

An Overview of Budget Jurisprudence (Fiqh) to Eradicate the Corruption in Indonesia

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***Abstract-**This research aims to analyze an overview of the budget jurisprudence concept to eradicate corruption behavior in Indonesia. There is some instrument to understand about Islamic jurisprudence such as Alquran, Hadis, Ijma (consensus), and Qiyas (measuring). The core principles in budget management are transparency, accountability, budgetary discipline, justice, efficiency, and effectiveness. The research was normative law. The data obtained through several sources such as books, journals, and relevant results research. The results showed that the Budget Fiqh contained in tauhid, namely the attitude of a Muslim that he does worship meets the provisions of Allah and will be accounted for in the world and the hereafter. On the other side, the Budget Fiqh requires the Shidq (honest) and amanah (trustworthy) attitude. Shidq is closely related to the budget information process. At the same time, the mandate is related to the commitment to allocate and distribute the budget to those entitled to implement the values of benefit, welfare, goodness, and accountability. This research concludes that in the perspective of budget fiqh, upholding budget transparency is the implementation of worship that occupies a great and noble position in religion.*

***Keywords-**Corruption behavior, Fiqh Budget, Islam jurisprudence, and Islamic tradition.*

I. INTRODUCTION

Fiqh (jurisprudence) related to a broad range of human actions, including the observance of rituals, morals and social legislation in Islam. Broadly speaking, Islamic law operates from the following perspective: Islamic legal theory begins with the assumption that the Qur'an is the most sacred source of law[1]. In similiarity, fiqh is that mechanism which has evolved in Islamic theology and jurisprudence to know what is good and bad[2]. In contemporary Islamic world fiqh becomes pivotal instrument to determine Islamic law to overcome contemporary Islamic issues.

As we know, corruption is a process to abuse of authority carried out in a structured manner by the holder of power[3], in reality Corruption criminal action has occurred widely and assumed to be very serious disease. the conducted corruption model is inflating the budget [4], based on reality budget corruption always accures int the form of increasinh the budget value from its proper value. It is ocured in the projects by inflating the number of

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project funds such as inserting areas of purchase that are fictitious or unimportant but are considered necessary by those who look for profits, with method to make budget items which allocated for other purposes. For example, in the budget included and written purchase of computer or printer machines, HVS paper, but in practice, there is no physical that is purchased, even if the price is the lower[5].

This behavior case is likely to have a budget leak so that specific projects intend not all funds. It is a piece of stock and shared knowledge; the contractor or tender winner must provide aside a percentage of funds for irresponsible persons in the bureaucracy to be won by the project auction[6]. In some cases, the process of determining policies, including budgeting, is only a formality, that is designed in contrary formal procedures, actually entrusted items from colleagues and cronies who take advantage of their emotional closeness with the authorities, intending to enrich themselves, families, and or even corporate groups (Yulianti, 2010).

The leaks in the budget have been discussed by the late Indonesian economic scientist Soemitro Djojohadikusumo argued that more than 20 years ago, that around 30% of the State Revenue and Expenditure Budget (APBN) was leak by ocured KKN practices related to goods and services procurement activities. This reality has been run until now, the activities of government procurement of goods and services, still have the potential to become a fertile field for corruption[7].

The development of corruption behavior in modern has been begun since the colonial era. The culture left by the colonialists were not necessarily disappear. The habituation that was inhereted is the culture of corruption, collusion and nepotism or in similiar word that nemed KKN (Korupsi Kolusi, and Nepotisme)[8]. it has reflected in the behaviour of government officials since Old Order era in famelier word (Orde Lama) when Ir. Soekarno became president[9], which eventually flourished until Suharto became president of New Order or (Orde Baru) government until today.

The society demand to New Order goverment, the reformation era is deliberation effort in corruption eradication. In fact, it is indicated by the availability and renewal of public policies, politics, law, institutions and anti-corruption organizations that are almost adequate for efforts to eradicate corruption in this country. Furthermore, it has not been able to reduce significantly the level of corruption [10].

The corruption Modes from inflation or budget swelling have been occurred, based on the evidence abouth the ocured corruption in 2006 sateded by Indonesian Corruption Watch (ICW) [11], occupying the top position of 30%. Budget swelling is conducted systematically and involves many people in behavior of Corruption Collusion and Nepotism [12]. The most povital of reformation agenda is the corruption eradication, eventhough the corruption has been becoming more and more rooted. The corruption behavior infected all sectors of the sector (public, private, civil society and corporation), even almost all levels of government (both regional and central).

The previous research was conducted by (Rosid, Evans, & Tran-Nam, n.d., 2017) stated that corruption crime action appear to have an adverse impact on taxpayers' attitudes and norm to report actual income. These circumstances, coupled with relatively high levels of perceived behavioural control over tax underreporting. Other research abouth jurisprudence conducted by [14] stated that religious experience related to social setting, Indonesian

Muslim scholars to socialize Islamic law in the form of the Nusantara society are always dynamic moving, realizing the teaching forms based on Islam and Nusantara aspects.

Based on several previous research and evidence, the article will focus to discuss about an fiqh budget to eradicate corruption case in Indonesia. Fiqh budget is the form of fiqh contemporary which describe about the role of Islamic law to reduce corruption crime action in utilizing national budget or APBN. The main values to socialize in fiqh budget is honesty and mendator to implement the power.

Islam, as a universal religion, is involved in various kinds of solving the problems of life, especially in the fields of economy and government, to ensure human welfare. Fiqh is one of the instruments used to understand Islamic law comprehensively. In the Islamic economy in Indonesia is to make posts that are not necessary because they are looking for profits for themselves or the corporation. Does this study sought to find out about how Islamic economic law responds to budget corruption? How does the budget fiqh function in anticipating corruption in Indonesia?

II. METHOD

The research was normative law[15], which the research conducted to examine library materials or secondary data. The legal research includes research on the principles, statutory regulations, texts of the Qur'an and al-Hadith. The method used by the author to understand the problem in a juridical framework of thought, both from the interpretation of relevant legislation and using existing legal and political theories. Analysis and research are carried out in a juridical perspective, looking at the dynamics that occur in the relationship between *das sollen* (what should be, i.e. contained in the legal provisions and legal principles) with *das sein* (what happens, related to the research problem data).

The conducted steps in this study were the library research using library sources that were related to the main research problem that has been formulated both primary and secondary sources[16]. The primary sources used in this study are the interpretive books and *ahkam* hadiths, fiqh books and the Criminal Code (KUHP) with various related laws and regulations.

To analyze the research data, the secondary sources were utilized in the fields of Islamic jurisprudence, Islamic crime as well as books of interpretation[17], hadith, fiqh, books, articles, newspapers, newspapers and scientific papers relating to the problem of corruption in terms of budget fiqh.

The research data analysis concerning corruption were content analysis techniques, which were analyzing the main problems examined according to their contents. In this case, the main problem is, how is Islamic economic law in responding to budget corruption? How does the budget fiqh function in anticipating corruption in Indonesia?

III. RESULTS AND DISCUSSION

Principles of Islamic Economic Law in the Politicization of the Budget

The budget was defined by Welsch [18] as "Profit planning and control may be broadly defined as systematic and formalized approach for accomplishing the planning, coordinating and controlling responsibility of management" The main point is that the budget must be associated with the basic functions of management which include the functions of planning, coordination and supervision as a form of management accountability.

The interpretation of the previous argument[19] is, (1) The budget must be formally which prepared intentionally and conscientiously in written form and full of accuracy, (2) The budget must be systemic which is arranged sequentially and rationally, (3) Every manager is faced with a responsibility for take decisions, so that the budget is the result of making decisions based on certain assumptions, (4) Decisions made by the manager, is the implementation of the manager's function in terms of planning, organizing, directing and controlling.

In fact, budget management plans are communicated by the organization to all members of the organization [20]. Even though in the preparation of the budget is the responsibility of the highest leadership at an organizational level, but it can be delegated to the relevant sections such as the administration that stores all organizational activity data [21]. Such delegation can also be given to the implementing committee or the budget team consisting of leaders and representatives of each related section.

To carry out the functions of planning, coordination, supervision and even become a practical guideline for the stated objectives is a budget function [22]. Before an organization carries out its activities, the leadership of the organization must first formulate activities that will be carried out in the future and the results to be achieved from these activities, as well as the mechanism of their implementation through the applicable SOP. With this plan, the activities will be carried out well, smoothly and effectively. Budget is one way to conduct supervision[23]. The supervision is the efforts taken so that the plans that have been prepared before can be achieved. This is what is meant by supervision, namely evaluating work performance and performance improvement measures.

The purpose of supervision does not look for the fault, but to prevent and correct mistakes and to ensure the achievement of the goals and plans of the organization that have been set together [24]. The coordination function requires the alignment of work actions of each individual or part of the organization to achieve goals. Coordination can be used as a tool for all parts of the organization because all activities that are interrelated between one part and another are well organized.

An effort to achieve organizational goals, the budget function needs to be implemented. Based on the framework, the budget must be prepared based regarding principles [25] are transparency, accountability, budgetary discipline, fairness (its use must be allocated fairly for the benefit all groups of people), efficiency and effectiveness (must be utilized as well as possible to improve services and welfare for the community).

To examining the principles of the budget is very relevant to the principles of Islamic economic law. Budgeting with the application of Islamic economic law principles has become imperative. The principles of Islamic economic law that can be implemented in budgeting are as follows:

1. Principle of *Tauhid or monoteism* as argued by Mardani that is a general principle in Islam. This principle gives assertiveness is that all human beings are under the same provision, that is the monotheism provision which is stated in the sentence *La'ilaha Illa Allah* (There is no god except Allah). The word of Allah QS inspires this principle. Ali Imran in Ayat of 64. Based on the principle of monotheism, the implementation of Islamic economic law is worship. Thus, for every Muslim who works in preparing a budget, it is none other than because he is worshipping and meeting the provisions of God so that the budget prepared will be transparent, accountable, disciplined and accountable.
2. The principle of *justice* [26] is a principle that demands the realization of a balance between individuals and society, the second principle after the principle of monotheism is to require a straight path by creating a social order that avoids self-harming behaviour, groups and even the interests of many people. That is fair budgeting. This principle of justice is taken from the QS. Al An'am verse 152, QS al-Maidah verse 8 and QS. Al-Hujurat in Ayat of 9.
3. The principle of *Amar Makruf Nahi Munkar (enjoining what is right and forbidding what is wrong)* [27], this is a principle which is positioned as a working budget, those who commit irregularities (lapses) can be given sanctions or penalties. Who have prestige will give rewards or rewards. This principle inspires everyone who draws a budget not to be ineffective. The principle of Amar makruf nahi munkar is inspired to the QS. Al-Imran: 104, 110, 114.
4. The Principle of *responsibility*, this principle requires an absolute commitment to efforts and to improve the welfare of fellow human beings, so that the preparation of the budget must be accounted for truthfully [28] The principle of responsibility is emphasized in the QS. Al-Isra, verse 36 and Surah Al-Ahzab, Ayat of 15.

Budget Fiqh Function

As we realize about the Muslims in Indonesia always regard to the determination (fatwa) of their religious scholar (ulama) and have a tendency to reduce attachment to the four schools of thought (Madzab), especially regard to contemporary determination (fatwa). This condition has been implications for the demands of religious scholar (ulama) and scholars to be more responsive to current issues within all fields, including economic issues such as budget management.

Therefore, the response of religious scholar (ulama) and Indonesian scholars on the existence of budget fiqh (jurisprudence budget) becomes an essential function for discussing and becomes part of the solution, as a form of the dynamics of Islamic economic law thought in Indonesia [29]. In studying of budget fiqh, it cannot be separated from the fiqh study itself. etimologically, fiqh is taken from the word *faqih* (*fi'il madi or smple past*)-*yafqahu* (*fi'il mudhori or presen centinour*) *fiqhan* (*mashdar or nou*), which means to know and understand. According to experts such as Ibn Manzur fiqh means "to know and understand something". While in terms of the expert *usul al-fiqh* (the science of fiqh), fiqh means knowledge of the laws of Syria 'obtained through *ijtihad* [30]. Universally, the elements in the definition This fiqh is: (1) knowledge of Syariah law'; (2) the Shariah law 'is related to practical and concrete *mukallaf* actions, (3) the knowledge is obtained by means of *ijtihad* or *istidlalya* that devotes all potential and

opportunity in order to reach legal conclusions, (4) which is derived from its main source. In the simple sentence Fiqh is to understand about Islamic conclusion law.

The knowledge about Islamic conclusion law (fiqh) can be obtained from the people who have achieved mujtahid qualifications [31], based on this activity, it cannot be separated from the fiqhiyah method (the science of al-fiqh and fiqhiyah principles), as a theoretical and practical reference. Therefore, fiqh is called ijthadi science and the expert is called faqih is none other than mujtahid itself.

Regarding to the definition of fiqh (law), the budget fiqh can be categorized as a product of fiqh thinking which must include the four elements above [32], namely (1) containing *syariah law* '(Islamic law) in this case the basic values of Islamic law. The basic values of Islamic law are the basic values of Islam. These basic values are honesty (*shidq, amanah*), fairness, responsibility, usefulness and welfare; (2) the law concerning concrete mukallaf acts, in this case, is budget management; (3) the law was explored using *ijtihad (prejudice)* and *istidlal* (reasoning based on Islamic law) methods; and (4) the practical law is extracted from its sources, namely the Qur'an, Sunnah, Ijma 'and logic (*ra'y*).

In the context of formulating budget fiqh, it cannot be regardless from the socio-cultural settings of the community and in this era, that fiqh always brings colour to the environment[22]. The general confirmation in the fiqh is dzanni (relative) when it is still in the level of the product of thought, so it is not binding on every Muslim. Fiqh is dynamic (flexible), not universal to change. However, the fiqh becomes a qanun or positive law or becomes a reference in a judge's decision in court, it automatically binds every Muslim or party.

The implementing of basic values of Islamic law such as *shidq* (honesty) and *amanah* (*dependance*) into the fiqh of the budget is based on the rules of ushul fiqh which confirmed by [33] stated that the incomplete obligatory to implement except with the existing of anything, then it is obligatory too". In managing the budget, honesty (*shidq*) is an obligatory, which cannot be carried out except by implementing the principle of budget transparency. Therefore, based on these rules (principles), budget transparency is mandatory. In the Islamic view, avoiding budget transparency or no openness is disobedience or tyranny.

Honest behaviour (*shidq*) is very closely concerning to the mandate attitude (*amanah*). If the trustworthy (*amanah*) character is maintained, then honesty (*shidq*) can be upheld. In this case, *shidq* (honesty) is closely related to the budget information process, while trust (*amanah*) is related to the commitment to allocate and distribute the budget to those entitled to implement the values of benefit, welfare, goodness and accountability. Control of *shidq* (honesty) and trust is carried out by building a supervising system. This monitoring system must be implemented firmly and supported by the rule of law that reflects the values of justice and responsibility [34].

Based on the principle (*kaidah*) of ushul fiqh (the scienc of fiqh), it can be stressed that budgetary oversight which is an obligation, the application of *shidq* and *amanah* will not run without supervision. The supervision cannot be carried out properly without budget transparency[35]. Therefore, in the perspective of budget fiqh, upholding budget transparency is the implementation of worship that occupies a noble and noble position in religion principle.

In this effort, the implementing of the fundamental values of Islamic law to prepare of the budget becomes very pivotal and has a high function to anticipate corruption. In this context, the existence of the budget fiqh is significant and very functional, because it is not only for personal gain but also for the community at large, including the nation and state society[36]. Therefore anyone who is involved in preparing the budget must be legally linked so that it has consequences that can be accounted for in court if fraud occurs.

Contextually, the budget fiqh in Indonesia, which has been adopted as positive law such as the Compilation of Islamic Law and the Compilation of Sharia Economic Laws, indeed still wide open for revision. But in anticipation of manipulation of funds, the urgency of giving legal sanctions to those who are proven to be dishonest, unsafe is very important [37], because Islamic values that are legally linked, will be more binding than only morally or ethically related to the level of compliance highly dependent on personal awareness associated.

Supervision and Control through Budget Fiqh

In Islam tradition, the supervision has functions as control to carry out to straighten out the unrighteous, correct the wrong and justify the right. The supervision referred to previous study is divided into two; first internal control is supervision which comes from its control and comes from faith in Allah SWT (*tauhid*). Philosophically, the supervision function in Islam arises from the human understanding of individual responsibility, trust, and justice [38].

Supervision that comes from the heart of every Muslim person will distance himself from the form of irregularities in managing the budget and will lead him to be consistent with the norms, rules in carrying out the laws of Allah SWT in each of his activities. second, external supervision is carried out from outside of human beings and consists of a supervisory mechanism [39] from the leader relating to the completion of delegated tasks, suitability between task completion and planning of tasks related to the budget and others.

A human being who is faith to Allah SWT surely oversees his servants, so he will implement cautiously in his life. Its faith will grow commitment related to budget management. Thus, corrupt behaviour in the budget will be avoided. The efforts of external supervision regarding to budget fiqh existence of Indonesian-style are feasible, as a mechanism for controlling leaders and staff in the preparation of the organization budget, which is supported with the monotheism principle, accountability and *amar makruf nahi munkar* (*enjoining what is right and forbidding what is wrong*). The integration of the basic values of Islamic law in budget planning is realized through three pillars supervision as a control [40], namely; 1) individual devotion, 2) control of members of the organization/community and the environment, 3) the rule of law or law enforcement.

All organizational stakeholders must be guided to become devout human resources that human resources become resilient in every place and time to be the most effective control. In addition, it is necessary to arrange a mechanism to supervise each other horizontally among member [41]. The efforts to realize budget fiqh as a control system in budget oversight are not just moral calling, but in the form of budget control regulations in every company

or organization, both formal and community mechanisms, so there is a reward mechanism for those who excel and punishment for those who commit irregularities.

IV. CONCLUSION

This research concludes that in the perspective of budget fiqh, upholding budget transparency is the implementation of worship that occupies a great and noble position in religion. The effort must be conducted in overcoming, anticipating, and even eradicating corruption in Indonesia is not just to intensify the examination, investigation, and arrest of corruptors and in the law. In eliminating and anticipating crime, it is not only by increasing campaigns to improve one's moral values.

However, to realize and socialize budget fiqh in Indonesia as a system of budgetary oversight and control, both formal and community mechanisms, should be carried out, although the results of these efforts are relatively questionable. It can happen because there will be many challenges and obstacles from those who are being used to corrupt behavior.

The reinforcement system to law agency institutions must be conducted. The honesty of law enforcers must be built strongly. It is intended so that the process of handling corruption can run efficiently. The credibility of the legal apparatus in Indonesia is demanded to be more fair, objective and impartial in looking at and not being selective in handling a corruption case. The case of a corruptor must be processed and can be resolved quickly, like solving the case of a petty thief that does not require a long time. It is the professionalism of law enforcers in Indonesia which is demanded if the government is committed to solving corruption cases that can run effectively, efficiently and the realization of a healthy and clean organization of corruption.

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