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THE APPLICATION OF FIQH
PRINCIPLES IN THE CONCEPT OF
PRODUCTION THEORY

BY

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CHAPTER 1

INTRODUCTION

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ الرَّحْمَنِ الرَّحِيمِ
مَالِكِ يَوْمِ الدِّينِ إِيَّاكَ نَعْبُدُ وَإِيَّاكَ
سُئَلْنَا فَأْتِنَا الصِّرَاطَ الْمُسْتَقِيمَ
صِرَاطَ الَّذِينَ أَنْعَمْتَ عَلَيْهِمْ غَيْرِ الْمَغْضُوبِ
عَلَيْهِمْ وَلَا الضَّالِّينَ

In the Name of Allah,
the Compassionate, the Merciful

Praise to be Allah,
Lord of the Worlds, the Compassionate,
the Merciful.

Master of the Day of Judgement!
You alone we worship,
and to You alone we look for help.
Guide us to the straight part,
The Part of those upon whom You bestowed
favours, not those who have invited Your
wrath, nor those
who have gone astray.

INTRODUCTION

A. Statement of Problems

In any economic system production remains the fundamental decision. There will be no consumption if there is no production. The resources used in the production create economic activity which determines the prosperity of a nation. It involves the production of goods and services which aim at meeting the different hierarchies of human wants. This includes domestic consumption, trades and future investment. Production does not only aim at achieving the improvement and growth of the economy namely agriculture, manufacturing and commercial but also the maintaining of peaceful and harmony environment.

It is clearly understood that the assumptions that founded the concept of production theory is based on theories and systems that prevailed today are the result of the process of observation. The economic questions that decide what to produce, for whom to produce, and how to produce, how much to produce and how to distribute has become the crux of the problem in the economic system. The decision making and planning in production has close relationship with the behaviour of the economic agents. The behaviour of the economic agents is the very foundation of an economic system.

"The microfoundations are important because it is the behaviour economic units which affects the economic aggregates in the system: behaviour of the individual household units affects aggregate demand, while behaviour of the firm affects production and hence aggregate supply."¹

The philosophical foundation generate the behaviour of the economic agents and the institutions in the system, and hence effectively determined the microfoundations of that economy. An economic system that is based on the freedom of individual and the pursuit of materialism will influence the assumptions of the theory. Thus, the theory of production assumes that entrepreneurs maximise profit at the least cost of production. The rationality of the assumption is different in the analysis of consumer equilibrium. The satisfaction which the consumer attempts cannot be measured, for there is no measurement. The profit of the entrepreneur can be measured in money. It is money profit which the entrepreneur is assumed to maximise. A corollary of the assumption of rationality is that what ever the firm produce it always does so as cheaply as possible, given existing technical production methods. Profit maximisation and cost minimization are two essential assumptions in the theory of production.

1 Mohammad Ariff, Towards Establishing The Microfoundations of Islamic economic: The basis of the basics (No publisher and year mentioned)
p.2.

This materialistic attitude towards life and complete ignorance of the non-economic aspect of human life, disturb the equilibrium of society and thereby bring misery and sorrow to the whole community. It is not surprising a capitalist producer will work hard to achieve its desire irrespective whether he has exploited his own neighbour. One example is dumping. This is one of the result of the inhuman behaviour of profit maximiser producers. Gunter in his book, 'Inside Latin America' showed how Brazil destroyed its enormous crops of coffee just to maintain the price of coffee. However, it costs about £200,000 a year to get rid of its four million sacks surplus crops.² Similarly in California, where delicious oranges were gathered in the form of a golden mountain were burned to ashes. While at the same time her children were dying due to under nourishment³. Surprisingly the idea of capitalism has come to Malaysia. Recently about 40,000 chickens were burned to ashes by the South Johor Chicken Producer Society⁴. The reason was to avoid over supply that can lower down the price which will cause loss to the farmers.

The producers are concerned mainly in maximising yield for themselves. They therefore are always on guard against producing any thing in excess which might force them to reduce their prices.

2 Shaikh Mahmud Ahmad, Economic of Islam, Delhi: Idarah - 1 Adabiyat, p. 16.

3 Ib, id, Sheikh Mahmud, p. 16

4 Berita Harian, 9 Ogos 1986, p.3. Col. 2

This is the "Capitalistic Sabotage"⁵ - aspect phrases coined by Veblen. Millions need the good things of life that the factories can produce. But they are not produced because it does not suit the capitalist system to produce them. There is no criteria expect that can fulfill their greedy desire and not the welfare of the society. With the absence of moral values, norms in guiding the framework of the theory of production, economic activities has has become disequilibriumed.

The economic problems cannot be solved with the present economic theory. There is a need for a different economic system or a different chapter in economics - for each kind of society.⁶ And the whole world, must change their economic theory if they want to provide a just economic development to all making living. Failure to develop a new economic theory and a new economic practice in the immediate future will lead to crisis for more serious than those of the seventies.⁷

5. Ibid., Shaikh Mahmud. p. 18

6. Milton Freedmon, Price Theory. Chicago: Aldine Publishing Co., 1977, p. 2.

7. Robert Theobald, Economizing Abundance a non inflationary future, Chicago: The Swallow Press Inc. Published, p. 171

The Muslim economists have tried to develop an alternative for the present economic system. A new methodology for Islamic economics and outlining a new matrix for the operation forces is really necessary. Islamic economics is unique whereby it has its own assumptions, goals and objectives, rules of the game, institutional framework and instruments of policy. The fundamental question is not to get what they want, the question of whether they want the right things in the light of the Syari'ah becomes extremely important today. Herein lies the importance of the linkage between the principles of economic and the Syari'ah. It is under the influence of the Islamic 'tasawwur' (World view) and guided by general ideology. This basic premises are defined by the Shari'ah. Islamic economics cannot be conceived outside this basic framework. Any analysis on economic studies must be examined in the light of the explicit and implicit injunctions of the Qur'ān and the Sunnah. This is how the process of reconstruction would begin.

'Ilm Fiqh is to know the practical proposition of the Shari'ah. The propositions of the practical part of the Syari'ah refer either to matters of the future life and present life. The former are the provisions of the law which relate to the ceremonial part of the religion ('ibadat). The latter are divided into three parts: Marriage (munakahat); dealings between people (munamalat) and criminal (jinayah). The Muslims are subjected by six values in their every day life which are included in the 'Ilm Fiqh. They are obligatory (Fardhu or wajib), sunna or mandub, halal, haram, mubah dan makruh (Appendix 1). These six values are part of the total legal system of Islam. Those acts are permitted and prohibited

on individuals and society, denying both of these will be considered as a transgressor. However, the sphere of prohibited things is very small, while that of permissible things is extremely vast.⁹ Some of the acts are not mentioned in a nas¹⁰ and new problems crop out as time changes. Thus the fuqaha (jurist) has initially accomplished certain legal principles or maxims (**القواعد الفقهية**) a determining criteria in any activities. These maximise general rules which apply to all its particulars.¹¹

Fuqaha (jurist) have derived some general principles which have been supported by al-Qur'an and Sunnah. Articles 2 - 100 of the Majelle¹² contain ninety-nine maxims (principles). They are mainly derived from al-Ashbah wa-al-Nazā'ir by Ibn Nujayim.¹³ These principles are:

- a. An Act is judged by its object.

الأمر بمقاصدها

- b. No injury and no inflicting of injury.

لا ضرر ولا ضرار

injury shall be removed.

الضرر يزال

- c. Certainly is unwavered by doubts.

اليقين لا يزال بالشك

9 The first asl or principle is all things which Allāh has created and the benefits derived from them are essentially for man's use and hence are permissible.

10 Nas denotes either a verse of al-Qur'an or a clear, authentic and explicit sunnah of Prophet Mohammad. These are the two main sources of Islamic law i.e., its Shari'ah

- c. What is directed by custom is as though directed by law.

العادة محكمة

- d. Hardship (Meshaqqat) causes the giving of hardship.

المشقة تجلب التيسير

2. Need for Fiqh Principles

These principle would become the tool in the decision making and planning of the producer. Man plays on important role in integrating all the principle into a functioning system so as to ensure that the objectives of production in Islam can be met. It defines the priorities and solving conflicts among social aims or individual interests.

Fiqh principles are the contributions of mujtahids which are suitable with the changing of times. The generality of these principles give some amount of elasticity to the people to apply their own intellectual power within the guideline of Shari'ah. The difference in opinions will be appreciated when it is applied to the suitability of the place, time and the level of economic development. People can

11 S. Mahmassani, Falsafat al-Tashri Fi Al-Islam, Leiden: E.J. Brill
Copyright, 1961, P. 151.

12. Majelle denotes the old Turkish Civil Code. It represents an attempt to codify that part of Hanafi fiqh which treats of muamalat.

13. Al-Ashbāh wa-al-Naza'ir denotes the similitudes and the likes. The origin of the term al ashbāh wal-al-nazā'ir dates back to a letter which the caliph Umar sent to Abu Musa Al-Ash'ari and in which he commended him saying, "know the semblances and the similitudes

choose the reasons which they consider more suitable (rajih). The uniqueness of fiqh application is it holds the welfare of society (maslaha) in whatever condition. It avoids injury and hardship (mafasad) to the individuals and society. Moreover it does not impede the fundamental customs and the high and far-reaching objective of life.

These principles would be very helpful in the systematic planning of production which aim for the welfare of future generation and in realising the worship to Allāh and aiming for falāh.

B. Objectives of Study

Our predecessors have done a great job in developing a comprehensive science of jurisprudence (Fiqh) namely the four schools and left behind us a treasure of knowledge. It would be a wastage to neglect those masterpiece. The application of fiqh principles have been either less recognised or neglected in our contemporary researchs and writings of Islamic economics. A clear understanding of these principles should widen the frontiers of Islamic economics and help the development of Islamic economics sciences.

The main objective in this study is to analyse the Fiqh principles that are relevant for the theory of production and to what extent these principles can be applied.

and collate matters to their likes in giving judgement.

The following are included in the major objectives:

1. To highlight the fiqh principles which are related to the theory of production.
2. To suggest an alternative according to the framework of Shari'āh to those areas that need these principles.
3. This study could contribute to the other analysts in the same area and benefit the country which actively involve in the process of production.

C. Organisation of the Study

The subject-matter of this study has been divided into six chapters along with a preface. The level of exposition throughout the study, especially perhaps in three chapters, is such as to make it accessible both to economists and to general readers of the literature of Islamic production theory. My aim in these pages has been to assemble the building block of an Islamic production theory and planning with the application of fiqh principles that is distinctive but never unreasonable or isolationist.

The first Chapter reviews briefly the conventional production theory that has brought disequilibrium and injustice to the world economy at present. Then it explores the necessity of alternative with a new approach of economic system that will uphold the universal value and moral. This chapter also looks at how production theory can be applied with fiqh principles.

Chapter two is concerned about the actual way research is carried out, the problem encountered, the advantages as well as the shortcomings of the method employed. The information and data has dealt more on quantitative material obtained from secondary sources which is regarded as library material. The original sources: Al Qur'an, Hadith Ijma and Qiyas has been used frequently.

Chapter 3 is devoted to literature which is related to the production theory from the western and Muslim economists. The ideas and theories have been reviewed from the secular production theory and the alternative proposed by Islam. This chapter introduces the Shari'ah rules in accordance to any action of man.

Chapter 4 presents the study of fiqh framework on production. It has made distinctive features on the categories of goods and services: Halal, haram, makruh and syubhat. This distinction is important in order to set up a clear picture of what kind of goods and services we can produce. The level of production - Dharuriyat, Hajiyat, Kamaliyat, Tahsiniyat and Tarafiyat have been the systematic production planning from the Islamic viewpoint. It is important to note that the rational was based on the objectives of Shari'ah.

Chapter 5 highlighted what kind of production planning have been applied in the institutions and firms. The general idea was to study to what extent the Islamic principles have been implemented.

Chapter 6 looks at the ways and means in which the present production theory could be brought closer to the proposed Islamic alternative. This could increase harmony between people and the Institution.

This chapter also summarizes the major elements of the proposed Islamic alternative in production.

CHAPTER II

METHODOLOGY

سَنُرِيهِمْ آيَاتِنَا فِي الْأَفَاقِ وَفِي أَنفُسِهِمْ
حَتَّىٰ يَتَّبِعِنَ لَهُمْ أَنَّهُ الْحَقُّ

"We shall show them our potents on the horizons
and within themselves until it be manifesto them
that it is the Truth."

The Holy Qur'an (41:53)

CHAPTER II

RESEARCH METHODOLOGY, PROBLEMS AND LIMITATIONS

The problems that faced the world production today has resulted to the instability and uncertainty in the economy. The crisis is further aggravated by the presence of extreme poverty amidst plenty in all countries, various form of socio-economic injustice, overproduction and wastage. Thus this problem can be divided into two. First, the current production planning show that it does not guarantee an economic situation of stability, just and harmony. Second, the Islamic orientation of the production as the alternative ways and mean has been polluted since the fall of the golden age of the Islamic caliphate. The pollution has diminished the true model that can be made as an example.

A special frameworks should be prepared if the present problem need to be solved according to the criteria fixed by the Shari'ah. This framework need a holistic and integrated approach. In this context it is necessary that fiqh principles be the tool of analysis.

The methodology used in this study combines descriptive and exploratory forms of analysis. The study briefly describes and analyzes some of the available Western theories of production. In formulating a proposed Islamic alternative, some of the available Islamic literature is used as the basis for an exploratory analysis.

Since the production theory is looked from the Syari'ah viewpoint the primary sources includes:

- (i) The glorions Qur'^{ān}
- (ii) Al - Hadith:-
 - (a) Sunnah Qualiyah - Sayings
 - (b) Sunnah Filiyah - Action
 - (c) Sunnah Taqririyah - Silence with -
out objection.
- (iii) Ijmas - Consensus of opinion of ulama'
- (iv) Qiyas - Judgement upon juristic analogy.

The explanation and commentation of the sources are based on the opinion of the four mazhabs i.e., Hanafi, Maliki, Shafii and Hanbali. Certain general principles in the field of production are then identified from these sources.

The descriptive analysis method is used to present the case. The analysis of Malaysian institutions and industries will be explored in the light of the principles outlined above. The study then concludes with a deduction section that applies the principles of fiqh to the present production theory.

There are several limitations that need to be recognized carefully in the reading of this study. Since few works are available in this area, this study must be recognized as an early and tentative exploration. Since my skill as an economic students is very limited, my interpretations and applications of the Islamic texts must be treated

with special care. While the analysis of the empirical data of the case study is relatively straight forward, it too is limited both by the difficulty of getting absolutely current information.

Another limitation faced by the writer is time. However, this study is not intended to be exhaustive, because this would involve a thorough knowledge, if not a complete mastery, of various aspects of production, this could not be done in view of the writer's handicap in religious knowledge. Added to that is the inavailability of English books in the subject which form another constraint to the writer. It is also appropriate to point out that my own understanding of Islamic principles is presented here, and should not be taken as Islamic principles if my conclusions differ from those of more authentic scholars of Islamic principles.

In addition, the major reference of the Fiqh-muamalah and particularly Shari'ah and other aspects are suitable with the wish

of Allah S.W.T. as been said:-

يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلًا

"O believers, obey Allah and the Apostle and those in authority among you. Should you disagree about anything refer it to Allah and the Apostle, if you truly believe in Allah and the last Day. This will in the end be better and more just." (4-59).

CHAPTER III

LITERATURE REVIEW

مَنْ كَفَرَ يَجْعَلْ عَلَىٰ شِكْلَتِهِ فَرِيضَتَهُ فَرِيضَتُهُمْ أَعْلَمُ بِمَنْ
هُوَ أَهْدَىٰ سَبِيلًا

"Say; Each one doth according to his rule of conduct,
and thy Lord is best aware of him whose way is right."

The Holy Qur'an (17 : 84)

CHAPTER III

LITERATURE REVIEW

A. Introduction

Several literatures on the theory of production has been written by Muslim and Western Scholars which can be made as basic discussion in this study. These include literatures on the process, kind, objectives, the factor of productions and its benefits. It will also discussed on the Shari'ah rules and principles in relation to the economic activities. For this purpose I will group them under some sub-topics as follows:

1. Production in general
2. The Shari'ah rules and principles

1. Production in General

According to Kelvin Lancaster¹⁴ production is the transformation of resources and or goods into things that are "different" either because they have been physically changed or because they have been transported to a different time or place.

To most people, the various stages of manufacturing per se would be regarded as production; but the transport distribution and sale would not. Economists also regard manufacturing, along with such kindred enterprises as mining and farming as production, they do not