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Various Models Of Islamic Economic Fatwa: Critical Analysis Of The Islamic Economic Facing Statement Model In Indonesia, Malaysia, Middle East

Berbagai Model Fatwa Ekonomi Islam: Analisis Kritis Model Pernyataan Menghadapi Ekonomi Islam Di Indonesia, Malaysia, Timur Tengah

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Abstract

Until now there are many fatwas circulating among Islamic scholars of diverse Islamic law and seem to contradict, especially when comparing between Indonesia, Malaysia and the Middle East. The methodology used in this research is phenomenology that is used to explain the phenomenon that occurs related to the difference of Islamic economic law determination. Then using content analysis to parse and synthesize as well as provide criticism over the various phenomena of various models of determining the fatwa of Islamic economic law. The results of this study, in the context of Islamic economic development, until now there are at least three models of fatwa determination of sharia economic law that has been developed by Islamic economists: (1) Ushl Fiqh Approach (Ushul al-Fiqh as the Basic Determination of Sharia Economic Law)) Pluralism (Acceptance of the Truth of the West and Islam as the Basis for the Establishment of Sharia Economic Law), (3) Islamization of Conventional Economies (Reducing Non-Syar'i Factors of Conventional Economy as the Basis for the Establishment of Sharia Economic Law). This research will enrich the treasury of Islamic Economics knowledge that is particularly useful for the study of Islamic economic law.

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Introduction

It is well known that there is a phenomenon of difference in practice / application of Sharia economics around the world. The practice of sharia economy in Indonesia is different from in other countries such as Malaysia and various countries in the Middle East. This difference is evident from the uniqueness of the fatwa issued by the authority of the institution which has the authority to issue a fatwa, namely the National Sharia Council in each country. If in the Middle East country has a very rigid fatwa, unlike Malaysia which has fatwa a little loose. While in Indonesia is a mid-not too rigid and not too loose when applying sharia economy.

There are some Islamic economic fatwa from outside countries that can not be applied in Indonesia. Some of the fatwas are like the practice of bay al inah which is permitted in Malaysia but not allowed in various countries in the Middle East and Indonesia. Tawarruq It is a contract that is allowed in countries in the Middle East and in Indonesia. And other contradictory fatwas in one State with another State. It comes from the results of ijtihad scholars of fiqh that exist in each country. There is a fundamental difference of each fatwa issued by each country. The difference lies in the institution issuing the fatwa itself. In the Middle East DSN is in every sharia financial institution / company, in Malaysia DSN is only available in Malaysia's central bank (Bank Negara Malaysia), whereas in Indonesia DSN is in independent MUI. Therefore, fatwa and sharia economic practices applied in each country is a shariah economic practice that has its own uniqueness or has its own style.

At the initial observation of the phenomenon the difference in practice is known to derive from different fatwas. We find that the various jurisprudence books that refer to fatwas have peculiar terms that are sometimes not understood in the same way in other sciences. Conversely, the typical terms in the science of accounting and banking are sometimes not easily found in the equivalent framework of jurisprudence. Differences of logical frameworks of fiqh with other logical frameworks of science, such as conventional economics, sometimes lead to difficulties of other science in implementing sharia. This is what led to the diverse opinions of Jurisprudence for the same problem. The time, place, situation, and even the background of the clerics who gave fatwas to the various factors of the fatwa.

In addition, the flexibility of jurisprudence is based on the rule of " when circumstances are narrow, broad law; when circumstances are broad, narrow " law. When circumstances are narrow, for example in transit, the practice of prayer can be combined in time, even shortening the number of rak'ahs. The narrower the circumstances encountered, the wider the legal convenience. So vast that in the narrowest circumstances, a haram becomes lawful. This is what the emergency concept means. When circumstances are wide, the ease is lost. The wider the circumstances encountered, the more stringent the law is applied. A person who has the vastness of the situation so as to be able to pray the night without sleep or be able to fast without breaking, apply a narrow law. So strict that in the widest circumstances, a halal becomes haram.

These two things, namely the time factor, place, situation, background of the cleric, and the factor of flexibility of fiqh, which sometimes makes the fiqh and the resulting fatwa more difficult to understand. For sharia banking in Indonesia, we take the example of a fatwa on the concept of profit sharing (net revenue sharing) and the concept for profit (profit sharing) in doing mudarabah. Mudarabah is a transaction between the owner of capital and the person who runs the business using the capital. The Fatwa of the National Sharia Council (DSN) allows the use of these two concepts.

The definition of profit sharing, according to the DSN fatwa, is income minus capital, whereas for profit is revenue minus capital minus expenses. Fatwa DSN is based on the logic of jurisprudence that allows the livelihood of business executives borne by the owner of capital (profit share) or borne by the owner of the business (for profit). An easy example is that taxi owners can bear the cost of gasoline or the taxi drivers who bear the cost of gasoline. Both are allowed by Jurisprudence. This fatwa was not easily understood within the framework of accounting and banking. Statement of Financial Accounting Standards (PSAK) 105 which refers to the fatwa also allows the concept of profit sharing and profit sharing concepts.

However, when understanding the concept of profit sharing in the fatwa using the term net revenue sharing, PSAK makes its own interpretation by using the term gross profit (gross profit). The concept of net revenue referred to in the fatwa is different from the gross profit concept referred to in PSAK. Net revenue in fatwas is income minus capital, whereas gross profit in PSAK is sales minus cost of goods sold (harga pokok penjualan). Thus, in the perspective of fatwas, the concept of gross profit is not a revenue sharing (net revenue sharing), but for profit (profit sharing).

Cost of goods sold is clearly not capital. According to the accounting sciences itself, cost of goods sold is the burden / cost set forth in the Financial Statement Presentation Framework paragraph 78. In the perspective of the fatwa, the inclusion of the cost element as a deduction is categorized as for profit even though only cost of goods sold. This misconception then sparked anxiety among sharia banking practitioners who thought the DSN fatwa did not allow the use of the profit-sharing concept.

The difficulties among sharia banking practitioners to know and monitor the cost of sales of their customers led to the reluctance of sharia banks in providing mudarabah financing, which in turn can lead to the perception that the

fatwa of this DSN inhibits the growth of sharia banking. Misconceptions increase when PSAK interprets the concept of revenue sharing (net revenue) as a concept of gross profit and profit sharing as a net profit concept.

In fact, according to the fatwa, the two concepts of PSAK, both the gross profit and the net profit, belong to the concept of profit. In other words, PSAK has not found the equivalent of net revenue sharing stipulated in the fatwa. The profit-sharing concept is easily illustrated in this sentence, "It's my capital of a million dollars for you to use in this business. If this business earns more than a million, you should return my millionth capital. The advantages we share." This easy-looking concept is not easy to find the equivalent in other sciences.

It is our duty to jointly revive the concepts of jurisprudence in the present context. Misconceptions are very likely, but herein lies the economic jihad. With our tireless efforts to understand the logical framework of fiqh, it will be easier for us to develop the shariah financial industry in Indonesia.

This research intends to answer the question of how is the model of determining the fatwa of Shariah economic law that exist in the world. So by answering this question will enrich the treasury of knowledge about the study of fatwa sharia law.

Methods

The model for the determination of the fatwa of Shariah economic law in this study is not interpreted as a method, technical procedure or approach to modeling, rather than the method of determining the fatwa of Shariah economic law, citing Machlup (1978: 55) is "the study of the reasons behind the basic principles of various types propositions accepted or rejected as part of the body of ordered knowledge in general or of any particular discipline. "In this case, the study of the method of determining the fatwa of Shariah economic law will provide arguments, perhaps rationalizations, which support various preferences done by the scientific community for certain rules of the intellectual procedure, including those for the concept of forming, building models, formulating hypotheses and testing theories (Machlup, 1978: 54).

Therefore, the product of investigating the method of determining the fatwa of Shariah economic law will analyze (1) a set of criteria, rules, principles, standards, rationalizations, arguments and justifications for theoretical assessment and test and prove the reliability of the theory so that we can distinguish between valid and invalid (Fox 1997: 34); and (2) the methods, techniques or procedural steps necessary to assess and justify later theories after clearly established criteria and arguments.

In this study using a qualitative approach, using the phenomenology method to explain the phenomenon of different fatwas existing and analytically-critical descriptive try to identify the type of modeling fatwa of Islamic economic law as proposed by scholars in their special writing on the subject and based on the mode of writing in syariah economic literature, banking and finance. Although we may not find a discussion of the method of determining the fatwa of sharia economic law explicitly, we can conclude the preference of the method of determining the fatwa of shari'a economic law of the author. Based on this we will classify the model of the method of determining the fatwa of sharia economic law and identify the features as well as check the method of determining the fatwa of sharia economic law which helps in developing the syariah economic discipline.

Result and Discussion

From the various differences that occur among scholars in Indonesia as well as in some parts of the earth, In general, we observe three types of approaches to the method of determining the fatwa of sharia economic law: (1) the use of methods of determining the fatwa of sharia economic law by using al-ushul fiqh applied to the field (2) the use of the plurality of methods in the establishment of the fatwa of Shariah economic law, utilizing various methods of determining the fatwa of Shariah economic law developed in both Western and Islamic traditions, and (3) the method of determining the legal fatwa of sharia economic law conventionally positive applied in the case of Islam ..

Variety I: Usul al- Fiqh approach

Ushul al-fiqh or method of determining the fatwa of sharia economic law to decrease the rules (ahkam) is used in economic discussion to develop sharia economy. This comes from the understanding that the nature of sharia economy is similar to fiqh al-muamalah. And this is observed by Addas (2008: 5,97), that Sharia economics is nothing more than the result of applying Islamic rules and orders, that is, Islamic fiqh, with secular economic theoretical structures to separate allowables from non-halal, as well as to ensure Sharia on economic action and current business activities.

Yalcintas (1987: 28) previously thought that Sharia Economics is a modern version of fiqh muamalah. He justifies, if fiqh muamalah establish the legal framework of economic transactions, then the study of Islamic economics has the same reasons and motives. Fiqh is a source of insight and is indispensable for economic analysis if it carries the

description of 'Islam' (in order to put them in law in accordance with sharia). He reasoned this is because in sharia economy we not only deal with how, but we also deal with what to do.

Islamic economists may use *ushul al-fiqh* as their method of determining the fatwa of their Shariah economic law as well as in their attempts to identify and establish an economic order compatible with Islamic scriptures and traditions by finding the theorems in the text (*nusus*) and derived from general rules and principles -the principle in building a consistent picture of sharia economic theory and systems.

This approach is like the practice of *fugaha* (jurists) in their attempt to establish *al-Qawaid al-Fiqhiyyah* (legal principles) to be a source of derivation from economic theory (Hasanuzzaman, 1984, 2007).

The idea of the method of determining the fatwa of sharia economic law reflects that the contemporary body of knowledge of sharia economy is still dominated by *fiqh*, which unfortunately is almost always defined narrowly as the only "law." Therefore, the attempt to use the method of determining the fatwa of Islamic economic law is not can focus on "Sharia economics as a social science. "Sharia economics is loosely viewed as" *fiqh*inomics "which is equated with *fiqh* or that of *fiqh* body branch. This, in our opinion, is not really appropriate for two reasons. First, the two subjects have various subjects. *Fiqh* (as is commonly understood today) learns the rules of law and law that are attached to human actions (*Ahkam al-shari'a*) such as obligations (*wujub*), prohibitions (*hazr*), ignorance (*ibaha*), recommendations (*nadb*), or reproaches (*karaha*) and the like (Moad, 2007: 142). Sharia economics, on the other hand, addresses a wider area of human behavior. It tries to find suitable ways and tools for analyzing economic problems and to find out the causes, consequences and solutions in practical life. Sharia Economics will include the normative and positive dimensions of economic and policy analysis.

Secondly, the method of determining the fatwa of Shariah economic law speaks, *ushul fiqh* is not really appropriate to be the method of determining the fatwa of sharia economy law of sharia economy. *Ushul al-fiqh* as the method of determining the fatwa of sharia economic law aims to "provide standard criteria and for the correct determination of *fiqh* rules from *syari'at* sources (*nusus*, text)" (Kamali, 1989: 2). The object of the study of *ushul al-fiqh* is the divine or *Shari'a* proof that primarily refers to the *Qur'an* and *Sunnah* as well as from '*aql* (reason) in solving cases not explicitly indicated by primary sources. While experience, public habits and interests are also well taken in legal formulation, a strict approach in dealing with them is not well described in *ushul al-fiqh* as it does in the social sciences. The method of determining the fatwa of Shariah economic law, on the other hand, will deal with three sources of knowledge; doctrines-revelation, intellectual-reasoning and factual-observation as a whole. The object of his studies will cover a wide spectrum of revelatory texts (*nusus*) and actual human behavior in making choices and decisions in solving economic problems. The method of determining the fatwa of sharia economic law will not only seek to investigate the ideals of how the economic problem should be resolved, but also to investigate how best to resolve it. This dimension of empirical study is not really described in the *ushul fiqh*.

With the limitation of the scope of investigation of the method of determining the fatwa of sharia economic law, the method of determining the fatwa of sharia law of *al-ushul fiqh* is not really a method of determining the right Islamic economic law fatwa in understanding the practical reality of economic phenomena and therefore not easily replaced for the task of overcoming the shortcomings methods of determining the fatwa of contemporary Islamic economic law with the West and at the same time, they are inadequate to guide modern economic activity. Al-Faruqi (1987: 19) sees this deficiency as derived from two contradictory tendencies in the method of determining the fatwa of Sharia law of *al-ushul fiqh*;

(1) The tendency to limit the field of *ijtihad* to legalistic reasoning, which assumes modern problems under the category of law and thereby reduces the *Mujtahid* [which also must include economists] to a *faqih* (jurist), and reduces science to law,

(2) The tendency to eliminate all rational criteria and standards by adopting "the method of determining the fatwa of sharia law purely intuitive and esoteric law, or limiting the method of determining the fatwa of sharia law of textual study of language, tradition and orthodox law. "Another criticism by Abu Sulaiman (1985: 268-9) is that the proposition of *al-fiqh*, as a discipline, has been developed with an emphasis on technicality in studying texts at the expense of Shariah goals and objectives (*maqasid al-Shariah*) which will inject methodological flexibility and dynamism. As a result, *ushul fiqh* has become a theoretical discipline studied as part of the legacy of law rather than a tool for organizing and encouraging *ijtihad* (Kamali, 1989: iii).

In developing sharia economics, we certainly must go beyond 'juridical texts' and focus on the implications of these rules and conditions on the position of the overall economic system. It is very important at this point that we reaffirm the important points that seem to receive inadequate attention as can be seen from modern Islamic banking and finance practices.

Variety II: Pluralism Approach

At present, there is a growing interest in the economy to make pluralism a method of determining the fatwa of Shariah economic law by enlarging the practice of determining the fatwa of shariah economic law and criteria of the dominant positivist / empirical framework. The perspective of exclusivism which seeks to establish an approach

to the method of determining the fatwa of sharia economic law as the highest or to give a privileged position is not accepted (Samuels 1998: 301).

For Islamic economists, the call for plurality in the method of determining the fatwa of sharia economic law stems from the fact that Islamic epistemology recognizes several sources of knowledge from which the theory can be judged. For Siddiqi (2001: 47) "Islamic traditions in the economic field are always free of formalism, focusing on meaning and purpose with the method of establishing a fatwa of sharia economic law which is flexible and should be open for contributions to realizing in economic affairs, good Islamic vision of life". In addition, the task of sharia economics' is much greater and more difficult than conventional economics because it aims to advance from human welfare, not just explain, predict or persuade (Chapra, 1996: 35).

We are not sure whether this is a definite solution or whether it is a reflection that the discussion of the method of determining the fatwa of Shariah economic law has reached an impasse. For sharia economics, we are not really clear what is meant by the pluralism method of establishing the fatwa of sharia economic law because its proponents do not elaborate further. However, we may see this approach in sharia economics derived from common practice in the interaction and integration of conventional economics and Islamic heritage. Not only depends on one main view, the source method of determining the fatwa of sharia economic law is developed from both conventional and shariah scientific tradition.

Before accepting the pluralism thesis of the method of determining the fatwa of sharia economic law, some clarifications must be answered. Does Islamic epistemology really recognize the pluralism of the method of determining the fatwa of Shariah economic law or merely acknowledging the possibility of method of determining the fatwa of sharia plural economic law? Say, even if we say yes, Islamic epistemology accepts pluralism of the method of determining the fatwa of Shariah economic law, the next question is: what is the basic epistemological difference between the Islamic conception of the method of determining the fatwa of shariah economic law and the modern economy still exist, or has it all but disappeared? This is a question that needs to be clarified before we accept the pluralism of the method of determining the fatwa of Shariah economic law as the method of determining the fatwa of Shariah economic law.

With the need to acknowledge just as Bakar (1984: 17) adopts the method of determining the fatwa of sharia economic law based on an epistemology fundamentally different from the dominant epistemology. The method of determining the fatwa of conventional Sharia law is developed in a secular world view that excludes religion in the scientific world. In the method of determining the fatwa of Shariah economic law, not only is religion related to scientific endeavor, but epistemologically. exclusion of religious sources' and inclusion on an epistemological basis implies differences in the development of methods of determining the fatwa of Shariah economic law. In the discussion of pluralism method of determining the fatwa of Sharia economic law in economics, there is no clear position whether the inclusion of religious sources' in the method of determining the fatwa of sharia law scientific law can be accepted as part of pluralism in the method of determining the fatwa of sharia economy law. pluralism that is apparently still sought in the human epistemological realm without divine intervention.

Moreover, in pluralism, the method of determining the fatwa of Shariah economic law will not have an end (if not dominant) of the truth generated by the method of determining any Islamic economic law fatwa. What we have is the relative truth. This is because the pluralism of the method of determining the fatwa of Shariah economic law, according to Samuels (1998: 301) "does not deny the usefulness of some positions are these antinomies, but states that no position can be ignored and insight can be achieved on the basis of the matrix formed by the knowledge generated potentially using every position in all antinomies, whatever individual preference may be. "Therefore, the pluralism of the method of determining the fatwa of sharia economic law in developing theories tends to accept the objectives and methods of determining any Islamic legal shariah law in theoretical judgment. Logic can produce conclusions or conclusions given valid places and systems of reasoning, but valid conclusions are not necessarily true. Both empirical testing produces a single and conclusive truth. This may be applied also to knowledge derived from revelation. That knowledge can not claim the only truth. All is relative truth depends on the perspective of each of the truth, and no such single truth can be claimed.

While one might agree that there should be no single way of "defining the truth," especially if we speak plurality of the global setting, ignorance of truth can lead to indifference in the solution, which according to Bakar (1984: 17) is "a kind of theoretical anarchism." the desirable pluralism method of determining the fatwa of sharia economic law is to have a better understanding of the economic realities of the benefits of the various methods of determining the fatwa of Shariah economic law, a practice that leaves an "open" answer without a clear decision about what goals will be pursued or what the correct theory may create further confusion of the fatwa and then result in practical uncertainty.

As far as the method of determining the fatwa of sharia economic law is concerned, there are some weaknesses and limitations of methods, which are somehow unacceptable in the method of determining the fatwa of sharia economic law. Problems like (1) strict followers of scientism, empiricism and materialism argue that nothing is real outside matter and observe phenomena; (2) they believe that only repeated observable (external) phenomena is true, regardless of moral or ethical right or wrong, good or bad; (3) it is because science can not provide an answer (or at a lower level that is indifferent) to moral and ethical issues beyond the scientific realm; and (4) science is not wholly objective, neutral and value-free (Ahmad and Ahmad, 2004: 43-46).

The pluralism of the method of determining the fatwa of Shari'ah economic law may recognize their limitations, but no conclusive position should be taken as that may reflect the absolutism of the method of determining the fatwa of sharia economic law. They are correct in their respective criteria, and they are wrong in their respective criteria, and therefore should be accepted as part of the pluralism of the method of determining the fatwa of Shariah economic law. For us, the argument of pluralism of the method of determining the fatwa of Shariah economic law does not really make sense.

Sebaliknya, kami ingin menyatakan bahwa sementara metode penetapan fatwa hukum ekonomi Syariah mengakui dan mempromosikan keanekaragaman (pluralitas) metode dalam penyelidikan ilmiah, itu tidak benar-benar mempromosikan pluralisme metode penetapan fatwa hukum ekonomi Syariah. Sebaliknya, itu mempromosikan unifikasi metode penetapan fatwa hukum ekonomi Syariah (metode penetapan fatwa hukum ekonomi Syariah berdasar tauhid).

Islamic epistemology provides equality for all methods of inquiry, and monothets define an ethical framework and values as well as directions and objectives that will ensure the many complementary methods that will integrate into the totality. Those various methods are used to arrive at a number of understandings and interpretations that are coherent with reality rather than seeing them as opposed to the theory of truth rival claims because they are limited in purpose and direction to achieve ultimate truth (alhaqq), which is a unified unification of some truths; objective truth, logical truth, and the truth of revelation (Bakar, 1984: 18).

In this case, the explanation given by al-Attas (1981: 8) in how monotheism provides a unified and coherent vision that the multiplicity of reality and methodology is very enlightening: Indeed, reason and experience are on a valid Islamic channel where knowledge is the attainment of knowledge, at the rational and empirical level of ordinary experience on the spiritual level, reason, and experience in the rational transcendental order have joined the intellectual, empirical with what is related to authentic spiritual experiences such as 'inner testimony' ('inner witness'), 'feeling' (dzawq) 'presence' (Hudur), and other states of transempirical awareness. This is the level at which knowledge means unification.

Variety III: Conventional Islamic Issuance Approach

The third approach is the method of determining the fatwa of Shariah economic law in the Islamization of economic projects as scholars attempt to interact and integrate mainstream economies with Islamic principles / inheritance in economics and vice versa. This program is part of a larger project of Islamization of knowledge which tries to reconstruct the entire heritage of the body of knowledge from an Islamic perspective by adopting the best of conventional, so to inspire this with the principles of Islam and to inform further developments with the values of Islam, Islamic values (Bennet, 2005: 110).

The development of sharia economy as a discipline will not start from scratch; but will take advantage of more advanced economic development (the theory and method of determining the fatwa of Shariah economic law) and seek to make them compatible with the Islamic framework. In addition, there may be some similarities in which (some) conventional theories may be acceptable as long as they do not contradict the logical structure of the Islamic worldview (Chapra 1996), they are not against the explicit or implicit command of Islam (Mannan 1984: 17), or they are not contrary to the principles of Islamic teachings, and should be evaluated within an Islamic framework and use Islamic criteria (Haneef, 1997).

Islamic economists express this approach in various ways. Anwar (1990) proposes to distinguish components from conventional economic theories with components of the Islamic corpus and the core to classify components of conventional economic theory into Islamic and neutral elements and then accept the theories of shariah economics while rejecting Islamic theory.

Kahf (2003) proposes his takhliya, (identification and isolation of conventional economic bias arguments) and his tahliya (economic merger of positive postulates derived from Sharia) to revise conventional economic theory. Zarqa (2003) on the other hand argues that if we substitute the values on which the basis of economics should be based on Islamic values, and if we add secular reports, then economic theories of Islam can be produced. Hasan (1998) states that conventional economics can be sifted, trimmed, and modified, whichever is possible, to conform to Sharia principles. In general, interaction and integration, will generally take place in two disciplines; (1) the substantive dimension of the discipline, which includes economic concepts, principles and modern economic theories and economic teachings or views on economic issues in Islamic heritage; and (2) the formal (technical) discipline dimension, the determination of the fatwa of sharia economic law of modern economy and the study of 'ushul' in the Islamic heritage (Haneef and Furqani, 2007).

While we do not deny the importance of mixing conventional economics with Islamic heritage, the conceptual understanding as well as the actual process of economic Islamization (IE) as we see in the literature is questionable.

Conceptually, IE seems to be understood in a very superficial way, keeping intact most of the conventional economic assumptions and underlying values. So either just adding an Islamic ending to every concept / theory and

practice is done to reflect the internalization of Islamic values or, sometimes, there are minor modifications made. Those who are not happy with this model are critical attitudes of Islamic economists with many fundamental assumptions in conventional theory. They chose what Maki (1994: 237) calls the term "family argument" in evaluating the assumptions of conventional economic theory by refusing to move to another version of the theory or framework, rather than adopting an antagonistic approach that sees conflicting frameworks of analysis, and approaches, traditions and schools of thought and hence strive to provide alternatives (ie, new better concepts).

Talking about the method of determining the fatwa of Shariah economic law we see there is a "division of duty" (if not to say "dualism of the method of determining the fatwa of sharia economic law") in Islamic economic, banking and finance writings, in conceptual (normative) Islam tries to find Islamic justification based on Qur'anic verses (or fiqh judgments) with certain theories, while in the empirical part, Islamic economists only utilize and apply common analytical tools into Muslim / Muslim cases, defending positivist criteria and assuming there is no contradiction to the Islamic heritage. This kind of practice seems to conclude that IE is approached 'dichotomous' rather than 'integratively' between conceptual (theoretical) and empirical dimensions. In Zarqa (1987: 55) observations "so far, no clear research methodology in sharia economics has been adopted. Research in the fiqh component of sharia economy follows the methodology derived from usul fiqh and from the meaning of sharia. Research in the economic-analysis component, on the other hand, has been developed in the West and seeks to utilize inductive methods. "

In addition, the analytical tool is also largely viewed as a purely technical procedure, less than any normative element, and hence absolutely objective (value-neutral) and can then be adopted as in sharia economics. Islamic economists only take advantage of what is the latest technique available in the market and to some extent they are highly dependent on the tools and criteria, principles and paradigms that shape them. Islamic economists fail to see that the method of determining the fatwa of sharia economic law culminates in a logical positive approach embodied in Western behavioralism, and their conditions for using the method can not be described as purely technical and empty of the epistemological assumptions (Sardar 1988: 162). Tibi (2001: 184) in a strong statement criticized the misleading belief that the analytical tool is a neutral value. He said "it is inconceivable that Muslims can afford to borrow and use the contents of Western science, technological tools, while rejecting the context. It is wrong to separate the technical tools from the social context and their resulting attitudes or from the particular worldview of the world "(quoted from Bennet, 2005: 125)

That a simple approach in the Islamization of the economic program puts sharia economics in the fold of western modernist discourse in terms of the theoretical concerns and methods of determining the fatwa of Shariah economic law, and therefore unable to develop itself as a new alternative (Yousif 2001: 95) argues that the practice is permissive, not creative like that "does not stimulate further thought, spontaneity and creativity as expected, but leads to syncretism, confusion and deviation in social and behavioral ideas instead) and better In most developments when sharia economics work within the limits of, limits of neoclassical theory, with some adjustments to incorporate teachings / norms / values that reflect certain Islamic requirements (Haneef: 1997). Many critics can be found in the literature. Haneef (2005: 41) for example says the approach is "modeled along neoclassical lines, working almost within the boundaries of neoclassical theory, with some adjustments to incorporate the teachings / norms / values that reflect certain Islamic requirements" and Alatas (2006) sharia as an empirical theory with a "neo-classical mask" that "merely replaced the Islamic term for neoclassical people, maintains the last assumptions, procedures and means of analysis. Thus, it has failed to engage in analysis and criticism of the highly unequal world economic order in which the gap widened. "

As a result, sharia economics, instead of being a different discipline that can analyze economies using different philosophies, concepts, frameworks and analytical methods as referred to by the Islamization of knowledge project, has become almost a conventional economic neoclassical sub-discipline, without Islamic justification. Instead of fighting the existing paradigm, it seeks to justify scientific practice and thereby legitimize what has happened in the name of Islam. Practice The method of determining the fatwa of Shari'a economic law seems to fit the category of Lawson (2003: 28-9). The first discussion of the method of determining the fatwa of Shariah economic law, namely "those who accept the economic scholarship as practiced and seek (for now at least) to justify and / or clarify the way in which the economy has been done, to demonstrate the nature and rationality of what is happening, "not" to seek to impose to the conception of appropriate methods of economics or methods determined beyond the discipline. "Islamic economists largely overlook the possibility of significant philosophical input from an Islamic perspective."

Conclusion

Until now there are many fatwas circulating among Islamic scholars of diverse Islamic law and appear to be opposite, especially when comparing HES in Indonesia, Malaysia and the Middle East. This is a phenomenon studied in this study to then explain and critique the various phenomena of various models of the determination of the fatwa of Islamic economic law. This study, in the context of developing Islamic economic fatwa, found that there are at least three models for the determination of the fatwa of sharia economic law which have been developed by Islamic economists: (1) Ushl Fiqh Approach (Ushul al-Fiqh as the Basic of Sharia Law Law) Pluralism (Acceptance of the Truth of the West and Islam as the Basis for the Establishment of Sharia Economic Law), (3) Islamization of Conventional Economies (Reducing Non-Syar'i Factors of Conventional Economy as the Basis for the Establishment of Sharia Economic Law). This research will enrich the treasury of Islamic Economics knowledge that is particularly

useful for the study of Islamic economic law.

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