

The Business Law and Realist Legal Theory: The Practical Impact of Islamic Legal Philosophy on Economic Practice

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Abstract

The convergence of legal realist theory and Islamic legal philosophy offers opportunities to harmonize substantive justice principles with ethical values in modern business law, addressing the challenges of globalization and the complexity of contemporary economic practices. This study aims to analyze the application of legal realist theory and Islamic legal philosophy in modern business law practices. It employs normative legal methods with a conceptual approach, examining the application of legal realist theory and Islamic legal philosophy in modern business law through the analysis of primary, secondary, and tertiary legal materials, as well as descriptive and normative analytical techniques to produce comprehensive practical recommendations. The findings reveal that the application of legal realist theory in value-based Islamic business law emphasizes adaptation to social realities while upholding Sharia principles such as justice, transparency, and balance, implemented in Islamic financial systems through contracts like *mudharabah* and *murabahah*. This is regulated under laws such as Law No. 21 of 2008 and supported by DSN-MUI fatwas. Furthermore, Islamic legal philosophy significantly impacts modern economic practices by integrating principles of justice and sustainability through wealth redistribution using *zakat*, *waqf*, and *infaq*, and promoting green economics based on the concept of *al-'imarah*. With its ethics-based and socially responsible approach, Islamic legal philosophy supports long-term economic stability and the relevance of business law in a global context.

INTRODUCTION

The development of the global economy in the modern era has not only given rise to new challenges in the business world, but also involves various legal dimensions that underlie every economic transaction (Gede Agus Kurniawan 2023). Business law, as a branch of law that regulates relations between economic actors, continues to develop along with social, technological, and globalization changes. On the other hand, the philosophical thinking behind business law plays an important role in shaping the normative principles that underlie its practice..(Nursadi 2012) One of the philosophical approaches that is relevant to study is the realist legal theory and Islamic legal philosophy, especially regarding its application in contemporary economic practice. Realist legal theory emerged as a response to the formalistic view of law that was considered too rigid. This approach emphasizes how the law is actually applied in practice, not just how written law is regulated. On the other hand, Islamic legal philosophy offers a perspective that is rooted in the principles of justice and balance, as taught in the Qur'an and Hadith.(Shalihah 2017) In the business context, Islamic legal philosophy provides strong normative guidelines, such as the prohibition of usury, an emphasis on justice in transactions, and the concept of profit that is oriented towards the common good.

The meeting between realist legal theory and Islamic legal philosophy opens up opportunities for in-depth analysis of how these normative principles can be practically applied in the modern business legal system. In the business world, law not only functions as a control tool, but also as a medium for creating harmony between the interests of individuals, corporations, and society. Business law based on the values of substantive justice, as proposed by realist legal theory, can strengthen the implementation of ethical values in Islamic legal philosophy.(Fadli, Mukhlis, and Lutfi 2016) This research becomes relevant amidst the complexity of current economic practices, especially with the rise of issues such as economic inequality, labor exploitation, and market monopoly that often contradict the principles of justice. In this context, realist legal theory offers an analytical framework for

evaluating the effectiveness of the application of business law, while Islamic legal philosophy provides an ethical foundation for assessing the moral legitimacy of these practices..(Keban, Hernawan, and Novianto 2021)

In the context of globalization, business law has become an important tool in maintaining international economic stability (Kurniawan, Lulo, and Disantara 2023). However, law cannot be effective if it is unable to respond to the practical needs of a dynamic society. Realist legal theory, with its emphasis on social reality and legal effectiveness, is a relevant approach to evaluating the extent to which the legal system can accommodate modern economic practices. On the other hand, Islamic legal philosophy, which emphasizes justice and sustainability, offers solutions to global economic problems, including social inequality and economic injustice (Dewi et al. 2022). A concrete example of the relevance of Islamic legal philosophy can be seen in the Islamic banking system. Concepts such as *mudaraba*, *musyarakah*, and *murabahah* not only provide alternatives to the conventional financial system, but also show how Islamic values can be translated into modern economic practices. However, the effectiveness of the application of these concepts is often hampered by the lack of harmonization between Islamic normative principles and the reality of positive law in various countries. Realist legal theory provides an important analytical tool to identify these obstacles and offer practical solutions. For example, how courts or regulators interpret and apply sharia principles in concrete cases.(Masruchi 2021)

This approach can help bridge the gap between the ideals of Islamic law and the practical needs of modern business law. The approach of realist legal theory in this study is based on the idea that law is not only seen as a text, but also as a dynamic social practice. Therefore, this study will examine how Islamic legal norms, such as the prohibition of usury and the requirement for clear contracts, are applied in the reality of business law. Meanwhile, the philosophy of Islamic law will be analyzed in terms of its ethical principles, including the concept of distributive justice and balance in *muamalah*. The implementation of the value of justice according to the theory of realist law in the context of Islamic value-based business law is realized through the application of principles that are adaptive to social reality and the needs of society. Realist legal theory views law not only as a rigid normative text, but as a dynamic practice that responds to social and economic changes..(Maulida, Novita, and Siti

Femilivia Aisyah 2024) In this context, the law serves to ensure justice, transparency, and balance in economic transactions.

The real form of this implementation is seen in formal regulations based on sharia principles. An example is the prohibition of usury, gharar, and maisir, which is implemented through legal instruments such as Law No. 21 of 2008 concerning Sharia Banking and the DSN-MUI Fatwa. This rule serves to avoid economic exploitation, uncertainty in transactions, and speculative practices that are detrimental. The sharia banking system, for example, adopts financing models such as mudharabah (profit sharing), musyarakah (cooperation), and murabahah (buying and selling with margin), which replace the concept of interest in the conventional banking system. In its implementation, the role of the courts and regulators is very important. Judges in religious courts, for example, are often faced with sharia business disputes. They do not only refer to written laws, but also consider the DSN-MUI fatwa and the socio-economic conditions of the disputing parties.(Jalil 2016) This reflects the application of realist legal theory that considers sharia values and community needs. In addition, this approach is also applied in the management of zakat and waqf as a form of wealth redistribution that is oriented towards social justice. Productive zakat, for example, is used to provide business capital to mustahik, which helps them become economically independent. On the other hand, cash waqf is used to build social infrastructure such as schools and hospitals..(Zakariya, Syuhana, and Rosida 2024)

Realist legal theory in Islamic value-based business law also seeks to bridge the gap between positive law and sharia norms. Regulations such as POJK No. 31/POJK.05/2014 concerning Sharia Insurance Products demonstrate efforts to create sharia financial products that are in accordance with market needs while complying with Islamic principles. This approach not only emphasizes legal compliance but also ensures that the law can be applied practically and is relevant to the conditions of modern society. By integrating these two approaches, this study will highlight areas where modern business law can be improved through the application of more adaptive and responsive sharia principles. For example, how can the sharia financing model be adjusted to the needs of the global market without sacrificing basic Islamic values. Based on the background explanation above, the author is interested in conducting a study entitled "Business Law and Realist Legal Theory: The

Practical Impact of Islamic Legal Philosophy on Economic Practice". The formulation of the problem in this study is:

1. How is the application of realist legal theory in the practice of Islamic value-based business law?
2. What is the impact of Islamic legal philosophy on modern economic practice?

This study uses a normative legal research method, which focuses on the study of applicable legal norms. This approach aims to analyze how written law, legal doctrine, and basic principles in Islamic legal philosophy can be applied in economic practice. In this study, law is seen as a system consisting of norms that are not only written, but also involve the principles underlying the system, such as the values of justice, balance, and benefit. The normative method was chosen because this study is conceptual and aims to analyze the application of realist legal theory and the impact of Islamic legal philosophy on business law. This approach allows for an in-depth study of primary and secondary legal sources that are relevant to the research topic

The conceptual approach is used to understand the realist legal theory and Islamic legal philosophy as two different but complementary frameworks of thought. Realist legal theory is approached by analyzing how the law is implemented in real practice, while Islamic legal philosophy is explored in terms of basic principles such as the prohibition of usury, justice in muamalah, and benefit. This approach helps explain abstract concepts that are the basis of modern business law, both from the perspective of positive law and Islamic normative values. By using this approach, research can integrate theoretical and normative analysis to create a more comprehensive understanding.

Result and Discussion

Application of Realist Legal Theory in Islamic Value-Based Business Law Practices

Realist legal theory emphasizes the importance of understanding how law functions in real practice, not just as a written normative text. This theory highlights that the application of law is influenced by the social, cultural, and economic context of the society that uses it. In practice, this theory demands that law is not only understood formally, but also must consider its impact on diverse societies. When realist legal theory is applied to the context of Islamic

value-based business law, this approach serves to ensure that sharia principles, such as justice, honesty, balance, and sustainability, can be applied effectively. (Bernard Nainggolan 2024) These values are not only normative guidelines but also become a framework for responding to the socio-economic needs of Muslims. In Indonesian Muslim society, the application of this theory is very relevant because Indonesia has the largest Muslim population in the world, which makes sharia one of the main foundations in the country's legal system and business practices. Realist legal theory, with its orientation towards the implementation of law that is responsive to social reality, provides an analytical approach to assessing the extent to which the legal system can meet the needs of Muslims in sharia-based businesses. In the context of Islamic law, this approach must be in line with the principle of maqashid al-syariah which aims to preserve religion (hifzh ad-din), soul (hifzh an-nafs), reason (hifzh al-aql), descendants (hifzh an-nasl), and property (hifzh al-mal). Al-Ghazali and Asy-Syatibi in their books emphasize that the purpose of sharia is to achieve welfare and prevent damage (mafsadah). (Rahmatullah 2021a) Therefore, the application of realist legal theory in sharia business must consider this principle so that the law is not only normative, but also relevant to the needs of the community..

For example, the prohibition of usury in QS Al-Baqarah (2:275-279) emphasizes that financial transactions must be free from elements of exploitation and provide justice for all parties. Ibn Kathir's interpretation explains that usury is a form of injustice that harms one party in a transaction. (Sumarti 2020) In the modern context, this prohibition is translated into the Islamic banking system with concepts such as murabahah, mudharabah, and ijarah. The application of realist legal theory here ensures that these principles are not only regulated textually, but also implemented by considering market conditions and community needs (Taufitra and Kurniawan 2023). Islamic value-based business law specifically refers to the sharia principles that govern business interactions, such as the prohibition of usury (interest), gharar (uncertainty), and maisir (speculation). These principles are oriented towards creating justice, transparency, and welfare for all parties involved in the transaction. The combination of Islamic values with realist legal theory creates a more adaptive approach to the needs of Muslims in everyday business practices. In this context, law is not only seen as a tool for regulation, but also as a mechanism for realizing Islamic values in economic life.

Regulations such as Law No. 21 of 2008 concerning Islamic Banking and the Fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) are concrete evidence of how Islamic values are applied in legal practices that are in accordance with social reality. This approach helps create a more inclusive and relevant legal system, where sharia principles can be integrated into the structure of positive law to support the welfare of Muslim society in Indonesia. (Rahmatullah 2021b) Realist legal theory emphasizes that law is not only a rigid normative text, but is also the result of dynamic interactions between legal institutions, individuals, and society. Within this framework, law is understood as a tool that lives and develops according to the needs of society. The application of realist legal theory in Islamic value-based business law practices means viewing the law not only from a formal perspective, but also considering the social, cultural, and religious realities that surround it. In this context, the law functions to bridge between written rules and sharia values that serve as guidelines for Muslims. (Sriwidodo 2020) Thus, the law is not only a normative tool but also a practical solution that reflects Islamic principles such as justice, transparency, and balance in business practices. Realist legal theory emphasizes the importance of understanding the social context in applying legal rules. In sharia contracts, such as mudharabah and musyarakah, this principle can be applied by ensuring transparency and fairness in the contract. For example, QS Al-Baqarah (2:282) teaches the importance of recording debts to avoid disputes. In the book Ahkam al-Qur'an by Al-Jassas, it is explained that this verse shows the importance of clear administration in transactions. (Sahban 2017) Therefore, the implementation of modern sharia contracts, such as in sharia banking in Indonesia, requires documentation that meets administrative and sharia requirements.

The theory of realist legal justice and the theory of Islamic justice have very different philosophical bases even though both discuss aspects of justice in a legal context. Realist legal theory emphasizes the importance of law as applied in reality, not just normative texts or abstract idealizations. On the other hand, Islamic justice theory is rooted in transcendental principles derived from revelation, such as the Qur'an and Hadith, with the main goal of achieving balance and social justice in a moral and spiritual framework. (Dugis 2016)

Realist legal theory developed in response to formalistic views that were considered too rigid. This approach emphasizes how law functions in practice and its impact on society. Its

main focus is on creating a legal system that is responsive to social dynamics and the practical needs of individuals or groups. The principle of justice in this theory is relative and is often influenced by local norms or the ever-evolving consensus of society. (Supriyanta 2013) Therefore, justice in realist law is more pragmatic and contextual. In contrast, the Islamic theory of justice has a very strong normative basis, which places justice as one of the main principles in human life. The concept of justice ('adl) in Islam refers not only to relations between humans, but also includes relations with Allah and the universe. This principle emphasizes balance (mizan) and moral responsibility in all aspects of life, including law. In the Islamic view, justice is an absolute value that cannot be negotiated, because it comes directly from Allah as the Most Just Being. (Budiyono 2015)

Another fundamental difference is the approach to the source of law. Realist legal theory refers to social reality and the role of institutions in the formation of law, while Islamic justice theory integrates law with revealed values and ethics that cannot be changed by human will. (Hermansyah 2020) An example is the prohibition of usury in Islam, which is an absolute principle even though its practice may not be in accordance with the needs of the modern market. In the context of realist law, rules like this may be modified according to the practical needs of society. In Islamic value-based businesses, realist legal theory directs legal actors, both entrepreneurs, regulators, and judges, to consider the social and religious context in every application of the law. Judges, for example, do not only refer to written laws but also evaluate how the decisions made can reflect social justice and be in line with the sharia values adopted by the community. This is very relevant in a country like Indonesia, where the majority of the population is Muslim and expects harmonization between national law and religious values. (Nurjaman et al. 2023) With a realist approach, the law becomes more adaptive to the real needs of the Muslim community, so that it can encourage the implementation of Islamic value-based businesses more effectively and fairly.

In Islamic value-based businesses, there are three main principles that form the basis: the prohibition of usury (interest), gharar (uncertainty), and maisir (speculation). These principles aim to create a business ecosystem that is fair, transparent, and focused on the common welfare, thus avoiding practices that are detrimental to one party. For example, the prohibition of riba aims to prevent financial exploitation, while the avoidance of gharar

ensures that every transaction is based on clear information and fair agreement. On the other hand, maisir is prohibited because it contains elements of speculation that can damage economic stability and create uncertainty. (Pane et al. 2024) In the Indonesian context, these values are translated into formal regulations such as Law No. 21 of 2008 concerning Islamic Banking, which regulates banking activities in accordance with sharia principles, including financing, investment, and management of community funds. The application of realist legal theory in this context plays an important role in integrating Islamic values into positive legal practices. This theory encourages law enforcers to consider the real needs of Muslim society in implementing related regulations. For example, judges who handle sharia business disputes do not only adhere to written rules, but also consider the fatwa of the National Sharia Council (DSN-MUI) and the socio-economic conditions of the disputing parties. (Assadyra, Tarto, and Helvira, n.d.) Thus, the application of realist legal theory ensures that the law is not only normative, but also responsive to social dynamics. This step provides space for more flexible legal adjustments to remain relevant to the needs of Muslims, while encouraging the creation of ethical and sharia-compliant business practices.

In the Indonesian context, realist legal theory is reflected in the implementation of sharia business law through the development of the sharia banking sector, halal investment, and productive waqf. One of the main practices that reflects this approach is the murabahah contract, namely a sale and purchase transaction with a profit determination agreed upon by both parties. This contract not only meets the economic needs of Muslims but is also adjusted to sharia principles. The fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) plays an important role as a practical guide in these transactions, providing legal clarity for sharia business actors. The realist legal approach in this context allows flexibility in the application of positive law, so that the law is relevant and in accordance with the reality of Indonesia's diverse Muslim society..

Furthermore, regulations such as the Financial Services Authority Regulation (POJK) No. 31/POJK.05/2014 on Sharia Insurance Products demonstrate how formal law can be applied to support sharia principles in practice. This regulation allows the sharia insurance industry to operate in accordance with Islamic values, such as the prohibition of usury and gharar. In addition, the realist approach facilitates legal interpretations that take into account

the social and economic context in which the law is applied. Thus, realist legal theory helps create a balance between compliance with formal law and the application of sharia values, ensuring that sharia business law is not only normative but also responsive to the needs of society.

Judges and regulators play a central role in ensuring the application of realist legal theory in Islamic value-based businesses. Judges, especially in religious courts, are often faced with dispute cases involving sharia principles, such as inappropriate contracts or transactions containing gharar (uncertainty). In handling these cases, judges do not only refer to written laws such as Law No. 21 of 2008 concerning Islamic Banking, but also uses the fatwas of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) as additional guidelines. In addition, judges consider the social and cultural context of the local Muslim community to ensure that their decisions are not only legally valid but also reflect Islamic values. (Jannah, Pratama, and Muhajirin 2024) For example, in a dispute regarding the cancellation of a contract due to gharar, the judge must evaluate whether the contract has violated the principle of clarity in transactions and has the potential for injustice, both for individuals and the wider community.

On the other hand, regulators have a responsibility to design policies and regulations that support sharia business practices that are in accordance with the realities of society. Regulators such as the Financial Services Authority (OJK) not only establish a formal legal framework but also provide flexibility to accommodate local fatwas and practices. For example, the issuance of the OJK Regulation on sharia insurance products shows that regulators are trying to align sharia principles with the needs of modern business. In this case, regulators work together with sharia institutions such as DSN-MUI to ensure that sharia financial products and services meet Islamic principles while complying with national regulations. (Lestari 2019) With this role, regulators not only support the implementation of sharia-based law but also integrate Islamic law into Indonesia's positive legal system.

The main challenge in applying realist legal theory to Islamic value-based businesses lies in the differences in interpretation of sharia principles. Principles such as the prohibition of usury, gharar, and maisir often have different interpretations between scholars, financial institutions, and business actors. These differences not only affect the uniformity of

implementation, but also the legal certainty expected in business activities. For example, in the implementation of certain contracts such as murabahah, several parties may have different views on the aspects of halalness and suitability of procedures. This challenge is compounded by the lack of universal standards in sharia supervision, creating legal loopholes that allow for different interpretations in practice. As a result, business actors face obstacles when trying to balance sharia compliance with competitive market dynamics. (Fitriani and Nisa 2024) In addition, positive law in Indonesia often does not fully accommodate the needs of Islamic law, thus creating challenges in integrating sharia values into business practices. For example, Law No. 40 of 2007 concerning Limited Liability Companies, although it is the basis for corporate governance, does not yet have specific provisions governing sharia-based entities. This creates a regulatory gap that makes it difficult to consistently apply Islamic principles in corporate governance practices. This problem is also seen in other aspects, such as the limited regulation of the sharia finance and investment industry, which often has to rely on fatwas from the National Sharia Council (DSN-MUI) without having a stronger legal basis. (Kasmad 2021) Therefore, regulatory reform steps are needed that integrate sharia principles into national law without violating the constitution and positive legal principles, thus creating a more solid and relevant legal basis for businesses based on Islamic values..

The development and reform of regulations in the application of realist legal theory are essential to ensure that Islamic value-based business law can meet the real needs of Muslim society. In this context, regulatory reform must be able to integrate sharia values into positive law so that they are relevant to modern economic practices. One concrete example is the strengthening of regulations related to halal investment which is the main pillar in supporting the development of the halal industry in Indonesia. Halal investment not only aims to develop the economic sector, but also ensures compliance with sharia principles such as the prohibition of usury and gharar. In Indonesia, these efforts can be seen in the ratification of Law No. 33 of 2014 concerning Halal Product Assurance, which provides a legal framework for business actors to ensure that their products meet halal standards. (Sriwidodo 2020) However, the challenge faced is ensuring that this regulation is not only a legal document, but is implemented effectively through synergy between the government, entrepreneurs, and halal certification institutions.

Although the Halal Product Assurance Law has become an important milestone, its implementation still faces various obstacles, such as limited certification infrastructure, lack of socialization to small business actors, and certification costs that are considered high. The application of realist legal theory demands that such regulations be more flexible and accessible to all levels of society, including micro, small, and medium enterprises (MSMEs) that dominate the economic sector in Indonesia. In addition, strengthening regulations must involve a more participatory approach, in which the community and business actors have an active role in ensuring that existing regulations truly reflect their needs. This approach also involves alignment with other regulations, such as Law No. 40 of 2007 concerning Limited Liability Companies, so that sharia values can be integrated into corporate governance holistically. (Yuanitasari, Sardjono, and Susetyo 2023) With regulatory reforms that are oriented towards real practices, Islamic value-based business law can be more effective in supporting community welfare while maintaining the principle of justice that is the essence of sharia. However, the biggest challenge in applying realist legal theory to Islamic value-based businesses is the harmonization between positive law and sharia principles. Differences in interpretation of concepts such as gharar and maisir often create legal uncertainty. In this context, the interpretation of scholars such as Al-Qurtubi in Tafsir al-Qurtubi emphasizes the importance of avoiding ambiguity in transactions. With a realist legal approach, regulators and judges can use the DSN-MUI fatwa as an additional guide in resolving disputes related to sharia transactions. (Zulfahmi and Maulana 2022)

To strengthen the application of Islamic values in business law, it is necessary to refer to classical books such as Bidayat al-Mujtahid by Ibn Rushd, which discusses the ijihad method in muamalah cases. Contemporary scholars such as Yusuf al-Qaradawi also emphasize the importance of adapting Islamic law to developments in the era, without sacrificing its basic principles. In the context of business law in Indonesia, the DSN-MUI fatwa is often used as a reference for interpreting sharia principles in the context of national law, as applied in the Sharia Banking Law.

Overall, it can be understood that although these two theories can complement each other in certain contexts, equating or making them equal is an inappropriate step. Realist legal theory is adaptive to social change, while Islamic justice theory is normative and based on

transcendent universal values. This fundamental difference makes the application of both require a careful approach so as not to violate the basic principles of each theory.

The Impact of Islamic Legal Philosophy on Modern Economic Practices

Islamic legal philosophy is the foundation on which the legal system is built based on the teachings of the Qur'an, Hadith, Ijma', and Qiyas, which provide an ethical and moral framework for regulating various aspects of human life, including the economy. Principles such as justice ('al-'adl'), balance ('al-mizan'), and welfare ('maslahah') are at the heart of this view, emphasizing the importance of creating harmony between individual needs and collective interests. In economics, this principle regulates that the distribution of wealth is not concentrated in the hands of a few people, but is distributed evenly for the common good. For example, the prohibition of usury in the Qur'an (QS Al-Baqarah: 275-279) aims to prevent exploitation in financial transactions, while the obligation of zakat supports the redistribution of wealth to reduce social inequality. Islamic legal philosophy, with this approach, explicitly seeks to create an economic system that is not only productive but also just, ethically based, and supports the common welfare. In the context of modern economics, Islamic legal philosophy offers an alternative paradigm that is different from capitalism and socialism, emphasizing the values of balance, social responsibility, and sustainability. This system has inspired the development of various Islamic financial instruments, such as mudharabah (profit sharing), murabahah (margin buying and selling), and ijara (leasing), which replace interest in conventional banking with real asset-based mechanisms. In addition, the management of zakat, waqf, and infaq is an important part of supporting social and economic stability, as regulated in Law No. 23 of 2011 concerning Zakat Management in Indonesia. By encouraging transparency and prohibiting excessive speculation (gharar) and gambling (maisir), Islamic legal philosophy not only creates a fair economic system but is also oriented towards long-term sustainability. Amid global challenges such as economic inequality and environmental degradation, this philosophy makes a real contribution to the formation of an ethical and responsible economy. (Mubarak 2022)

1. Basic Principles of Islamic Economics in Legal Philosophy

Islamic legal philosophy builds its economic system based on fundamental principles taken from the Qur'an and Hadith, which aim to create justice, balance, and collective welfare. One of the main principles is the prohibition of usury, which is the taking of interest or excessive profit in financial transactions. This prohibition is emphasized in QS Al-Baqarah (2: 275-279), which states that Allah permits buying and selling but forbids usury. The main purpose of this prohibition is to prevent economic exploitation that can enrich one party at the expense of another. (Syamsuri, Wahab, and Dahham 2024) In the modern context, the prohibition of usury leads to the development of a justice-based financial system, where profits are based on real contributions to production or economic activity, not on taking advantage of the dependence or weakness of others.

As the main foundation, justice (al-'adl) is understood as a regulation so that the distribution of wealth is even and not concentrated in the hands of a few people. Imam al-Ghazali in Ihya Ulumuddin explains that economic justice is the basis for the sustainability of a society, with the redistribution of zakat as the main instrument. QS Al-Ma'idah: 8 emphasizes the importance of being fair even in situations of economic conflict, while QS Ar-Rahman: 7-9 regulates the balance (al-mizan) which reflects the principle of harmony between the interests of individuals and society. (Sirajuddin, Isman, and Wardani 2024)

Another principle is justice and balance, which is reflected in verses such as QS Al-Ma'idah (5:8) and QS Ar-Rahman (55:7-9). This principle teaches the importance of balance in the distribution of wealth and maintaining harmony between the needs of individuals and society. The Islamic economic system seeks to avoid extreme social inequality by encouraging the redistribution of wealth through instruments such as zakat, infaq, and sedekah. This justice also includes the prohibition of monopoly, exploitation, and economic practices that harm vulnerable groups. By implementing the principle of balance, Islamic economics ensures that every individual has access to economic opportunities and adequate resources to meet their needs properly.

The principles of transparency and honesty are also important foundations in Islamic legal philosophy. This is emphasized in QS Al-Baqarah (2:282), which orders the recording of debt transactions in writing to avoid disputes in the future. This transparency aims to create a sense of mutual trust between economic actors, which is very important in building healthy

business relationships. In addition, Islam prohibits the practice of gharar (excessive uncertainty) and maisir (gambling), which can damage economic stability and cause injustice. (Mumtahaen 2023) Thus, transparency and honesty are pillars that encourage the creation of a conducive, stable, and just economic climate. Overall, these basic principles of Islamic economics demonstrate a commitment to justice, balance, and ethics, which provide guidance for creating an economic system that is not only productive but also in accordance with human values. In the modern context, these principles are not only relevant but can also be an alternative to conventional economic systems that are often solely profit-oriented without considering social and environmental impacts

Implementation in Modern Economic Practice In practice, Islamic legal philosophy has had a significant influence on the development of the modern economic system, especially through the Islamic financial system, zakat regulations, and mechanisms for prohibiting economic exploitation.

a. Islamic Banking System

Islamic banking is a concrete form of implementation of Islamic legal philosophy in the modern economy. Its basic principles are based on Islamic teachings that prohibit usury (interest), gharar (excessive uncertainty), and transactions involving illicit goods or activities. This system functions as an alternative to conventional banking by emphasizing justice, transparency, and sustainability. One of the main principles that distinguishes Islamic banking from the conventional system is the replacement of interest with a mechanism based on cooperation, profit sharing, or real asset buying and selling transactions. (Fadillah, Novianti, and Zandra 2024) Thus, Islamic banking not only provides financial services but also upholds moral and social values that are in line with Islamic teachings.

According to Imam al-Syathibi in al-Muwafaqat, maqashid al-syari'ah aims to protect five basic things: religion, soul, mind, descendants, and property. In the economic context, protection of property (hifz al-mal) is implemented through the prohibition of usury, gharar, and maisir, as well as the obligation of zakat to support the redistribution of wealth. This approach is in line with QS Al-Baqarah: 282 which instructs the recording of debt-receivable transactions in writing to prevent disputes,

a principle of transparency that is relevant in the modern context. (R. and Firdaus 2023) Financial Instruments in Islamic Banking consist of:

1) Mudharabah (Profit Sharing)

Mudharabah is a cooperation agreement between the capital owner (bank) and the business actor (customer), where the profits from the business are shared based on the initial agreement. In this mechanism, the capital owner is responsible for all funds, while the business actor is responsible for managing the business. If the business experiences a loss, the financial loss is borne by the capital owner, while the business actor bears the loss of time and energy. This system reflects the principle of justice in Islam, because risks and profits are shared proportionally without exploitation of one party by another. (Chasanah Novambar Andiyansari 2020)

2) Murabahah (Buying and Selling with Margin)

In a murabahah transaction, the bank buys an asset needed by the customer, then sells it to the customer by adding an agreed profit margin. For example, if a customer wants to buy a house, the bank will buy it first and sell it to the customer at a price that includes the principal plus a certain profit. This system avoids interest because the bank's profit does not come from borrowing money, but from the margin in the buying and selling transaction. Transparency is highly emphasized in murabahah, where customers clearly know the cost price and profit margin. (Rachmat 2023)

3) Ijara (Leasing)

Ijara is an instrument similar to leasing in the conventional system, where the bank rents certain assets to customers for a certain period of time at an agreed rental fee. After the lease period ends, the asset can be returned or purchased by the customer. This instrument is used to finance assets such as vehicles, business equipment, or property, on the condition that the assets must comply with sharia principles. Ijara allows customers to access productive assets without having to pay in full up front, while ensuring that the transaction does not contain elements of speculation or ambiguity. (Aurellia and Nisa 2024)

In Indonesia, Islamic banking is regulated by Law No. 21 of 2008 concerning Islamic Banking. This law provides a clear legal framework for the management of Islamic banking, including types of services, governance, and supervisory mechanisms. One of the important points in this regulation is the establishment of a Sharia Supervisory Board (DPS) in each Islamic bank, which is tasked with ensuring that all financial products and services are in accordance with Islamic principles. In addition, Bank Indonesia and the Financial Services Authority (OJK) also play a role in supervising the operations of Islamic banks to maintain the stability and integrity of the financial system.

The development of Islamic banking in Indonesia has shown significant growth in recent decades, supported by a Muslim majority population and increasing public awareness of the importance of Islamic financial principles. Various innovative products continue to be developed to meet the needs of modern society, such as Islamic financing cards and Hajj savings. (Tuzuhro, Rozaini, and Yusuf 2023) With supportive regulations and large market potential, Islamic banking is not only an alternative to the conventional system but also an important pillar in building an economy based on justice and sustainability.

a. Management of Zakat, Waqf, and Infaq

The management of zakat, waqf, and infaq in Islamic legal philosophy is a real manifestation of the principle of social justice upheld by Islam. Zakat, as one of the pillars of Islam, has a primary function as an instrument of wealth redistribution to create economic and social justice. In this context, zakat is not only considered an individual obligation to God but also a form of social responsibility to support common welfare. Economically, zakat is designed to increase the purchasing power of the poor and reduce structural poverty which is often an obstacle to economic development. For example, the distribution of productive zakat, such as providing business capital to mustahik (zakat recipients), not only helps them survive but also opens up opportunities to become economically independent, which in turn can create a chain effect on the economic growth of the community. (Tuzuhro, Rozaini, and Yusuf 2023)

In Indonesia, zakat management has been comprehensively regulated through Law No. 23 of 2011 concerning Zakat Management. This law regulates the mechanism for collecting, distributing, and reporting zakat in a transparent and accountable manner. Zakat management is carried out by the National Zakat Agency (BAZNAS) and officially registered zakat institutions, which are tasked with ensuring that zakat funds are used in accordance with sharia provisions and the priority needs of the community. In addition, waqf and infaq also have an important role in supporting equitable economic development. Waqf, for example, is not only limited to land but can also be in the form of cash waqf, the proceeds of which can be used for various social needs, such as building health or education facilities. With supporting regulations, such as Government Regulation No. 42 of 2006 concerning the Implementation of Waqf, the Indonesian government is trying to make zakat, waqf, and infaq an integral part of the national economic system, which can have a significant impact on realizing economic equality and poverty alleviation..

- a. a. Prohibition of Economic Exploitation Practices
- b. In addition to prohibiting usury (interest), Islamic legal philosophy also pays serious attention to various other forms of economic exploitation that can harm individuals and society as a whole. Two important concepts that are prohibited in Islam are gharar (excessive uncertainty) and maisir (gambling). The prohibition of gharar aims to create fair and transparent transactions, where each party clearly understands the risks and benefits of the transaction. Meanwhile, the prohibition of maisir protects society from speculative and unproductive activities, which are often high risk and have the potential to harm certain parties. (Gumanti 2023) These two prohibitions encourage the development of a more stable economic mechanism, based on real assets, and in accordance with the principles of justice and sustainability.
- c. In the context of the modern economy, the prohibition of gharar and maisir has influenced various regulations, especially in the Islamic capital market and Islamic insurance sectors. The Islamic capital market, for example, is designed to ensure that all investment instruments are based on real assets and free from excessive speculation. This includes sharia stocks, sukuk (sharia bonds), and sharia mutual

funds, all of which must meet sharia principle criteria. In Indonesia, this is regulated in POJK No. 15/POJK.04/2015 concerning the Implementation of Sharia Principles in the Capital Market. This regulation ensures that activities in the sharia capital market not only meet financial standards but also Islamic ethics. (Riyansyah and Ansori 2024) Likewise, sharia insurance avoids the concept of gharar by implementing a tabarru' (donation) system to share risks collectively, so that transactions become more transparent and fair for all parties involved.

- d. This principle also reflects economic sustainability and stability, as it rejects any form of exploitation or profit obtained through unproductive means. Thus, Islamic legal philosophy not only limits detrimental practices but also builds a framework that allows for the creation of a more inclusive and equitable economy, in accordance with Islamic values. This combination of regulation and sharia principles provides a strong foundation for ethical economic growth that is increasingly relevant in facing global economic challenges.
- e. 3. Contribution to Economic Sustainability
- f.
- g. Islamic legal philosophy makes a major contribution to economic sustainability through an ethical and justice-based approach. Islamic legal philosophy also supports sustainability by encouraging environmental responsibility through the concept of al-'imarah. This concept teaches humans to utilize resources wisely, as described in the interpretation of QS Al-A'raf: 31 regarding the prohibition of waste. This approach is relevant in the green economy, such as the management of productive waqf for sustainable investment. This system emphasizes the balance between economic profit and social responsibility, which is relevant in facing global challenges such as economic inequality and environmental degradation.
- h. a. Ethical Approach in Business
- i. In Islamic legal philosophy, business is not only seen as an economic activity, but also as a form of worship that has moral and spiritual responsibilities. This principle requires business actors to run a business by upholding the values of honesty, justice, and social concern, so that profit is not the only goal, but also benefits the community.

Business must be carried out without harming others, maintaining trust, and having a positive impact on the environment. This approach also emphasizes sustainability, where business actors are encouraged to pay attention to the long-term impacts of their economic activities on human welfare and environmental sustainability. (Maulida, Novita, and Siti Femilivia Aisyah 2024) Thus, business practices according to Islamic legal philosophy are oriented towards a balance between material gain and social responsibility, creating a more ethical and harmonious economic system.

j. Support for a Green Economy

Islamic legal philosophy supports the principle of sustainable resource management through the concept of al-‘imarah, which means development to prosper the earth. This principle emphasizes the responsibility of humans as khalifah to maintain environmental balance, utilize resources wisely, and ensure sustainability for future generations. In the context of the modern economy, al-‘imarah is relevant in encouraging green investment, responsible environmental management, and the development of renewable energy, such as solar, wind, and biomass. Islam also prohibits waste (israf) and damage (fasad), further emphasizing the importance of adopting an environmentally friendly approach to economic activity. This principle is in line with global efforts to address the challenges of climate change, while encouraging more ethical and sustainable business models in various sectors, including agriculture, manufacturing, and the energy industry. This support shows how Islamic legal philosophy can be a strong ethical guide in building a green economy in the modern era.

Islamic legal philosophy has had a significant impact on modern economic practices by offering a paradigm based on justice, balance, and social responsibility. Its influence is seen in the development of Islamic banking, management of zakat, and the prohibition of economic exploitation. Regulations such as Law No. 21 of 2008 on Islamic Banking and Law No. 23 of 2011 on Zakat Management show concrete efforts to integrate these principles into the national legal framework. However, the successful implementation of Islamic legal philosophy requires synergy between the government, economic actors, and society to overcome the various challenges that exist..

CONCLUSION

The application of realist legal theory in Islamic value-based business law practices emphasizes the adaptation of law to social realities while maintaining sharia principles such as justice, transparency, and balance. This theory ensures that law is not only normative but also relevant to the needs of Muslim society, for example by implementing the prohibition of usury, gharar, and maisir as regulated in QS Al-Baqarah: 275-279 and explained by scholars such as Ibn Kathir. An example is seen in the sharia banking system in Indonesia which uses contracts such as mudharabah and murabahah, and is regulated in Law No. 21 of 2008. The fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) is often used to bridge positive law and sharia values, so that business law can reflect substantive justice that is adaptive to the socio-economic dynamics of Muslim society.

Islamic legal philosophy has a significant impact on modern economic practices by offering a paradigm based on justice, balance, and sustainability, which is relevant to answering global economic challenges. Principles such as the prohibition of usury, gharar, and maisir are implemented through the Islamic financial system, such as the mudharabah, murabahah, and ijara contracts, which replace interest with real asset-based mechanisms and fair risk sharing. In addition, the management of zakat, waqf, and infaq acts as an instrument of wealth redistribution to reduce social disparities and support collective welfare. In the context of sustainability, the concept of al-‘imarah encourages the wise use of resources and supports a green economy, such as investment in renewable energy. By underpinning regulations such as Law No. 21 of 2008 concerning Islamic Banking and Law No. 23 of 2011 concerning Zakat Management, Islamic legal philosophy builds an economic system that is oriented towards ethics and social responsibility, while supporting long-term economic stability..

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