

PROCEEDINGS



Malaysia-Indonesia Postgraduate Social,
Economic, Science and Education Research
Seminar

March 16, 2015
Universitas Widyatama (Utama) Bandung - Indonesia

**Towards Increase of Human Quality
Standard for the ASEAN Economic
Community in 2015**

Jointly Organized By:



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WELCOMING REMARKS FROM THE COMMITTEE



Vice Rector for Academic & Students Affairs
Universitas Widyatama

Dear Participants,

First of all, I would like to warmly welcome all the participants to this important event, the International Seminar initiated by Universitas Widyatama in collaboration with University Selangor, Malaysia, on March 16, 2015 (25 Jumadilawal 1436H).

The theme of this seminar “**Malaysia-Indonesia International Postgraduate Social, Economic, Science, and Education Research Seminar 2015**”, reminds us of the important event of the year, **ASEAN Economic Community** with its areas of cooperation : human resources development, capability building and building of an ASEAN identity based on friendship and cooperation.

The primary aim of this seminar is to encourage dialogues between different disciplinary approaches in order to promote and to establish an international network of academics, a further research collaboration, to identify specific research projects, special editions of journals and conference opportunities.

We hope that this seminar will contribute to increase education, social, economic and science knowledge as an effort to improve the quality of human resources according to the standards of ASEAN Economic Community 2015.

ASEAN Economic Community 2015 faces many challenges. ASEAN countries are expected to contribute the improvement of their human resources. As an integral part of ASEAN countries, Indonesia and Malaysia improve their human resources quality through research and education. A lot of joint activities can strengthen academic collaboration between our countries that really have the same cultural roots and Islam as a basic religion.

This seminar bring together lecturers, postgraduate students, educators, practitioners from both countries to deliberate emerging issues of social, economic, and education to evolve solutions by presenting many qualified papers. Through this seminar, hopefully, we will have the opportunity to build network between leaders of academia from both countries, share our thoughts through presentations and publications to proffer solutions to AEC 2015

challenges. Through this seminar activity between Utama and UNISEL we sincerely hope that this academic collaboration will be continued with many other academic programs for lecturers, students, and researchers, not only in the academic framework, but also in resolution framework of social problems in the community.

I would like to express my thanks to Dean, Centre for Graduate Studies Unisel, Dr. Aza Azlina Md Kassim; Director of Malaysia-Indonesia Research Institute, Prof. Dr Mohd Zaidi Hajazi who has given strong support for the success of this event. We thank also to the other supports, Indonesia-Malaysia Research Institute (IKMI), Mandala University, high level official and staff of Utama, UNISEL, lecturers, students, and the entire academic community as well as others who has supported for success of this event.

Distinguished participants, let me express our wish that discussions resulting from the seminar to come, will potentially contribute to the consolidation of the aims of this event and thereby to the philosophy underlying it.

Prof. Dr. Davidescu Cristiana Victoria M, M.A.

Chairman Committee



Dr. Aza Azlina Md. Kassim
Dean, Centre for Graduate Studies
Universiti Selangor

Bismillahirrahmannirrahim

Assalamu 'alaikum Warahmatullahi Wabarakatuh and a very good day to all,

It is a great honour for me to welcome all participants and presenters of the Malaysia-Indonesia International Postgraduate Social, Economic, Science, and Education Research Seminar 2015. This seminar seeks to provide platform for sharing of research ideas among post-graduate students studying in Universiti Selangor and Universitas Widyatama. I do hope this seminar would be able to provide the impetus for more intensified research to be done, benefiting UNISEL and Universitas Widyatama postgraduate students and staffs.

I believe this seminar is an important milestone in the research and development effort in UNISEL and Universitas Widyatama. For post-graduate students, research activities are part and parcel of their work. Through research, a new or value-added knowledge will be acquired by the students, thus producing graduates that can shape the society for betterment.

Finally, I strongly hope that this seminar will meet its objectives and will continue as yearly event.

Thank you.

"Shaping Society"

Wassalam

DR. AZA AZLINA MD. KASSIM

PROGRAM SCHEDULE

Date: March 16th, 2015 (Monday)

Venue: Universitas Widyatama, Jl. Cikutra Nomor 2014 A
Bandung - Indonesia

NO	WAKTU	KEGIATAN	PIC	KETERANGAN
	08.00-09.00	Pendaftaran Peserta/Registrasi	Panitia	
	09.00-09.15	Kata Sambutan Rektor Universitas Widyatama	Dr. H. Islahuzzaman, S.E., M.Si., Ak., CA.	
	09.00-09.40	<i>Keynote Speech</i>	Dr. H. Islahuzzaman, S.E., M.Si., Ak., CA.	The Role of Research in Increasing the Human Quality Standard in Higher Education
	09.40-09.50	Penandatanganan MoU Universitas Widyatama & STEI		
	09.50-10.00	Penyerahan Cenderamata		
	10.00-16.00	Paralel Seminar, terdiri atas:		
PEMBAGIAN RUANGAN/KELOMPOK				
		TEMA KEPEMIMPINAN	TEMA DASAR/POLICY	TEMA PENGUKURAN & PENILAIAN
1	10.00-10.15	Datin Siti Raisah binti Bungsu	Lee Miow Keng	Md Sualeh bin Abdullah
		Hubungan Gaya Kepimpinan Pengetua Dengan Kepuasan Kerja Guru-Guru.	Penggunaan Persekitaran Pembelajaran Maya Frog (Frog VLE) : Peiaksanaan dan Persepsi Guru di Malaysia.	Kecerdasan Emosi Pelajar Yang Terlibat Dalam Salah Laku Jenayah di Sekolah Menengah Daerah Beaufort
2	10.15-10.30	Jeromie bin Jolly	Inda Miri binti Haji Marasan	Muhammad Suhaimi Hj.Sulong
		Hubungan Iklim Organisasi Dengan Kepuasan Kerja di Kalangan Guru-Guru Sekolah Menengah Daerah Keningau	Generasi "Homo Zappiens" Sebagai Agen Perubahan Pendidikan Masa Hadapan.	Study The Perception of Lecturers on Student Evaluation of Teaching.
3	10.30-10.45	Junaida binti Sanudin	Asnia binti Kadir	Sainin @ Sepili Bagu
		Pengurusan Disiplin dan Kaitannya Dengan Tingkah Laku Disiplin Pelajar.	Hubungan Antara Faktor Stres Guru Dengan Iklim Sekolah di Sekolah Menengah Kebangsaan di Pantai Barat Selatan, Sabah.	Perbuatan Melanggar Disiplin oleh Pelajar dan Hubungannya Dengan Konsep Kendiri dan Pencapaian Akademik.
4	10.45-11.00	Justin bin Rumpod	Cheah Lian Hua	Suridi bin Jalani
		Keberkesanan Sekolah Dari Segi Akademik dan Kaitannya Dengan Gaya Kepimpinan Pengetua	Using Mobile Apps as Learning Continuity in Conventional Learning in the Primary School: Are We Ready?	Hubungan Di Antara Kecerdasan Emosi Dengan Pencapaian Akademik

5	11.00-11.15	Nor 'Azah binti A. Aziz	Hatnin bin Duari	Wan Hassan Basri bin Wan Ismail
		The Effects of Cooperative Learning on English Oral Communication Among ESL Learners.	Keberkesanan Penggunaan Bahan Bacaan Tambahan Pusat Sumber Dalam Meningkatkan Kemahiran Menulis Jenis Karangan Fakta Pelajar Tingkatan Satu di Daerah Kota Kinabalu, Sabah.	The Landscape of Information Security Management in Electronic Health Record (EHR).
6	11.15-11.30	Siti Khadariah bt Mohammed Bajuri	Sani bin Tari	Suguna P. Rajagopal
		Kuasa Kepimpinan Distributif di Sekolah	Sistem Sekolah Satu Aliran di Malaysia : Tidak Mungkin Terlaksana Selagi Sistem Pendidikannya Pelbagai.	Observation, Supervision and Feedback Practices For Practicum of PISMP In IPG Ipoh Campus
				TEMA LATIHAN/PENDIDIKAN
7	11.30-11.45	Rohaihaida @ Rohaida binti Abdul Ghani / Rosnah binti Zali	Robert Garatam	Daut Yusup
		Pengurusan Disiplin Sekolah Sebagai Wadah Kemenjadian Murid	Hubungan Antara Persepsi Guru Dengan Impak Pelaksanaan Sistem Pengurusan Kualiti (SPKS) di Sekolah-Sekolah di Sabah.	Latihan Kerjaya Orang Kelainan Upaya (OKU)
8	11.45-12.00	Rosnah binti Jamba	Raujithamalar A/P Kumar	Vickneswaran A/L Nakar Salapan
		Faktor-Faktor Yang Mempengaruhi Kemerossotan Disiplin di Kalangan Pelajar Sekolah Menengah di Daerah Tawau.	Problems Faced In The Teaching and Learning of Science In English : A Case Study	Kajian Tahap Pengetahuan, Sikap dan Amalan Terhadap Senaman di Kalangan Guru Pelatih Wanita
	12.00-12.15	Ir. Drs. Mudzakir Mz, M.M.	Ridwan Maronrong & Imron Hr	Maspi bin Peran
		Pengembangan Manajemen Kurikulum Pendidikan Tinggi Untuk Peningkatan Kualitas Sumberdaya Manusia dalam Memasuki Pasar Tunggal ASEAN 2015	Evaluasi Reksadana Saham: Studi Kasus Pada Bursa Efek Indonesia	Persepsi Guru-Guru Terhadap Iklim Sekolah dan Kepuasan Kerja : Satu Kajian di SMK Taun Gusi Kota Belud, Sabah.
MODERATOR		Prof Dr Mohd Nor Manuty	Dr Khatipah	Dr Aza Azlina
ISHOMA (Istirahat, Sholat, Makan)				
		TEMA KEPEMIMPINAN	TEMA – LAIN-LAIN	TEMA MANAJEMEN & KEUANGAN
9	13.30-13.45	Rutil bin Taising	Sivanandan a/l Vivekanandan	Adryan Rachman
		Hubungan Gaya Kepimpinan Pengetua Dengan Motivasi Kerja Guru di Sekolah-Sekolah Menengah Dalam Daerah Kota Kinabalu,	A Study on Factors Affecting Poor Performance in Final Examination Among Semester 2 Cadets in Malaysian Maritime Academy, Malaysia.	Analisis Pengaruh Bukti Fisik dan Jaminan Layanan Terhadap Kepuasan Pelanggan dan Loyalitas Pelanggan dalam Menggunakan

		Sabah		Jasa Penyewaan Mobil (Kasus pada PT Pusaka Prima Transport)
10	13.45-14.00	Tanuin bin Jalling	Maulani bin Diman	Anggit Yoebriliani
		Pelajar Wanita Mendominasi Institusi Pengajian Tinggi Awam. Satu Kajian Kepustakaan	Peranan Pengetua dan Impaknya Terhadap Organisasi Pembelajaran di Sekolah.	Pengaruh Promosi Penjualan Terhadap Minat Beli Produk Fashion dengan Gaya Hidup sebagai Variabel Moderator (Survei Konsumen pada Jejaring Sosial)
11	14.00-14.15	Sarimah binti Julpin	Dr Wan Puspa Melati / Faisal Ibrahim / Mohd Zaidi Hajazi	Dadang Suwanda & Karhi Nisjar Sarjudin
		Kanak-Kanak Hydrocephalus Dalam Arus Perdana Pendidikan di Malaysia	Weighing options : An Analysis of factors that influence international student's decision to study in	The Effect of Asset Management to Increase the Local Government Financial Reports' Quality
12	14.15-14.30	Norman Shah bin Hashim	Cheah Lian Hua & Dr. Astri Yulia	Wawan Saputra & Nuryaman
		Memahami Keperluan Pendidikan Logistik Untuk Tahap Ijazah Pertama di Malaysia : Satu Kajian Konsep.	Using Mobile Apps As Learning Continuity in Conventional Learning in the Primary School: Are We Ready?	Analisis Pengaruh Rasio- Rasio Keuangan Early Warning System dan Tingkat Suku Bunga SBI Terhadap Return Saham (Studi Empiris Pada Perusahaan Industri Asuransi di BEI Tahun 2008-2013)
13	14.30-14.45	Busrizalti	Justin Bin Rumpod	Diana Andriani
		Peran Strategis Pendidikan Kewarganegaraan dalam Pembentukan Karakter Mahasiswa	Keberkesanan Sekolah dari Segi Akademik dan Kaitannya Dengan Gaya Kepimpinan Pengetua	Literasi Keuangan dan Perbedaan Investasi Penghasilan Tambahan pada Kelompok Dosen Berdasarkan Gender
14	14.45-15.00	Rohaida Binti Abdul Gani & Rosnah Binti Zali	Dr. Mohd Zaidi Hajazi, Ph.D	Irvan Yoga Pardistya
		Pengurusan Disiplin Sekolah sebagai Wadah Kemenjadian Murid	Pendidikan Tinggi Berkualiti di Negara Membangun Isu dan Potensi (Kajian Kes Malaysia)	Evaluasi Profitabilitas Kinerja Keuangan Terhadap Tingkat Kesejahteraan Berdasarkan Karakteristik Biografis Karyawan (Studi Kasus pada PT Asuransi Jiwasraya Regional Office I)
		TEMA – KURIKULUM / KO KURIKULUM		
15	15.00-15.15	Christopher James Ansun	T. Syahrul Reza	Riesa Natasha Rubiyanti
		Hubungan Pengajaran Pakar Dengan Pencapaian Hasil	Arah Pengembangan Perguruan Tinggi dan Dosen di Indonesia	Pengaruh Likuiditas, Solvabilitas, dan Aktivitas Terhadap Laba

		Pembelajaran Dalam Kalangan Guru Praktikum.		Perusahaan (Studi Kasus pada Industri Manufaktur yang Terdaftar di BEI Tahun 2008-2012)
16	15.15-15.30	Dahali Mokri	<i>Cristiana Victoria Marta</i>	Thia Purwitasari
		Kurikulum Pendidikan Guru Ke Arah Pembentukan Semangat Patriotisme Malaysia.	Preparing the Human Capital of University to Face the Challenges of A New World	Pengaruh Bauran Pemasaran, Citra Perusahaan, dan Kompetensi Tenaga Pemasaran Terhadap Minat Investasi (Studi Kasus Pada Calon Investor (Prospek) Perusahaan Pialang Berjangka PT Central Capital Futures Bandung)
17	15.30-15.45	Juliah binti Matnoor	<i>Devy Mawarnie Puspitasari</i>	Novi Rahmawati & Diana Sari
		Kajian Semantik Tentang Kesantunan Bahasa Dalam Pantun Melayu (Kajian Kes Pantun Melayu Sabah)	Adopsi Teknologi Informasi UKM di Indonesia dalam Menghadapi MEA	Pengaruh Pelaksanaan Sosialisasi Perpajakan Terhadap Tingkat Pengetahuan Wajib Pajak dan Implikasinya Terhadap Kepatuhan Wajib Pajak (Studi Kasus pada Kantor Pelayanan Pajak Pratama Garut)
		Social Communication and Social Welfare Improvement Through Railroad Reactivation: Case Study Social Communication Pattern for Society Welfare Improvement in Railroad Area Reactivation, Rancaekek-Jatinangor, Sumedang - West Java <i>Ani Yuningsih</i>	Optimizing the Usage of Social Media for Public Relations Professional (Study in Three Private Universities in West Java Indonesia) <i>Neni Yulianita</i>	Descriptive Study About Meaningfulness of Former Prisoners's Life (Founder's Of Yayasan Bakti Anak Negeri) <i>Fifi Novita & Eni Nuraeni Nugrahawati</i>
				Analysis of Members of the Legislative Opportunistic Behavior in Preparation of Budget <i>Sri Fadilah & Adhitta Yudhistira</i>
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ECONOMIC PRINCIPLES OF *SHARIA* AND *AKAD* CONCEPTS IN ISLAMIC BANK PRODUCTS IN INDONESIA

Neni Sri Imaniyati
Tasya Aspiranti

Bandung Islamic University
ad_tasya@yahoo.com

Abstract

This study aim to explain the principle of Islamic economics, contract (agreement) in the sharia economic law, and the concept of the contract (agreement) on *Sharia* products in Indonesia. Literature research is used, with qualitative method as a data analysis. The results show that Principles of Islamic Economics form the basis of Islamic banking operations, which distinguish between Islamic banks with conventional banks, namely the principle of *tawhid*, the principle of the *caliphate*, and the principle of *adalah*. Principles of contract (agreement) in Economics *Sharia* Law is the principle *ibahah* (*Mabda' al-ibahah*), the principle of freedom of contract (*Mabda' hurriyyah at ta'qud*), the principle consensualism (*Mabda' ar-radha'iyah*), the principle that promise binding, the principle of balance (*Mabda' at-tawazun fi al mu'awadhah*), the principle of the benefit (not burdensome), the principle of trust, and fairness. Although many products offered by Islamic Financial Institutions, but basically the whole of the product refers to the five draft agreement known in Islamic Economic Law, namely the principle of pure deposits (*wadiah*), the principle of sharing (*shirkah*), the principle of buying and selling (*tijarah*), principle of lease (*ijara*), the principle of service / fee (*al-Ajr wahumullah*)

Key words : economic principles of *sharia*, *akad* concepts, *Islamic* bank product

1. Introduction

The emergence of the phenomenon of Islamic economic law is due to the interaction of Islamic law and national legal systems that is in the past just limited to family law or special civil law as understood in the current (Muhammad Amin Suma, 2006). The concept of Islamic economic laws was introduced and applied to almost every field of business. This begin applied to microeconomic which then develop in all sectors and business fields. Islamic economic activity is based on Islamic law, which is about how people should behave. Within Islamic economic system, expected legal Indonesian economy will tend to positive developments in order to create a welfare state and nation toward justice and prosperous society (Sri Redjeki Hartono, 2007).

Bank and non bank financial institutions was born as the result of Islamic economic system. The development of Islamic banks followed with the development of other Islamic financial institutions like *takaful* as Islamic insurance, Islamic capital market, mortgage *Sharia*, and *Baitul Maal Wat Tamwil* (BMT) or *Sharia* cooperatives. This paper will explain the principle of Islamic economics, contract (agreement) in the sharia economic law, and the concept of the contract (agreement) on *Sharia* products in Indonesia.

2. Theory / Discussion

2.1. Principles of Islamic Economics

Fundamental Principles of Islamic Economics proposed by M. Umar Chapra, Islamic economics is based on three fundamental principles, *Tawhid* (Oneness of God), the Caliphate (representatives) and *Adalah* (justice). Furthermore M.Umar Chapra describes three fundamental principles of Islamic economics is as follows:

(a). The principle of *Tawhid* (Oneness of God)

Tawhid is the foundation of the Islamic faith. *Tawhid* implies that the universe was designed and created consciously by God Almighty, which is one and unique, and it does not happen by accident or accidental (Al Imron: 191; Shaad: 27; and Al Mu'minuun: 15). He created everything has a purpose. Purpose is what gives meaning and significance to the existence of the universe, in which man is a part.

(b). Principle Caliphate / Representative (*Khilafah*)

Man is the vicegerent (representative) of God on earth. Humans have been equipped with all the characteristics of mental and spiritual as well as material to enable it to live and carry out its mission effectively. Within the framework of his caliphate, he is free and able to think and reason to choose which ones are good and which are bad, honest or dishonest, and changing conditions of life, society and its history, if he wishes to do so. Humans have to run the rules and laws that have been set given "mandate" Caliphate, Allah. The position of man as the caliphate can be seen in many verses in the Qur'an, as in Surah Al-Baqarah (2): 30, Surah Al-An'am (6): 165, Surat Fatir (35): 39, Letter Shad (38): 28, and Surat Al-Hadid (57): 7. To support the work of the Caliphate man equipped with a variety of abilities and spiritual potential. In addition to the provided source material to allow the implementation of the mission can be achieved effectively.

(c). Principles of Justice (*Adalah*)

According to Umar Chapra brotherhood which is an integral part of the concept of monotheism and the caliphate will remain an empty concept that lacks substance, if it is not followed by socio-economic justice. Justice and the eradication of discrimination has been emphasized by the Qur'an, even one of the main goals prophetic treatise is to justice. According to Umar Chapra, seen from the aspect of Islamic faith, the Koran puts equal justice with virtue and piety . It is based on the letter of al-Ma'idah (5): 8: which means: " O who believe, you shall be people who always uphold (the truth) for Allah, bearing witness with justice. And do not let the hatred of a people, encouraging you to apply unfair. Be fair because it is closer to piety."

2.2 The practice of deploying in Islamic Banking

The practice of deploying in Islamic Banking rest on the main principles of Islamic banking or Islamic Bank, as follows:

- a). Prohibition of *riba* (interest) in various forms of transactions;
- b). Running the business activity and commercial activities based on legitimate gains according to *Shariah*; and
- c.) Issued / give alms.

The principles of Islamic banking business was later to become a reference in sharia Islamic banking products, both aimed at raising funds and disbursement of funds. These principles are implemented in Islamic banking activities, including in the contract being used.

Specifically, contract in Islamic Banks must meet the following principles:

Principle of *Al Ilahtiyah* (divinity), the principle *nubuwah* (Prophethood), the principle of Worship (worship), the principle *Ibahah* (skill), the principle *Huriyyah* (freedom), the principle *Musawwah* (similarity / equality), the principle of ' *Adalah* (justice), principles *kitabah* (written), the principle *Shiddiqah* (honesty), the principle of *Ar Ridhaiyyah* (willingness / consensual), *halal* principle, and the principle of trustful.

Related to the prohibited transaction, Adiwarmar Karim suggests the factors causing a transaction, illicit substance, unlawful and invalid in addition to substance the akad. Associated with illicit substance other than by Adiwarmar Karim may be violating the principle of "*an taradin minkum*" (willingness the parties) or violate the principle of "*la tazhlimuna tuzhlamun wala*" (do not oppress and do not be tyrannized).

2.3.Fundamental principle of Agreement in Islamic Economics Law

The principles of the agreement is the concretization of philosophical norms, namely the basic values that form the foundation of Islam. Principles of contract in Islamic law consists of principles *ibahah* (*Mabda' al-ibahah*), the principle of freedom of contract (*Mabda' hurriyyah at ta'auqad*), the principle consensualism (*Mabdu 'ar-radha'iyyah*), the principle of the binding promise, the principle balance (*Mabda 'at-tawazun fi al mu'awadhah*), the principle of the benefit (not burdensome), the principle of trust, and fairness. *Ibahah* principle is a general principle of Islamic law of Muamalat that formulated the phrase "basically everything that should be done until there is proof that forbid it." This is contrary to the principles that used in the worship that no worship except what has been exemplified by the prophet Muhammad SAW. If it is related with legal action and any agreement then the agreement can be made, so far as there are no special restrictions on the agreement.

The principle of freedom in *akad* in Islamic law is limited to the prohibition of eating treasure fellow with the false (Sura 4:29). What is meant by eating treasure fellow with the falsehood is eating another property in a way that is not justified and is not valid according to *Sharia* law.

Consensual principle is based on Islamic legal norms : In principle, an agreement (contract) it is agreed by the parties and the legal consequences are what they charge through the promise. " The principle is based on the promise that bind commands in the Qur'an in order to fulfill the promise. In *usul fiqh* rules, "the order was in principle indicates mandatory". Among the verses and *hadits* in question is, "... and fulfill the promise, the promise it will be held accountable" (Qur'an 17: 34).

Islamic contract law emphasizes the need for balance in the agreement. This balance can be given to the balance between the received and the balance to assume risk. The principle benefit is intended to contract made by the parties aim to realize the benefit (*mastahah*) for them and should not cause any harm or incriminating (*masyaqqah*).

The principle of trust implies that the parties to a contract must have a good faith in dealing with the other part. Islamic agreement required the presence of a mandate for example holds a secret, or provide the true information, no lie. In Islamic law, justice is the command of Allah in the Qur'an, "applies justice, that is next to piety" (Qur'an 5: 8). Justice is the goal to be realized by all legal.

According to Syamsul Anwar, there are eight principles of contract in Islamic law, namely the principle *ibahah* (*Mabda 'al-ibaha*), the principle of freedom of berakad (*Mabda Hurriyyaah at-Ta'aqud*), the principle *consensualism* (*Mabda' ar-Radha'iyah*), the principle that promise binding, the principle of balance (*Mabda 'at-tawazun fi al-Mu'awadhah*), the principle of the benefit (not burdensome), the principle of trust, and fairness. In detail, Syamsul Anwar outlines the eight principles.

(1). Principle of *ibahah* (*Mabda 'al-ibaha*)

Ibahah principle is a general principle of Islamic law of general *Muamalat*, this principle formulated in the adage "in principle, everything that should be done until there is proof that the ban". This adage implies that all that have done is legitimate as long as there is no explicit ban on the action. This is if it is associate. Particularly in the agreement means that the legal action and any agreement can be made in so far as there are no special restrictions on the agreement.

(2). Principle of Freedom (*Mabda Hurriyyaah at-Ta'aqud*)

With the existence of this principle appears that Islamic law recognizes freedom in akad, namely that each person can make any kind of contract is also without being tied to the types of contract predetermined specified in the *sharia* law and incorporate any clause in the contract that is made in accordance with interest so far not resulted eat treasure fellow with the vanity. Some postulate that shows the existence of freedom *akad* in Islamic law:

- a). Word of God, "O believers, fill-contract agreement (agreements)". (QS.5: 1).
- b). The Prophet Muhammad, "Moslem was always faithful to the terms of the (promises) them." HR Al Hakim - Abu Hurairah. This *hadits* shows that the terms or any promise can be made and shall be met.
- c). Word of the Prophet, "whoever sells palm trees that have been mated, then the fruit is for the seller (not participating sold), unless the buyer other peoples." (Al-Bukhari, Sahih al-Bukhari, Hadits No.2204) .
- d). Rule of Islamic law. In principle, the contract is an agreement between the parties and the legal consequences are what they set upon them by appointment.

Freedom makes the contract in Islamic law is not absolute, but rather limited. In Islamic law, freedom was restricted by the "prohibition of eating treasure fellow with the vanity". This is stated in QS.4: 29. What is meant by dining treasures with the vanity is eating another man's treasure in a way that is not justified and is not valid according to *Sharia* law, which prohibited either directly in the passage or *ijtihad* based on scripture. In general, it can be said that eating treasure the inner path is contrary to public order and decency. However, public order and decency in the wider scope of Islamic law, as it includes the prohibition of usury, *gharar* and contract participants are imperfect conditions.

(3). The principle consensualism (*Mabda 'ar-Radha'iyah*)

In Islamic law in general treaties are consensual. Some postulate that the foundation principle consensualism:

- a). Word of God, "O you who believe, you shall not eat treasure fellow with the vanity, except (if eating a fellow treasure was made) by means of exchange-rate based licensing reciprocity (agreement) among you." (QS. 4: 29).
- b). Word of God, "Then if they are handed to you in part of the dowry on the basis of pleasure, then eat (take) giving it as a savory again good result." (QS.4: 4).

- c). Prophet Muhammad SAW, Behold purchase it based commitment. (HR.Ibn Hibban and Ibn Majah).
- d). Rule of Islamic law: In principle agreement (contract) it is agreed by the parties and the legal consequences are what they charge through this commitment. It confirms that the agreement in principle is the agreement of the parties, so that when the parties reached an agreement, then creates an agreement.

(4). The principle that promise binding

In the Qur'an and Hadits to many orders to fulfill the promise. In the proposed rule jurisprudence, "the order was in principle indicates mandatory". This means that the promise is binding and must be fulfilled. Among the verses and hadits are:

- a). Word of God, "..... and fulfill the promise, the promise it will be held accountable" (QS.17: 34).
- b). Word of God, "... O believers, fill-contract agreement (agreements)". (. QS.5: 1).
- c). Asar and Ibn Mas'ud : The promise is a debt.

(5). The principle of balance (Mabda 'at-tawazun fi al-Mu'awadhah)

The principle of balance in the transaction (between what is given and what is received) is reflected in the cancellation of a contract that is experiencing imbalances striking achievement. The principle of balance in bearing the risk of the transaction is reflected in the prohibition against usury, in which the concept of usury only borrowers who bear all risks of loss of business, while creditors are free at all and had to get a certain percentage of their funds even when experiencing negative returns.

(6). The principle of the benefit (not burdensome)

Benefit principle intent is an agreement made by the parties should aim to realize benefit for them and should not cause any harm or aggravating circumstance (*masyaqqah*). If in the case of a contract deploy changes that can not be known in advance and bring a fatal loss for the parties concerned so that incriminate, the obligation may be modified adjusted to a reasonable limit.

(7). Principle of trust

The principle mandate meant that each party must be acting in good faith in dealing with the other party and are not justified either party exploiting the ignorance of its partners. In Islamic law there is a form of agreement called the trust agreement, one party only rely on honest information from the other party to take the decision to close the relevant agreement.

(8). Principle of justice

In Islamic law, justice is the direct command of the Qur'an in Sura 5: 8, which means "Do justice that is next to piety." Justice is a joint every agreement made by the parties. In modern times often contract covered by one party and the other party does not have the opportunity to negotiate a contract clause that, as has been standardized by the other party.

2.4 Agreement on the concept of Islamic Bank

From the result of consensus (Internasional ijma) among Muslim economists and jurists and Fiqh Academy in Mecca in 1973, it can be concluded that the basic concept of the relationship of economic relations based on Islamic law in the Islamic economic system it can be applied in the operations of the financial institution and the non bank financial institution.

Broadly, economic relations based on Islamic law is determined by the relationship *akad* which consists of five *akad* concepts. Sourced from the five basic concept here can be found the products of financial institutions of Islamic banks and non bank financial institutions to be operation. These five concepts are: (1) system savings / deposits (*Al Wadi'ah*), (2) the results (*Syirkah*), (3) Sales and Purchase (*Al Tijarah*), (4) Rental (*Alif*), and (5) services / fee (*Al-Ajr wal umullah*)

(1) The principle of Deposit Pure (*Al Wadi'ah*)

The principle of pure savings is a facility provided by the Islamic Bank to provide opportunities to those excess funds to keep their funds in the form of *al wadi'ah*. *Al wadi'ah* usual facilities provided for the purpose

of investment in order to benefit as well as savings and deposits. In the world of conventional banking *Al Wadi'ah* synonymous with gyro.

(2) Sharing (*Syirkah*)

This system that includes procedures for sharing venture between providers of funds with fund managers. The division's results of operations may occur between the bank and the bank's depositors and customers beneficiary. The activities that based on this principle are *Mudhorobah* and *Musyarokah*. Furthermore principle *Mudhorobah* can be used as a good basis for funding products (savings and time deposits) as well as financing, while *musyarokah* more for financing.

(3) Principles of Sales and Purchase (*Al-Tijarah*)

This principle is a system that implements the procedure of buying and selling. Bank will buy the first items needed or lift as agent bank customers make purchases on behalf of the bank, then the bank sells the goods to the customer at a price for some purchase price plus profit (margin).

(4) The principle of Rent (*Al-Ijarah*)

This principle is broadly divided to two types:

- a. *Ijarah*: pure rental, such as rental only tractors and other equipment products (operation lease). In banking technical advance bank can buy equipment that is required by customers and then rent out the time and only just agreed upon to customers.
- b. *Bai al Tajiri* or *ijarah al muntahiya bi Tamlik* an amalgamation rental and purchase, where the tenant has the right to have the goods at the end of the lease (financial lease).

(5) Principles of Service / Fee (*Al-Ajr wal umullah*)

This principle covers the entire service non funding that is given by bank. Forms of products based on this principle are Bank Guarantee, Clearing, Collection, Service, transfer, and others. In the *Sharia* principle is based on the concept of *al Ajr wal umullah*.

3. Conclusions

- a. Principles of Islamic Economics form the basis of Islamic banking operations, which distinguish between Islamic banks with conventional banks, namely the principle of *tawhid*, the principle of the *caliphate*, and the principle of *adalah*.
- b. Principles of contract (agreement) in Economics *Sharia* Law is the principle *ibahah* (*Mabda' al-ibahah*), the principle of freedom of contract (*Mabda' hurriyyah at ta'auud*), the principle consensualism (*Mabda' ar-radha'iyyah*), the principle that promise binding, the principle of balance (*Mabda' at-tawazun fi al mu'awadhah*), the principle of the benefit (not burdensome), the principle of trust, and fairness.
- c. Although many products offered by Islamic Financial Institutions, but basically the whole of the product refers to the five draft agreement known in Islamic Economic Law, namely the principle of pure deposits (*wadiah*), the principle of sharing (*shirkah*), the principle of buying and selling (*tijarah*), principle of lease (*ijara*), the principle of service / fee (*al-Ajr wahumullah*)

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