. The core idea of it may be held unanimously throughout the Islamic history. In spite of that, the controversy over interest and whether it is identical to usury or not was already evoked tens of times in history.⁴¹

From the current discussions on the issue of usury, the approaches describe the condition of Islamic economics generally. These approaches have several key issues that cause the differences between them i.e., concerning the authority of the fiqh tradition in defining concepts, the definition of objectives of Sharia in economy, and the feasibility of an approach.

Islamic tradition is vast heritage accumulated by Muslims through generations. Islamic tradition is like a laboratory to a physicist as it encompasses records of their histories and experiences in realizing the Islamic economic system. Islamic economists can review the Islamic tradition and derive some conclusions on earlier conceptions of Islamic economics, while also deriving concepts that corresponds to various conditions and levels of socio-economic elements different from those of the past, taking into their consideration *al-tsawabit* and *al-mutaghayyirat*. Also, the Islamic scholars and economists should always aware that Islamic economics comprises two parts: one that studies the normative system of the Islamic economics and the other that studies the economic behavior of Muslims.

⁴⁰ Siddiqi, *Riba, Bank Interest and the Rationale of It's Prohibition*, 58.

⁴¹ Abdelrahman, *Fundamental Issues in Islamic Economics*.

Each element of Islamic economics must be in harmony with the Islamic worldview. It has to be in line with the objectives of Sharia. At the same time, it should be directed towards the realization of “Right Livelihood for the Common Good”. Although the natural and cultural resources are abundant, the material prosperity must be limited by sufficiency beyond which all efforts should be directed to accomplish the immaterial prosperity, not only material and physical, but also spiritual prosperity⁴². With this orientation, the Islamic economic system is worthy to replace the existing economic system.

In this context, Islamic economics should provide concepts and theories representing those in line with the Islamic worldview. It should build its concepts and theories based on revelation and by using principles and rules inherited through the long tradition of Islamic scholarship, which is an accumulative heritage of wisdom and values passed from generation to generation. Not only concerning *halal-haram* pragmatism, Islamic economics should offer a system based on Islamic moral and ethics. By doing so, Islamic economics can be developed as an important forming element of a distinguished Islamic civilization. This task requires from Islamic scholars and economists to engage actively in the discussions about Islamic economics epistemology.

However, carefulness is needed from Islamic scholars and economist to undertake this project in order to escape the centripetal pull of Western economic thought. This carefulness is to maintain the initial desire to develop an independent Islamic finance and economics. Moreover, with the economic situation and conditions that are so dominated by the current western economy, there will always be challenges whether the Islamic economics will melt in the global western economics because of pragmatism, whether it gets to maintain its identity, and whether it is able to be an antidote for various existing economic problems.

REFERENCES

Journal

- Abu Bakar, Muhammad. “An Insight into Syari’ah Contracts Used to Structure Current Account of Islamic Banks.” *Journal of Islamic Banking and Finance* 36, no. 2 (2019): 54–67.
- Alkhan, Ahmed Mansoor, and Mohammad Kabir Hassan. “Tawarruq: Controversial or Acceptable?” *Arab Law Quarterly* 33, no. 4 (August 15, 2019): 307–33. <https://doi.org/10.1163/15730255-12334042>.
- Caeiro, Alexandre. “The Social Construction of Shar’a : Bank Interest, Home Purchase, and Islamic Norms in the West.” *Welt Des Islams* 44, no. 3 (2004): 351–75. <https://doi.org/10.1163/1570060042562516>.

⁴² Adi Setia, “The Islamic Gift Economy: A Brief Statement,” *Islamic Sciences* 13, no. 2 (2015): 125–28.

- Chapra, M. Umer. "The Nature of Riba in Islam." *The Journal of Islamic Economics and Finance (Bangladesh)* 2 (2006): 7–25.
- Ismail, Nurizal. "Scrutinizing The Epistemology of Islamic Economics: A Historical Analysis." *Tsaqafah* 12, no. 1 (2016): 19–46.
- Kahf, Monzer. "Islamic Economics: Notes on Definition and Methodology." *Review of Islamic Economics* 13 (2003): 23–47. <https://doi.org/10.1016/j.aanat.2010.05.002>.
- Kasdi, Abdurrohman. "Actualizations of Maqāṣid Al-Shariah In Modern Life; Maqāṣid Al-Shariah Theory As a Method of The Development of Islamic Laws and Shariah Economics." *Justicia Islamica Jurnal Kajian Hukum Dan Sosial* 16, no. 2 (November 19, 2019): 247–68. <https://doi.org/10.21154/JUSTICIA.V16I2.1666>.
- Kamla, Rania, and Rana Alsoufi. "Critical Muslim Intellectuals' Discourse and the Issue of 'Interest' (Ribā): Implications for Islamic Accounting and Banking." *Accounting Forum* 39, no. 2 (2015): 140–54. <https://doi.org/10.1016/j.accfor.2015.02.002>.
- Khan, M. Fahim. "Setting Standards For Shariah Application in the Islamic Financial Industry." *Thunderbird International Business Review* 49, no. 3 (May 2007): 285–307. <https://doi.org/10.1002/tie.20145>.
- Malik, Ali. "Controversies That Make Islamic Banking Controversial: An Analysis of Issues and Challenges," 2011. <https://doi.org/10.5251/ajsms.2011.2.1.41.46>.
- Oseni, Umar A., Abu Umar Faruq Ahmad, and M. Kabir Hassan. "The Legal Implications of 'Fatwā Shopping' in the Islamic Finance Industry: Problems, Perceptions and Prospects." *Arab Law Quarterly*, 2016. <https://doi.org/10.1163/15730255-12341319>.
- Parisi, Salman Al, Iwan Hermawan, Marta Kurniawan, and Ibnu Saud Habibullah. "Perspektif Riba Dan Studi Kontemporernya Dengan Pendekatan Tafsir Al Quran Dan Hadits." *Jurnal Ekonomi Syariah Indonesia* 8, no. 1 (2018): 23–36. [https://doi.org/http://dx.doi.org/10.21927/jesi.2018.8\(1\).23-36](https://doi.org/http://dx.doi.org/10.21927/jesi.2018.8(1).23-36).
- Rahman, Fazlur. "Riba and Interest." *Islamic Studies (Karachi)* 3, no. 1 (1964): 1–43.
- Sarjana, Sunan Autad, and Imam Kamaluddin Suratman. "Konsep 'Urf Dalam Penetapan Hukum Islam." *Tsaqafah* 13, no. 2 (2017): 279–96.
- Setia, Adi. "The Islamic Gift Economy: A Brief Statement." *Islamic Sciences* 13, no. 2 (2015): 125–28.

Book

- Abdelrahman, Yousri. *Fundamental Issues in Islamic Economics*. Saarbrücken LAP LAMBERT Academic Publishing, 2013.

- _____ "The Scientific Approach to Islamic Economics: Philosophy, Theoretical Construction and Applicability." In *Theoretical Foundations of Islamic Economics*, edited by Habib Ahmed, 19–58. Jeddah, 2002.
- Abu Guddah, Abdussattar, Walid Bin Hadi, Sultan Al-Hasyimi, and Muhammad Ahmin. *Asâsiyyat Al-Mu'âmalât Al-Mâliyyah Wa Al-Mashrifiyyah Al-Islâmiyyah*. Rabat: Dar al-Aman, 2015.
- Al-Islâmiy, al-Majma' al-Fiqhiy. *Qarârat Al-Majma' Al-Fiqhiy Al-Islâmiy Bi Makkah Al-Mukarramah*. Mecca, n.d.
- Al-Qarafi, Abu al-'Abbas Syihabuddin. *Syarh Tanqîh Al-Fuṣ Ḥl*. Vol. 1. Syirkah al-Tiba'ah al-Fanniyah al-Muttahidah, 1973.
- Azhar, Rauf A. *Economics of an Islamic Economy*, 2010. <https://doi.org/10.1163/ej.9789004179370.i-470>.
- Balala, Maha-Hanaan. *Islamic Finance and Law: Theory and Practice in a Globalized World*. Tauris Academic Studies, 2010.
- Brown, Jonathan A. C. "Reaching into the Obscure Past: The Islamic Legal Heritage and Reform in the Modern Period." In *Reclaiming Islamic Tradition: Modern Interpretations of the Classical Heritage*, edited by Elisabeth Kendall and Ahmad Khan, 100–135. Edinburg University Press, n.d.
- Khan, Muhammad Akram. "What Is Wrong with Islamic Economics? : Analysing the Present State and Future Agenda." Edward Elgar Publishing, 2013. <https://doi.org/10.1080/1600910X.2010.9672755>.
- Rahman, Fazlur. *Islam & Modernity: Transformation of an Intellectual Tradition*. Chicago: Center for Middle Eastern Studies, 1982.
- Siddiqi, Mohammad Nejatullah. *Riba , Bank Interest and the Rationale of It's Prohibition*. Jeddah: IRTI, 2004.
- Zaid, Abdul Azim Jalal Abu. *Fiqh Al-Ribâ : Dirâsah Muqâranah Wa Syâmilah Li Al-Taḥbîqât Al-Mu'âsirah*. Beirut: Resalah Publisher, 2004.

Websites

- Allam, Syauqi. "Fawâid Al-Bunûk Wal-Ta'âmul Ma'ahâ." Dar al-Ifta', 2016. <http://www.dar-alifta.org/ar/ViewFatwa.aspx?sec=fatwa&ID=14096>.
- Majma' al-Fiqhi al-Islamiy al-Dualiy. "Qarârat Bi Sya`ni Al-Wadâi' Al-Maşrafiyyah." Accessed November 25, 2019. <http://www.iifa-aifi.org/1992.html>.

Magazine

- Rida, Rasyid. "Al-Istiftâ` Fi Ḥaqiqat Al-Ribâ." *Al-Manar*, March 1930.