

# Development of Classical *Fiqh* towards Contemporary; Relevance of Thought of Islamic Figures and Operational Transformation of *Fiqh* Products

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## Abstract

The purpose of writing the article is expected to reflect on the thoughts of Islamic figures who have contributed to the welfare of the *fiqh* muamalah field, as well as to review the operational transformation of *fiqh* products from time to time. The need for actualization to guide in responding to the challenges or problems of today's society makes it important to reflect on the historical development of the relation to *fiqh* muamalah that existed before. The method used in this paper is to collect various sources of literature from previous research or library research for descriptive analysis and find the values. As for the results, the authors found that the thoughts of Islamic figures such as Abu Yusuf, Al-Ghazali, Ibn Khaldun, and Ibn Taimiyah still have relevance in the present, the operational *fiqh* in the development of the classical period can still be drawn from its elasticity. This provides enthusiasm for young scholars to continue to develop their thoughts in providing benefits to their environment by upholding sharia principles, tabarru agreements between people, and the spirit of exploring Islamic treasures in responding to today's problems.

**Keywords:** *fiqh* products, muamalah, islamic figure, contemporary *fiqh*.

## Introduction

Today the need for continuous development covering various aspects including solving economic problems is urgently needed. The flow of modernization covers almost all countries where the majority of the population is Muslim, resulting in changes in the life of Muslims, both in terms of ideology, politics, and social culture, including the economy. As stated by Jamil in his book, not infrequently new problems arise as a part that cannot be separated from the *ijtihad* efforts of previous scholars. Yusuf Qardawi explicitly emphasized the importance of serious studies in Islamic law, especially contemporary *fiqh*. The debate is whether, with the progress of science and technology in this modern era, the question arises whether Islamic law, especially contemporary *fiqh*, can answer it (Jamil 2017).

It is important to examine historical developments in relation to the pre-existing muamalah fiqh, apart from examining historical aspects it also uncovers what basic values must be adhered to in response to developments. Muamalah Fiqh studies, in this case, one of which discusses the relationship between human beings concerning property in the form of transactions, also continue to be developed. Given that buying and selling, guarantees, unions, or partnership transactions in practice also continue to experience developments starting from classical to contemporary times. As a step to answer economic problems, it takes courage to express ideas and various considerations for the benefit of all. The need for actualization to guide in responding to the challenges or problems of today's society. For ijihad reforming scholars it is necessary and open at any time because the law is always changing according to the rules of *taghayyur al-akam bi taghayyuri al azminat wa al-amkinat wa 'adadi wa al-ahwal* (Ishaq 2017). Practices that are now widespread and have been implemented in Islamic financial institutions continue to be studied to produce superior and very large quality products to compete and benefit life.

Often very competitive market competition between Islamic and conventional financial institutions. Each institution competes with each other to attract customers with various superior products that they launch on the market. Not infrequently this triggers individuals or Islamic financial institutions, both banks and non-banks, to continue to work hard, even to the point of doing something beyond the limits set by the syara' which cannot be justified.

Economic problems are also not only related to muamalah transactions, how to respond to needs and fulfill needs that are obtained correctly without violating syara', for example committing fraud, oppression which has an impact on inequality and poverty, hoarding which disrupts the circulation of goods, economic instability and many other problems that are now coexisting with problems in other fields that cannot be separated. The use of property in a vanity manner is of course prohibited by syara', but in life, a person cannot be separated from the phenomenon of this misappropriation. Although what we need to understand is that human ownership of property is not absolute, but only temporary. Because humans are only as Khalifah (mandataris) of Allah SWT for the assets they have. For this reason, humans can use their wealth but must comply with syar'i rules so that they do not fall into sinful acts, such as tabzir or ishraf. So that's why how to transfer assets and transact with other people/other parties, of course, must adhere to the existing sharia order.

Moreover, the times are developing, the problems are also developing, demanding wise individuals to disclose all possibilities for conflicts that cause divisions between humans.

Studies have been conducted studies related to how economic problems in the past were able to be responded to by Islamic scholars of their time. Like research from Yunus, the formation of the school of fiqh in the classical era was not an indication of barrenness and weakness, but instead became a bridge for the development of contemporary mujtahid creativity (Yunus 2014). The research of Luqman explore how often and profound the contribution of the scholars towards Islamic economic thought. Which is showed there are more than ninety past scholars who have contributed to Islamic economics thought discussed. Meanwhile there are some got much attention while some got less attention. These seem to do not have an equivalent discussion under their contribution. The need for reference material in Islamic economic thought is still lacking until now (Handoko 2020). Even though the renewal movement received various responses among the ummah depending on the typology of the reforms carried out. Ishaq emphasizes the recognition that in an embryonic way, the reform ideas conveyed by reform figures have had quite a large effect among Muslims, so that then gave birth to a renewal movement(Ishaq 2017). Without leaving history behind, economic thought, which has been written by many past scholars, also has an urgency to continue to study its relevance by taking into account various social and cultural aspects as well as the background that prompted the emergence of his thoughts. For example, in matters of prices and their changes, it can be found from various thoughts of Muslim economists in the past are still relevant to today's global economic conditions.

The development of Islamic economic thought is not well known and does not touch people's lives. The unevenness and repetitiveness with which economic subjects are treated in Muslim literature obscures the clarity of a cumulative development of ideas and may lead some to question whether Muslim thought emerges as a current sufficiently representative of commonly accepted economic notions to be included in a general history of economic thought (Essid 1987). The development of Islamic economics which has existed since 600 AD, is not well known by the public. This should be what makes Islamic economic thoughts have to be explored again to be actualized if there are things that are not suitable or even still appropriate and can be relevant to answer current problems. For this reason, this paper is realized in adding to the Islamic repertoire of classical to contemporary times so that it can get more

attention. Current economic development certainly cannot be separated from the movement to continue to respond and reflect on the dynamics and movements of Islamic society when it continues to respond to the challenges that exist today.

This research includes qualitative research with a literature study approach related to the thoughts of various Muslim figures, including; Abu Yusuf, Al-Ghazali, Ibn Khaldun, also Ibn Taimiyah and the operational practices of *fiqh* products from the classical to the contemporary period which are limited to *rahn*, *murabaha* and *mudharabah* products. This research collects in-depth information and data from various relevant sources and various research results. Data were obtained from journals, books, laws, and electronic media which were then analyzed descriptively to explore potential values that could be relevant to current developments. Mainly by exploring the repertoire of classics to dare to answer the existing challenges.

## **Result and Discussion**

The study of Islamic economic thought in the past has played a very large role in the development and progress of economic thought in today's modern times. History proves that many Muslim scholars are inventors, founders, and developers in various fields of scientific study. The contributions of Muslim intellectuals such as Abu Yusuf, Al-Ghazali, Ibn Khaldun, and Ibn Taimiyah each have their uniqueness that can be studied both from the socio-historical, socio-intellectual aspects and the thoughts themselves.

### **The Thoughts of Abu Yusuf and His Background**

The book *Al-Kharaj* written by Abu Yusuf is inseparable from the socio-historical era of his era as well as his intellectual background. Abu Yusuf criticized the government to improve supply when the crisis hit. Which is one of them, criticism of government policies that are not quite right regarding price fixing by the government, disputes over abandoned islands, and the tendency to set taxes beyond state provisions according to one's own will, some officials are dishonest and trustworthy, as well as political influence or destruction Abbasid dynasty. His thinking was also influenced by his teacher. The method of decision-making by Abu Yusuf was heavily influenced by the thoughts of Imam Abu Hanifah, namely through the approach of the *ra'yu* (opinion) school of thought by using *qiyas* devices to achieve the benefit of *ammah* as the ultimate goal of the law. This can be seen prominently in the book *al-kharaj*, Abu Yusuf analyzes fiscal problems and recommends several policies for

economic growth. He encouraged an increase in agricultural output with a proportional system which was also proposed in tax collection. The management of public finances, both concerning revenue and expenditure, the government must think about the benefit of the people. Financial management by promoting justice and balance (Nur 2020).

Abu Yusuf criticized the government regarding price fixing. The government should take part in the supervision and not participate in price fixing. For example, the export and import policies that are implemented are not appropriate because they allow for fraud. Then on an abandoned island, anyone can revive what was originally dead by paying government taxes. Where the government is responsible for managing existing assets. Abundant assets will be of benefit if you can manage them properly, both in natural and human resources. This *Al-Kharaj* book is also the answer to Harun ar-Rashid's questions about taxation. As one of the important sectors in state revenue, taxes should not tyrannize the public in terms of their percentage (Amrin, Khairusoalihin, and Muthoifin 2021). Where the caliph wanted to make this book an administrative guide in managing the *Baitul al-maal* so that it would run properly and correctly so that the people would not be wronged and the state could create prosperity.

Lots of Abu Yusuf's thoughts are still relevant in modern times. Among them, first; the imposition of land tax, land tax in Indonesia is seen in the Building Land Tax (PBB). Both the *kharaj* concept and the PBB concept are both collected and the results are utilized by the state as state revenue, which can then be allocated to the public interest. The difference between these two concepts is that PBB is charged to all types of land in the territory of the state, while *kharaj* is only imposed on agricultural land. The *muqasamah* system (proportional tax) if applied today is still very relevant, moreover the self-assessment system that is currently in effect in Indonesia allows fraud by taxpayers to occur. Replacing the practice of *misahah* (fixed tax) with *muqasamah* (proportional tax), because will oppress and tyrannize the poor, and oppose the *Qobalah* system. The relevance of the Tax concept according to Abu Yusuf in Indonesia is in line with (UU No. 28 of 2007, article 1). Second, the concept of the *usyr* tax that was applied during the time of Abu Yusuf is the same as the customs tax that is applied today (PMK 199/PMK.010/2019). It's just that the *Usyr* concept at the time of Abu Yusuf had fewer and simpler provisions, in contrast to customs, which adapted to the times, felt more complex. However, things have something in common in guaranteeing the

community and the welfare of the people (Mubarok and Witro 2022). With a minimal tax burden, it will increase people's enthusiasm for innovation and work. The level of productivity will also increase. The elimination of VAT, if it is relevant to the current economy in Indonesia, will have an impact on increasing sales. Because falling prices will increase demand (Ali 2021). Third, Abu Yusuf's Islamic economic thoughts regarding market mechanisms. Abu Yusuf opposes government intervention in setting prices. The government acts as a regulator/arbitrator in the market mechanism. This means that the government is tasked with ensuring that the prices prevailing in the market are fair prices, which are obtained from natural market mechanisms (based on demand and supply levels) and not monopolies or market engineering (Mukaromah and Rizal 2021).

### **The Thoughts of Al-Ghazali and His Background**

Al-Ghazali introduced the 'concept of money' and 'the concept of welfare' which are related to each other, based on the socio-historical background of his lifetime, namely the emergence of this concept due to inappropriate barter (not ideal), even though this discrepancy existed at the time of the Prophet. The concept of money was born by interpreting the function of money as a mirror that has no color but can reflect what color is in front of it. Money can show its value. It is a measure of price. When it stands alone it has no price or value. When it is juxtaposed it can show value. As a measure of price, it is a store of value, as well as a transaction medium. Before and at the time of the prophet, the medium of exchange already existed. The concept of money already exists, only as a medium of exchange or a means to own something (goods, slaves, objects) that one wants. Money as a store of value is influenced by each individual, and how individuals use this value, for example in a consumptive or productive sense. Values are very flexible. The creation of money means that there is a fixed value that provides certainty in being a means of obtaining an item. So there must be a fixed value. So now there is also a fixed value, philosophically the same. Here the concept of money shows the identity of the economy at that time. Including the present where money shows the identity of the economic conditions at the time it appeared.

As for its relevance today, even though Al-Ghazali is a Muslim scientist who was born 800 years earlier than M. Umer Chapra from the State of Iran. Al-Ghazali's thoughts can be considered as penetrating space and time, for example, the paradigm of inclusive development is currently developing. Sustainable development, as well as MDG's (Millennium Development Goals),

all of the development paradigms, have all been summarized in the concept of maqashid al-Syariah (Hanani and Kurniaty 2022). Its relation to the concept of money, the money we have brings us to reach 5 maqashidus-sharia (Hifdzud Din, Hifdzul Nafs, Hifdzul Aql, Hifdzul Nashl, Hifdzul Mal). The concept of welfare brings with the concept of money, Al-Ghazali divides human types according to the Sufism approach into 3 groups, worldly, hereafter, and world-afterlife (balanced). How do the values of money that we have bring humans into the third group or are referred to as a means to happiness in the hereafter? Islam encourages humans to be strong rather than weak, in the sense of the tasawuf approach using money to lead to happiness in the hereafter.

### **The Thoughts of Ibnu Khaldun and His Background**

The background of Ibnu Khaldun's thoughts in the Muqaddimah Book, it is possible that one of them, apart from being still backward in Europe in the 14th century, was also the spirit of research and exploring existing knowledge/theories (which went viral in her time) to make adjustments. Ibn Khaldun saw that the practice of collecting taxes in kingdoms was often carried out to increase state revenue. For him, imposing such high taxes would only result in an increase in state revenues in a short time. In the long term, tax revenues will decrease even though the tariffs imposed are quite high because the high production costs of goods will lead to high selling prices. This resulted in decreased demand and decreased income levels which resulted in a decrease in tax revenue paid by entrepreneurs. Ibn Khaldun has conducted an empirical study of Islamic economics. The scientific concept is based on the originality of the work and subjective analysis is based on the scientific concept which developed very little in his time the concept was only recognized hundreds of years after his death, but in the form of transformation and refinement in the formulation of his theory. The period of writing the Muqaddimah Book was briefly explained by Sjadzali starting when Ibn Khaldun left Andalusia and returned to Africa. At that time he was "stranded" at the port of Hanin and did not know where to go. Thanks to the help and assurance of Muhammad bin Arif, an old friend and figure from Bani Arif, finally Ibn Khaldun entered a stage in his life that Monteil called Suharto with the term "khalwat" of Ibn Khaldun. Ibn Khaldun continued his journey to the territory of the Bani Arif tribe and settled there. So that in the end he lived in a remote place and away from the hustle and bustle of the political world that had been worrying him. Ibn Khaldun developed a theory of population before Malthus and emphasized the role of the state in the economy before Keynes. Which uses these conceptions

to build a dynamic system that is easy to understand where economic mechanisms have directed economic activity to long-term fluctuations (Henry 2020).

Ibn Khaldun's thoughts still have relevance today. First, in demand theory, it explains that there is an inverse relationship between price and quantity demanded where a low price will increase the quantity demanded and a high price will decrease the quantity demanded. While the factors in modern theory include other factors that are more complex and adapt to current conditions such as the price of the goods themselves, the prices of other goods related to these goods, household income, societal tastes and predictions of future conditions, and other factors. Others that have been developed and adapted to current economic developments. Second, it also applies to the supply theory. This explains that there is a straight-line relationship between price and supply where a high price will increase supply, while a falling price will decrease the supply level. Third, in the division of labor, Ibnu Khaldun does not separate the complex workforce into skilled and educated workers, as discussed in modern economics. Fourth, Ibn Khaldun's concept of production shows the same relevance to modern economic discussions where the factors of production include capital, labor, natural resources, and the level of technology used (Henry 2020).

Fifth, the discussion of market mechanisms in modern economic theory provides the role of government in a more flexible function, especially to prevent various weaknesses that may occur if market mechanisms such as causing unlimited freedom, oppressing weak and minority groups, shutting down several businesses, etc. Sixth, the relevance of Ibn Khaldun's aggregate demand and modern economics is the aggregate demand component where the aggregate demand component in the macro economy includes household consumption (C), investment in the business sector (I), government expenditure (G), and export-import (X-I). Ibn Khaldun has not discussed export-import in this discussion. While the component of aggregate supply by Ibn Khaldun is the same as the concept of macroeconomics, namely the level of production which includes labor, capital, natural resources, and technology as components of the production function in aggregate supply. Seventh, the relevance of Ibn Khaldun's market prices and macroeconomic theory is factor prices plus taxes. The difference between Ibn Khaldun's market price concept and macroeconomic theory is that Ibn Khaldun does not discuss the subsidy component in forming market prices. Ibn Khaldun does not include subsidies



in calculating market prices because basically, he does not agree that the government interferes too much in the economy and only provides facilities, relaxed regulations, and security in boosting the economy. Eighth, Ibn Khaldun's thoughts on taxes, international trade, efforts to build civilization and politics are very urgent to be considered in the current context to create a prosperous society and country (*Baldatun Thayyibatun wa Rabbun Ghafur*) (Fitriani 2019). Ibnu Khaldun's fiscal policy theory which emphasizes reducing taxes so that state revenues increase through the growth of the production and business sectors in society is a policy that should be implemented, especially in developing countries where the economic capacity of the population is still low.

### **The Thoughts of Ibnu Taimiyah and His Background**

Human needs are very diverse and vary from one another. Each varies depending on the abundance or rarity of the items needed. An item will be needed more in times of scarcity than when supplies are abundant. Not infrequently what happens is price increases that are not influenced by genuine supply and genuine demand due to the actions of someone who hoards goods (*al-ihthikar*) to sell fewer goods at higher prices to get profits above normal profits.

In his book, *al-Hisbah* Ibnu Taimiyah discusses the details of pricing needed to prevent people from selling food and goods only to certain groups at prices set according to their wishes in price regulations. He argued that the increase in the price of goods during the time of the Prophet SAW was due to the operation of the market mechanism at that time. In conditions of market imperfections, Ibnu Taimiyah recommended price fixing by the government. The price fixing by the government is good, but not absolute because prices are set by the forces of demand and supply. If price increases occur as a result of unfair market mechanisms, the government may intervene in setting prices. So that in setting (regulating) the price of Ibnu Taimiyah distinguishes two types, namely first, unfair price regulation, including arrangements that include tyranny, and second, price regulation that is fair and permissible. To realize this interest, it is necessary to establish a *hisbah* institution to protect the interests of buyers and sellers. It can be seen that Ibnu Taimiyah highly appreciated the price mechanism. Therefore he strongly agrees that the government does not intervene in prices as long as the market mechanism occurs.

The price is also influenced by the size of the need for goods and the level of size. The price of goods also fluctuates depending on who is doing the transaction for exchanging the goods, besides the price varies depending on the

size of the number of people who make requests. If the need is big and strong, then the price will soar to the greatest level. The period of Ibn Taimiyah also recognized that there were differences in exchange rates circulating in different regions. Where it is known from his view that prices are also influenced by the form of the payment instrument used in the form of buying and selling, if what is used is commonly used, the price will be lower than if paying with money which is rare in circulation.

From the discussion above, through the thoughts of the characters, they can reflect on how a person expresses ideas in response to the circumstances of his time. how Abu Yusuf also elaborated in Al-Kharaj's book regarding the concept of tax and other concepts in fiqh, Al-Ghazali with the concept of money which can provide a broader understanding of how money is not only a means of barter or a medium of exchange but also has an essence in a store of value, how does Ibn Khaldun in conceptualizing a dynamic system that is easy to understand where economic mechanisms have directed economic activity to long-term fluctuations. As well as how Ibn Taimiyah in triggering price fixing. Islamic leaders encourage to dare to respond to problems with ideas that in practice can provide benefits to avoid acts of tyranny and encourage the progress of civilizations that are mutually exclusive by prioritizing justice as the spirit of sharia values.

Read in the perspective of each figure, the concepts that were coined by scholars have important implications in becoming the basis held for solving current economic problems.

Table 1. Concept of Thinking

Concept of Thinking	The principle of muamalah development that can be taken
The concept of Taxes and the role of government by Abu Yusuf	Increase in agricultural yields with a proportional system as well as in tax collection. With a minimal tax burden, it will increase people's enthusiasm for innovation and work. The government must also ensure that fair prices are obtained from natural market mechanisms, not monopolies or market manipulation
Concept of money by Al-Ghazali	The 'concept of money' and 'the concept of welfare' which are related to each other. the money we have brings us to reach 5 maqashidus-sharia (Hifdzud Din, Hifdzul Nafs, Hifdzul Aql, Hifdzul Nashl, Hifdzul Mal), lead to happiness in the hereafter.
Tax and dynamic mechanisms concept by Ibn Khaldun	Ibnu Khaldun's fiscal policy theory which emphasizes reducing taxes so that state revenues increase through the growth of the production and business sectors in society is a policy that should be implemented, especially in

	developing countries where the economic capacity of the population is still low. Economic mechanisms have directed economic activity to long-term fluctuations.
The concept of price and market intervention by Ibn Taimiyah	Economic activity is inseparable from a competitive market, in carrying out economic activities there is a need for mutual cooperation. The principle of <i>la dharar</i> is not to injure and harm other people so that by doing justice it will prevent acts of injustice. In addition to promoting justice, it also protects the public and protects them from exploitative and selfish attitudes.

Source: processed by the author

In addition, every economic scholars has value emphasis that is in accordance with social settings and other settings. As Tamanaha said, one day law will become a mirror for society and on the other hand it will become a tool for social engineering that will continue to be experienced by Muslim communities (Lukito 2022). Zainal shares his characteristics are Islamic economic thought; first, the initial period was during the time of the Prophet and the four caliphs. Second, as the basis for the formation of fiqh as a response to individual problems that are rife in society, then the formation of public policy is compiled in a book that specifically discusses economics from an Islamic perspective. The era of strengthening public policy was continued. When Islamic countries experienced progress and prosperity, Islamic economic thought was less developed, only in the form of fatwas that referred to the point of view of madzhab scholars. Contemporary Islamic economic thought when the revival of Islamic economics begins to develop again which characteristics and patterns of thought are closely related to social, political and cultural (Abidin 2020).

These thoughts have in common with prioritizing the morality of development to make people aware of how important moral norms and ethical values are as the basis of development and can realize them in economic life. Values in which there is justice and do not judge others. The position of humans as social beings emphasizes the importance of good relationships between humans to achieve a happy life (Alnashr and Suroso 2020). KH. MA. Sahal Mahfudh views that humans will achieve happiness in the world and the hereafter if they can realize the main human functions as *ibadatullah* and *immaratul ard*(Muarif et al. 2022). Thoughts and actions of the productive economy is following maqashidus sharia, the objectives of implementing Islamic shari'ah, with protecting religion, soul, mind, and offspring especially in the context of hifdhu al-mal (safeguarding property). The values are also

not only developed in the macro aspect with various policies, but can also be seen in the development of classical to contemporary *fiqh* products. How the development of classical *fiqh* towards contemporary in the *fiqh* product operational transformation approach as follows;

### **Development of *Rahn* Product Operations**

The application of the classical period apart from goods can also be aimed at animals. There is a history from Aisyah r.a. that the Prophet once bought food from a Jew and lent him iron armor. (HR. Al-Bukhari and Muslim). There are companions of the Prophet who need money, he guarantees clothes, then there is confirmation when they are due, for example, *murtahin* is entitled to the benefits of collateral. In another Hadith, narrated from Abu Hurairah r.a said: Rasulullah SAW. said: "If there is a livestock that is mortgaged, then its back may be mounted (by the person receiving the pawn) because he has paid for (guarding) it. If the livestock is mortgaged, then its heavy milk may be drunk (by the person receiving the pawn) because he has paid for it (maintaining it). People who go up and drink, then he has to pay for his (treatment). (HR. Congregation except for Muslim and Nasai-Bukhari).

In the application of *Rahn* (pawn) in classical to contemporary times, there has been a slight shift in the application. In the classical era, a person (*rahin*) needed a loan and had goods, then the goods (*marhun*) were mortgaged or guaranteed to another party (*murtahin*) who received the goods with an agreement on the time of return. Withholding goods or an asset is used to guarantee loan payments. If the time comes when you cannot return it, then there must be confirmed, on the *rahin* side, and the *murtahin* must also respond to the confirmation. As for when it is due, there is no confirmation, then this also means that *Rahin* has given up *Marhun* to be used by *Murtahin*, then there is a new agreement, it is also possible that there will also be other uses with the permission of *Rahin* (who owns the item). Because *murtahin* spends money on operational maintenance of the guarantee, *murtahin* is entitled to the benefits of the collateral for the item. So there is communication between the two.

In contemporary times, the practice of *rahn* has been institutionalized, so when one needs money one can go to a sharia pawn shop. First, the market for these goods is estimated, and at what price, *murtahin* also cannot give a price above the estimate. So that when there is a possibility of not being able to fulfill the agreement, the collateral can be auctioned to cover the loan amount. So that the values of not tyrannizing each other can be practiced in Shari'ah pawnshops. When you have received the money, the goods are entrusted to the pawnshop,

the pawnshop returns the goods in good condition and intact as they were originally given. When it is in intact condition, Rahin pays maintenance fees. Maintenance funds are delivered at the beginning, it can be monthly. The reference for maintenance costs is how much, not how much money is needed. This makes there is a difference between the shari'ah and the conventional one. For example, in a convention, the greater the money needed, the greater the maintenance money. Until now pawnshops are still running among the public, this can be seen from the many institutions dealing with pawnshops, such as Sharia Pawnshops, as well as in BMT or BPRS products. The condition is that there must be collateral in the form of movable goods, such as gold, electronics, and others. The amount of the loan is determined by the pawnshop, depending on the value and number of items pawned (Khoirunnazilah 2022). The forms of rahn products are now growing, starting from pawns in the form of gold or collateral for motorized vehicle BPKB which are used as business capital in investing for micro and small entrepreneurs (Khoirunnazilah 2022), as well as Arrum Haji savings products (Aini 2022).

There is a requirement to sell pawned goods at maturity, this is permissible under the following conditions (Satar and Ahmad 2022): murtahin must first find out the condition of the rahin; can extend the payment deadline; if Murtahin needs money and rahin has not paid off his debt, then murtahin may transfer the pawned goods to another mutahin with rahin's permission; and if the conditions above are not met, then murtahin may sell pawned goods and the excess money is returned to rahin.

### **Development of *Murabahah* and *Bai'* Product Operations**

The practice of buying and selling in the classic era was also simple in nature, now it has experienced digitization such as the practice of using marketplaces such as shoppe, tokopedia, shopee pay later. It continues to be studied whether the engagement contracts contain elements of prohibition in syara', for example, maisir, gharar, gambling, etc. Buying and selling is a *Mua'wadhah* contract, namely a contract carried out by two parties, where the first party delivers goods and the second party delivers compensation, either in the form of money or goods. Syaf'iyah and Hanabillah argue that the object of buying and selling is not only goods but also benefits, provided that the exchange is valid forever, not temporarily.

Buying and selling gold on credit is illegal. Because gold is one of usury goods. In the Islamic view, gold is one of the ribawi items which, if traded, must be made in cash (*yadan bi yadin*) (Purnamasari, Kurniaty, and Rozak 2022).

Adhering to the DSN-MUI Fatwa No. 77 of 2010, which stipulates that the law of buying and selling gold in cash is permissible. Which uses *illat al-tsamaniyah bi al-fi'li*, that gold is considered a commodity when money or official currency is not gold. Some scholars allow it (Ibn Taymiyah, Ibn Qayyim) and some forbid it (Ulama Hanafiyah, Malikiyah, Syafi'iyah, Hanabilah). The practice of buying and selling gold already existed at the time of the Prophet. In practice, some people commit fraud, but the problem of fraud occurs when people buy and sell gold in cash which results in losses, where the gold is usury and there is usury when gold is used as a medium of exchange (Faiqah 2021).

Whereas murabahah (financing the purchase of goods), the current application of wakalah, in the past (in the classical era) application was still simple, now it is more complex (institutionalized). The meaning of murabaha is a contract in Islamic sharia that determines the price of production and profits which are jointly determined by the seller and the buyer. So that the murabaha contract scheme is the transparency of the seller to the buyer. Murabahah financing makes the buyer know the production price of an item and the amount of the seller's profit.

Whereas the murabaha contract in Islamic banking is an agreement between the customer and the bank in a sale and purchase transaction where the bank buys products according to the customer's request, then these products are sold to customers at a higher price as the bank's profit. In this case, the customer knows the purchase price of the product and the bank's profit. Two types of wakalah contracts used in the application of murabaha in banking are as follows, first; because the bank does not know the criteria for the goods the customer wants, the bank asks the customer to represent the customer to buy goods from a partner who has cooperated or vice versa, the customer can also give wakalah to the bank to buy goods from the seller who has cooperated.

### **Development of *Mudharabah* Product Operations**

In the classical period, mudharabah was carried out by individuals even though they had implemented an Islamic economic system, while in the contemporary period, mudharabah was carried out through banking institutions, for example, or other financial/non-bank institutions. The difference in the concept of a mudharabah contract from theory to practice can be seen in determining the profit-sharing ratio of the mudharabah, determining the contract period/period of the mudharabah, requiring collateral, and the party bearing the loss (Almahmudi 2022).

According to classical scholars, mudharabah agreements are not needed and guarantees are not justified. Meanwhile, nowadays banks can ask for guarantees or collateral to anticipate risks if the customer cannot fulfill the obligations as stated in the contract due to negligence and/or fraud. Another opinion put forward by Al-Jazairi, cooperation in the capital (mudharabah) or loans is that person A gives some money to person B for business capital, and the profits are shared between the two according to what is required of both, whereas if there is a loss it will be borne by the financier alone (person A) because the loss of person B (worker) is enough with the fatigue he is experiencing. Therefore, he must be burdened with another loss.

Regarding the limitation of the mudharabah period, it is debated by fiqh experts. Some scholars think that the existence of a time limit for the validity of the contract will make the contract void because this can eliminate the opportunity for entrepreneurs to develop their businesses, so maximum profits from these activities are difficult to achieve. While some others think that it is okay to have an agreement between the financier and the entrepreneur regarding the mudharabah period, with a note that if one party wants to withdraw from the contractual bond, it must first notify the other (Almahmudi 2022).

However, if we return to the essence of the mudharabah contract, it is the occurrence of cooperation and mutual assistance between owners of capital or people who have a surplus of capital and people who only have expertise and skills, so that the gap between rich and poor can be eroded. Assets from an Islamic perspective are entrusted by God and should be managed for the common good and the realization of common prosperity. Mudharabah is an agreement between two parties for one of the parties to issue a certain amount of money to be traded with the condition that the profits are divided in half according to the agreement. As for the principle itself, the mudharabah principle has two forms, namely mudharabah mutlaqah and mudharabah muqayyadah. The main difference between the two forms of mudharabah lies in whether or not there are requirements given by the owner of the funds to the bank in managing their funds, both in terms of time, place, and object of investment.

In the operational development of fiqh products from classical to contemporary times one can still see their elasticity even though they have expanded and shifted from individuals to institutions and their applicative forms are increasingly diverse. When confronted with classical fiqh, the concept of legal entity, in classical fiqh theory, the contracting party (aqid) is always a human being, not a corporation. In addition, the contracting party must be

mature and wise, and have the skills to enter into a contract (Hidayat 2015). Even so, legal entities have a higher stratum position than individuals in terms of ability to perform contracts. In Syamsul book, in modern times, the development of the pillars of contract is not only in *aqidain*, *shigatul-'aqd*, *mahall al-'aqd* but added to *maudhu' al-'aqd*. Islamic law is characterized by ethical and religious spirit and principles (Syamsul 2007). With the consequence of giving attention to the problem of motives which is a measure of the nobility of intentions. Or in short everything is considered according to its purpose, *alumurru bi maqashidiha*.

As the motive underlying the contract, there are important points that need attention. For example, in the context of *bai almurabahah*, the reluctance to buy yourself is caused by something that can be troublesome, sometimes in practice it is shifted and more motivated to get into debt. Debt is accommodated by a sale and purchase agreement, not cash or credit. According to Jamal, in the classic figure literature, buying and selling *murabaha* is not related to this kind of credit buying process. Continuing in the *rahn* contract, in practice it cannot be separated from the *wadiah* or deposit contract. But again, there is a possibility of shifting with *ujrah*, where *wadiah* is categorized as a *taboo'* capable of being profit oriented. In *mudharabah* contracts, the determination of monthly profit sharing which tends to be flat is also often the subject of discussion. In the ideal concept, profit sharing is determined on the basis of real monthly profits from customers, in practice it is not easy, because customers must have financial reports as the basis for calculating profit sharing. The responsibility for losses is also often borne by the partner customer alone, while in the *fiqh* concept, in principle, the loss is borne by the *shahibul mal* (Aziz 2022).

However, in the practice of *rahn*, the operation of which still prioritizes the benefit of other parties with a system of suspension of guarantees for loans, then in the practice of buying and selling which makes it easy to keep up with technological developments, so is the practice of *mudharabah*. Which optimizes the benefits of efficient partnerships in the economic field with the principle of *antaradhin*, namely that there is no tyranny between the parties. Provide convenience for those who have difficulty accessing capital and other funding, it is appropriate to charge a service fee as well as a balanced margin and profit sharing, not burdening others. This gives enthusiasm for young scholars to continue to develop their thoughts in providing benefits to their environment by upholding *sharia* principles, *tabarru* agreements between people, and the spirit of exploring Islamic treasures.



## Conclusion

Through the thoughts of the characters, they can reflect on how a person expresses ideas in response to the circumstances of his time. How Abu Yusuf also elaborated in Al-Kharaj's book regarding the concept of tax and other concepts in fiqh, Al-Ghazali with the concept of money, how does Ibn Khaldun in conceptualizing economic mechanisms and how Ibn Taimiyah in triggering price fixing. Islamic leaders encourage to dare to respond to problems with ideas that in practice can provide benefits to avoid acts of tyranny and encourage the progress of civilizations that are mutually exclusive by prioritizing justice as the spirit of sharia values.

Islamic figures such as Abu Yusuf, Al-Ghazali, Ibn Khaldun, and Ibn Taimiyah still have relevance in the present, the operational fiqh in the development of the classical period can still be drawn from its elasticity though it has expanded and shifted from individual into institution. This provides enthusiasm for young scholars to continue to develop their thoughts in providing benefits to their environment by upholding sharia principles, tabarru agreements between people, and the spirit of exploring Islamic treasures in responding to today's problems. Within prioritizing the morality of development to make people aware of how important moral norms and ethical values are as the basis of development and can realize them in economic life.

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