DISTRIBUTION OF LAND FROM GHANIMAH IN THE FATWA OF SAIDINA UMAR BIN KHATTAB

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ABSTRACT

One of the interesting fatwas of Saidina Umar bin Khattab to study is about ghanimah. ijtihad carried out by Saidina Umar, namely not dividing the land resulting from ghanimah in her time and ordering the land resulting from ghanimah to remain left to the owner and manager. This fatwa was rejected by Abdurrahman bin Auf and other friends, on the grounds that the Prophet Muhammad had never done it. The fatwa issued by Saidina Umar was certainly not without reason, because Umar was a smart and wise caliph. For this reason, this paper will describe the fatwa into a more complete Islamic economic thought. In unraveling the existing problems, researchers used descriptive qualitative research with secondary data sources. The results of this study concluded that Umar's policy was the right policy, because the one who had the right to regulate ghanimah was Amirul Mukminin, namely at that time it was Saidina Umar bin Khattab. Saidina Umar has made a solid foundation, both in philosophy, the level of levy, and the types of assets that are collected by tax.

Keywords: Saidina Umar, Fatwa, Ghanimah.
INTRODUCTION

In muamalah, especially Islamic economics, it is often brought closer to Fiqh Muamalah, because there are similarities in the nature of the two. Mainly due to ushul fiqh which is associated with rules (ahkam) in the discussion of Islamic economics for the development of Islamic economics itself (Furqani & Haneef, 2011).

In essence, Islamic economic thought has existed since the time of the Prophet Muhammad SAW, but after his death, this thinking was inherited by his friends, one of whom was Saidina Umar bin Khattab. Once, Umar once said: "Whoever wants to ask about the Koran, then come to Ubay bin Ka'ab, who wants to ask about inheritance, come to Zaid bin Thabit, and whoever wants to ask about wealth, ask me. Because Allah SWT has made me a guardian and a sharer of treasures" (Chamid, 2010).

One of the interesting fatwas of Saidina Umar bin Khattab to study is about ghanimah. Ghanimah is the spoils of war taken from infidels (Rawwas, 1999). The distribution of ghanimah assets itself has a basis in the Koran Surah Al-Anfal: 41, which means:

Meaning: “Know, in fact whatever you can get as spoils of war, one-fifth is for Allah, the Messenger, the Relatives of the Apostle, the Orphans, the Poor and Ibn Sabil. If you believe in Allah and in what We sent down to our servant (Muhammad) on the day of Furqaan, that is, on the day when the two armies meet. And Allah has power over all things.” (Q.S. Al Anfal Verse 41)

The basis of the verse above also makes Rasulullah SAW distributing wealth in the distribution of ghanimah Hunain, even though the Prophet had other wisdom (Azizi, 2022).

However, in contrast to the ijtihad carried out by Saidina Umar, she gave a fatwa not to divide the land resulting from the ghanimah at her time. Umar ordered the land resulting from the ghanimah to remain with the owner and manager. This fatwa of Umar was agreed upon by Ali bin Abi Talib, but was rejected by Abdurrahman bin Auf and other companions, on the grounds that it had never been carried out by the Prophet Muhammad SAW. The fatwa issued by Saidina Umar was certainly not without reason, because Umar was a smart and wise caliph. For this reason, this paper will describe the fatwa into a more complete Islamic economic thought.

LITERATURE REVIEW

Biography of Umar bin Khattab

Saidina Umar bin Khattab is the son of Nabil al-Quraysh. His father's full name is Khattab bin Nufail al-Mahzumi al-Quraish from the Adi tribe, while his mother's name is Hantamah bin Hasyim. The Adi tribe is a family of Quraysh, a group that is respected among the Arabs (Azra, 2005). Umar has a tall body, straight, strong, fast steps, tough character, brave, and a very high discipline figure. He was born 30 years before the Prophet Muhammad SAW was sent as an Apostle or about 13 years after the Prophet was born, to be precise in 581 AD (Ridla, 1993).

Stepping on adulthood, Saidina Umar began trading, exploring corners of the Arabian Peninsula, such as Syria and Iraq. Saidina Umar used this opportunity to expand her relationship with leaders from other tribes and qabilahs. Here the figure of Umar appears to have more expertise and intelligence (Mudzhar, 1998).

Umar was an expert in diplomacy; he often served as a messenger for his tribe to negotiate with other tribes, not only on war issues, but also on socio-economic issues. The figure of Saidina Umar initially really hated Islam. Saidina Umar used this opportunity to expand her relationship with leaders from other tribes and qabilahs. Here the figure of Umar appears to have more expertise and intelligence (Mudzhar, 1998).

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Abu Umar said Umar's entry into Islam was a glory for Islam which was preached by the Prophet Muhammad SAW. He participated in migrating to Medina al-Munawwarah and was included in the first group of Muhajirin. Saidina Umar also participated in all the wars that the Prophet participated in (Asyur, 2002).

Saidina Abu Bakar Ash-Siddiq played a major role in appointing Saidina Umar as Caliph. When Saidina Abu Bakr was seriously ill, she consulted with friends and other leaders to appoint Umar as her successor in order to eliminate the possibility of disputes and divisions among Muslims at that time (Hassan, 1989).

In various references it is stated that Saidina Umar was appointed as Caliph when Saidina Abu Bakr was ill. Before appointing Saidina Umar as her successor, it was reported that Saidina Abu Bakr had already made shura to the Companions of the Prophet who held important positions, including Abdurrahman bin Auf, Usman bin Affan and Said bin Zaid bin Naufal. They all agreed with the opinion expressed by Abu Bakr, although previously there was rejection by Abdurrahman bin Auf because he considered Umar's character harsh, but Saidina Abu Bakr managed to convince him on the grounds that Saidina Umar would change when he became caliph, because Umar's true nature was gentle, full of affectionate and firm. This policy was approved by the people who also pledged allegiance to Saidina Umar as Caliph. Since then, Umar has been known as Amirul Mu'minin (leader of the believers) (Adaruddin, 2018).

Saidina Umar bin Khattab is a figure who is very influential in the development of Islamic economic thought. He is one of the causes of the rapid spread of Islam throughout the Arabian Peninsula. Abdullah bin Mas'ud, a friend who developed much of Saidina Umar's thoughts, said that, "Umar's Islam was a triumph, his migration made help and his rule a blessing. We didn't even dare to pray beside the Kaaba until Umar embraced Islam" (Al-Mubarakfuri, 1994).

Saidina Umar's success in spreading Islamic teachings and bringing glory to her government aroused a sense of contentment and envy from her enemies. Abu Lu'luah killed this al-Faruq (a title for Saidina Umar) (Syamsyir, 2019).

He ended Saidina Umar's life in a very tragic way. He stabbed Saidina Umar when he was getting ready to perform the Fajr prayer. Umar died at the age of 36 years to be precise on 26 Dzulhijjah 23 H/3 November 644 AD, after 10 years of serving as Caliph (Azra, 2005).

**Ghanimah's Treasure**

*Ghanimah* etymologically means spoils of war or assets taken by Muslims in a war in a legal way and justified by Islamic law. *Ghanimah's* treasure is also known as al-anfal, al-nuhbah and al-salab. Ghanimah's assets are assets that are lawful thayyiban, lawful and good. This means that it is lawful in its use and good in its physique (Sugiharto, 2020).

*Ghanimah* is a treasure that is obtained from the enemy after successfully defeating him by force of arms. Under the laws of war, the property of a defeated enemy may be owned as spoils of war, both movable and immovable property (Baltaji, 2003). The ignorant tribes before the presence of Islam, if they fought and won on the battlefield, they also received ghanimah. They distributed ghanimah to people who took part in the war and distributed the largest portion to their war leaders (Syefriyeni, 2019). The scholars agree that the authority to distribute ghanimah's assets is the Prophet Muhammad SAW and caliphs after him (Harahap, 2016).

Ghanimah is also known as khums treasure, 1/5 (one fifth) treasure. For all property is divided into one-fifth. One section for the Prophet, four sections for troops, both guards, espionage and cooks during war. For cavalry troops there are three
parts, two parts for horses (both fat and thin) that enter the battlefield, carry supplies, mine sweepers, and horses used to follow enemy troops. While one part for the person. One section was reserved for troops on foot. In the end, this ghanimah is used as income in Islamic government which is distributed to the poor to help their welfare without distinguishing Muslim or non-Muslim recipients (Fauzan, 2017).

RESEARCH METHOD

In parsing the essence of whether or not Umar's actions were permissible in making a fatwa about ghanimah, researchers used qualitative research methods with analytical techniques that were described in a descriptive way. To perfect the research, researchers use secondary data sources obtained through books, journals, previous research results, proceedings and sources found from trusted websites that can support this research.

FINDING AND DISCUSSION

Umar's Socio-Economic Policy

When appointed as Caliph, Saidina Umar conveyed the economic policies to be taken by her, namely (Chamid, 2010):

1. The Islamic State takes public wealth in the right way and does not take the kharaj and fa’i that Allah SWT has given to the people, except with the right mechanism.
2. The state provides wealth based on general rights, no spending is allowed except in accordance with their rights. The state provides subsidies and covers debts;
3. The state does not receive wealth from gross produce. The ruler may not take public property, except for levies for orphans' assets;
4. The state is required to use wealth properly.

Saidina Umar bin Khattab is a caliph figure who prioritizes maslahah in every economic policy (Ridlo, 2013). It is not wrong if in his time, the Muslim economy achieved significant progress. Saidina Umar succeeded in instilling the principles of justice and togetherness in the economic model she applied (Al Arif, 2014). As Khalifah, Saidina Umar understands her duty is as fil ard, dedication and concern for humanity (Alimuddin et al, 2022).

Umar was a great leader who served his people well. In his time, Umar divided his territory into eight provinces, namely: Mecca, Medina, Syria, Jazirah, Basrah, Kufa, Palestine and Egypt. The economy is developing so rapidly, because Saidina Umar succeeded in carrying out economic ijihad by carrying out economic innovations (Ridlo, 2013).

Various innovations that he did include:

1. To systematize the collection of jizya to ahlu dzimmah.
2. Stopping the portion of zakat for one of the asnaf, namely converts to converts on the grounds that the Islamic state at that time was already strong.
3. An unprecedented restructuring of resources and economic systems. Umar collected taxes at border posts, namely taxes for traders from the Harbi region and the Dzimmah region.
4. On the advice of Ali, collect zakat on horse livestock (so far the Prophet has deleted it.)
5. Forming the Baitul Mal Council, compiling various state documents, designing a system that drives the economy, both production and distribution.
6. Not to distribute the conquered lands in Iraq to the soldiers.
7. The ghanimah distribution scheme which is distributed for retirement purposes, social security for all residents, payments for newborn babies, assistance to travelers, assistance for orphans and disabled people both from Muslims and non-Muslims (Parwataatmadja, 2008).
Umar's fatwa on Ghanimah

Fatwa is a decision, answer, or opinion of a Mufti in deciding a problem (Wahyudi & Fajar, 2018). In Arabic, fatwa comes from the word bayyana which means to explain (Mandzur, 2003). Another form is futya which comes from the word al-fata (adolescent) which means young people who have the strength to overcome difficult things. During the caliphate, the fatwa was immediately issued by Amirul Mu'minin, because the caliph at that time was a person who was capable of law and received direct care from the Prophet Muhammad SAW different from today where the leader appointed a special institution. Definitively, basically there is no difference between a fatwa and a decision, because both are the result of ijtihad.

In 17 Hijriyah, Kufa, Syria and Iraq submitted to Islam under Sa'ad bin Abi Waqas. These three broad areas brought in a large number of ghanimah, whether in the form of land, movable property, gold, silver and other supplies. Ghanimah which was obtained so much at that time even the amount had never been obtained from the previous wars.

The interesting thing that Umar did in the conquest with a massive expansion at that time was that Umar did not share the ghanimah as a whole as he, Abu Bakr and the Apostle had done before. Previously ghanimah was always given to mujahids who took part in the war. Umar's decision not to distribute the entire ghanimah to the Muslim community at that time, was accompanied by his controversial fatwa by allowing the spoils of war to remain with the local population, even though he was a non-believer. However, the residents who get this land are required to pay the jizyah, so that person is referred to as a dzimmiy infidel, that is an infidel who obeys Islamic rules (Almakki, 2017).

The ijtihad decision made by Saidina Umar was stated firmly. As his character influenced Umar's firmness in giving fatwas (Haekal, 1998). Saidina Umar is a figure who received education directly from the Prophet. These considerations, arguments, solutions and ijtihad in their development are known as fiqh studies or ushul fiqh.

The basic thing that happened when the ghanimah treasure was collected was that many companions did not fully understand the spoils of war. At the time of Prophet Musa As., when they got ghanimah, the treasure was burned, it was not allowed to be taken, used or consumed. As for the time of the Prophet Muhammad SAW ghanimah was divided among those who were entitled, but not without problems. Prophet Muhammad SAW after the end of the Battle of Badr, he distributed ghanimah to the troops who were fighting at that time. However, he does not take his share of the 1/5 portion that is also his right. But in another battle, he took the part that was due to him. A different practice was also carried out by the Prophet during the Hunain war. At that time the Prophet distributed ghanimah to the people of Mecca, while the Ansar, did not get their share at all (Harianto, 2022). This shows that the treatment of Rasulullah Saw. in the distribution of ghanimah assets are different. Rasulullah SAW has actually shown that the essence of the division of ghanimah lies in the leader based on considerations for the benefit of the people (Zallum, 2008).

As the conquering troops, Abdul Rahman bin 'Auf, Amar bin Yasar, Bilal bin Rabbah and other troops, at that time asked for rations of land in Iraq according to the distribution of ghanimah, because they needed it. However, Saidina Umar only divided the movable property according to the khums, not the land. Umar's fatwa was the result of advice from Saidina Ali bin Abi Talib who advised that the ghanimah land should remain with the owners and cultivators, but they are obliged to provide a fee to the Islamic state. In the History it is stated, after a request from Abdul Rahman bin 'Auf and his friends, Saad bin Abi Waqas (the Warlord) also wrote a letter to Saidina Umar bin Khattab which stated that the
soldiers who had fought in Iraq and Syria, requested that the spoils of war were distributed among them. Umar rejected the contents of the letter. Umar even stipulated that these lands remained with the owners and cultivators, only that they were obliged to pay the taxes paid to the Baitul Mal. This tax paid is then used for the benefit and benefit of the Muslims, including the interests of the soldiers who are fighting (Mudzhar, 1998).

Another consideration is that the local people were more skilled at managing the land and if it was given to a fighting army, they feared being displaced. This is because the land taken will not be manageable, considering the troop's expertise is for fighting and the time the troops have for farming is not much, so it is feared that the land will be unproductive. The consideration of this benefit is far more important, because if it is not implemented, the harm will be even greater. On the other hand, the lives of land owners and administrators will be taken away, their children and descendants will live in miserable conditions and give rise to the impression of Islam as a colonialist.

Facing Abdul Rahman and the others who substantially conquered the war area was certainly not easy, because what they sacrificed was huge and not easy. They successfully carried out battles and sacrificed both treasures and souls. Because of that they reminded Umar and asked for deliberation. This fatwa made by Umar caused a problem, because in the Koran it is stated that 1/5 of ghanimah's property must be divided into six parts, namely: Allah SWT, the Messenger, the Prophet's Relatives, orphans, the poor and Ibn Sabil. While the remaining 4/5, the mahfum was distributed to the mujahids who participated in the war, as this was also exemplified by the Prophet Muhammad SAW.

Saidina Umar is actually very submissive, obedient and accepts the verses of the Koran as the basis for the distribution of ghanimah, but on the other hand Saidina Umar also sees land as a source of life which if taken will cause poverty. This *ijtihad* was carried out by Saidina Umar because Umar saw an unwanted danger if such a large land was only distributed to a limited number of people (Djazuli, 2003).

Apart from that, other things that motivated Saidina Umar to carry out the fatwa include (Djazuli, 2003):

1. If these lands fall to the Muslims, then the land that has been divided cannot be maintained and its benefits can be controlled. By letting it continue to be managed by the owner or cultivator, the land will remain productive and the results can be felt by the Muslims through the Baitul Mal;

2. If these lands were divided among the Muslims who were at war, it would potentially cause other problems, namely disunity among Muslims. This was because other Muslims who at that time did not participate in the war or who came later, did not share in the distribution of the ghanimah land.

3. If these lands were distributed, it could damage the intentions of the Muslims at that time, who in the future would no longer fight for Allah SWT and His Messenger, but to get ghanimah.

This policy carried out by Umar is history and the beginning of the existence of taxes. Umar laid a foundation where ghanimah land was not distributed, but the owner and administrator had to pay taxes to the Baitul Mal. The levies made by Umar on people's income are taken on the basis of income that has met a certain amount. The amount collected is based on the amount of zakat required by Islam, nothing more. During Umar's time, the people's obligations to the state were earmarked for operational and development financing for all the people. Meanwhile, the people's obligation to religion is devoted to fulfilling the consumptive needs of the people who can't afford it.
Saidina Umar's fatwa has created a solid foundation, both in terms of philosophy, the level of levy, and the types of assets that are taxed. Everything was laid out by Umar's government based on the Koran and Sunnah. The steps taken by Umar were think out of the box and visionary. If ghanimah's assets are continuously distributed, then the conquest of territories does not occur again, then what will be the fate of Islamic government in the future? This attitude is an anticipatory step taken by Saidina Umar, because the results of the current war must be able to become a source of state financing in the long term. The collection of taxes on ghanimah land which is still managed by the owner is the logic built by Umar so that the country remains stable in a prolonged period of time (Al-Balkhi, 2003).

In another perspective, Saidina Umar's fatwa can be rationalized because the conquest of these three areas is different from the previous wars, including (Lubis, 2018):

1. The nature of conquered areas is liberation. During this time the people who were there were under the occupation of the Roman Empire. For that, Islam is here to give freedom.
2. The inhabitants of these three areas provided entry points for the Islamic forces, provided support did not fight, did not put up any resistance nor did they support the troops of the Roman Empire.
3. If the land they own is confiscated, they will lose their source of livelihood and become poor. This would of course be a problem for the Islamic state at that time.
4. The concept of conquering territory is maintaining territory, not expanding it.
5. The people of this conquered area are very receptive to the presence of Islam.

In the end, during his reign, Saidina Umar made three policies for dividing ghanimah assets, namely (Almahdi & Kurniawan, 2022):

1. Shafi, namely the spoils of war chosen by the head of state and this treasure may not be shared;
2. 1/5 of the shafi is the share belonging to Allah SWT, the Messenger, the Apostle's Relatives, orphans, the poor and Ibn Sabil. However, after Rasulullah SAW died, Caliph Abu Bakar Ash-Shiddiq replaced the Apostle's share to the poor, this trail continued to be followed by Saidina Umar.
3. Soldiers who take part in the war get 4/5 of the share. The conditions for soldiers who are entitled to this section are:
   a. Join the war;
   b. Independent;
   c. Baligh.

   This is the advantage of Saidina Umar, who is known as a caliph who is smart, tough and brave. Although the results of these thoughts have strongholds of pros and cons. Among the friends, some are able to understand and accept the innovative ideas initiated by Saidina Umar, but many are unable to accept or even reject them. Some even argued that Umar had run away from Islamic teachings and the guidance of life taught by the Prophet Muhammad SAW. In the end, the innovations carried out by Saidina Umar caused many policy changes from the previous government, because there were new, broader interests in Saidina Umar's thinking which caused changes in old customs and habits. These changes inevitably result in changes to the law as well.

Among Islamic historians, the steps taken by Saidina Umar constituted a period known as the triumph of Islam. Because Umar was able to build justice that could be felt by all layers and groups of people, both the poor and the rich, even Muslims and non-Muslims (Thabrani, 2015). Umar built an ijihad that made power and money the axis and the axis of life. This ijihad is even relevant and urgent to be carried out today, even though Umar built an ijihad through a
contextual jurisprudence approach that was different from other Companions of the Prophet at that time. Even though the steps taken by Umar were never carried out by the Prophet, the fatwa policy issued by Umar was the essence of the Sunnah, namely considering the benefit of the people.

The conclusion of this policy is that those who have the right to regulate ghanimah are Amirul Mukminin, Saidina Umar bin Khattab.

CONCLUSION

Umar's decision to make a new fatwa on the distribution of ghanimah ultimately led to many policy changes from the previous government, because there were new broader interests in Saidina Umar's thinking which caused changes in old customs and habits. The fatwa carried out by Saidina Umar has created a solid foundation, both in philosophy, the level of levy, and the types of assets that are taxed. Everything was laid out by Umar's government based on the Koran and Sunnah. The steps taken by Umar were think out of the box and visionary.

REFERENCE


