

# The Implementation of *Fiqh* Principle in Islamic Financial Products: A Systematic Literature Review

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## Abstract

The *fiqh* rules aims to provide a foundation for all activities carried out by Muslims, including economic activities. The rules of *fiqh* can solve various contemporary economic problems by drawing a red thread from the previous arguments. For example, the phenomenon of online buying and selling that is currently rife can be found by linking the arguments that can be used as a reference. This implementation must be done because, with it, Islamic economic activity will be more straightforward to achieve its goals. The purpose of this study is to find out the application of the rules of *fiqh* in various Islamic financial products. The method used in this study is a systematic literature review which is done extracting several scientific journals related to the theme. The application of the rules of *fiqh* in various Islamic financial products has proven to be significant and had a positive impact on various economic sides. Applying the rules of *fiqh* gives all economic layers a foundation for doing something so that it does not come out of the principles of Islamic sharia.

**Keywords:** *fiqh* rules, Islamic financial products, economic activities

## Introduction

Islamic finance has experienced significant growth in recent decades,<sup>1,2</sup> including a range of products and services designed to meet the financial needs of the Muslim community as well as non-Muslims seeking alternatives to managing their finances.<sup>3</sup> Operationally, Islamic finance is explained through the basic principles of sharing risk and profit-loss sharing.<sup>4</sup> There is a wide range of Islamic financial products available, many of which have similarities, but are used for different purposes.<sup>5</sup> This shows its increasing attractiveness among investors and customers. This success is inseparable from the application of *fiqh* rules that ensure that every transaction is in accordance with the principles of Islamic law.

The rules of *fiqh* are basic principles developed by scholars to guide the application of Islamic law in various aspects of life, including economics and finance.<sup>6</sup>

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<sup>1</sup> M. Kabir Hassan, *et. al.*, "Convergence in Islamic Financial Development: Evidence from Islamic Countries Using the Fourier Panel KPSS Stationarity Test," *Borsa Istanbul Review*, Vol. 23, No. 6, (November, 2023): 1289–1302, <https://doi.org/10.1016/j.bir.2023.09.006>.

<sup>2</sup> Imron Mawardi, *et. al.*, "The Influence of Institutional Quality, Economic Freedom, and Technological Development on Islamic Financial Development in OIC Countries," *Journal of Open Innovation: Technology, Market, and Complexity*, Vol. 10, No. 2, (June, 2024): 100279, <https://doi.org/10.1016/j.joitmc.2024.100279>.

<sup>3</sup> Madina Kalimullina and Mikhail (Shamil) Orlov, "Islamic Finance and Food Commodity Trading: Is There a Chance to Hedge against Price Volatility and Enhance Food Security?," *Heliyon*, Vol. 6, No. 11, (November, 2020): 05355, <https://doi.org/10.1016/j.heliyon.2020.e05355>.

<sup>4</sup> Kalimullina and Orlov.

<sup>5</sup> Nikonova Tatiana, Kokh Igor, and Safina Liliya, "Principles and Instruments of Islamic Financial Institutions," *Procedia Economics and Finance*, No. 24, (2015): 479–84, [https://doi.org/10.1016/S2212-5671\(15\)00613-9](https://doi.org/10.1016/S2212-5671(15)00613-9).

<sup>6</sup> Minlib Dallh, "Accumulate but Distribute: Islamic Emphasis on the Establishment of Waqf

This stems from the response of Muslim economists to contemporary economic activity so as not to escape the teachings of Islam.<sup>7</sup> These principles include the prohibition of *riba* (interest), *gharar* (uncertainty), *maysir* (gambling), as well as the obligation to ensure fairness and equitable risk sharing.<sup>8</sup> By integrating *fiqh* rules, Islamic financial products strive to create a system that is fair, transparent, and free from exploitation.<sup>9</sup>

The application of *fiqh* rules in Islamic financial products not only promotes compliance with Islamic law,<sup>10</sup> but also offers various additional benefits. Among these are increased financial inclusion, financial system stability, and the creation of sustainable alternatives to conventional financial products. Despite these benefits, the application of *fiqh* rules also faces several of challenges. These include information asymmetry, moral hazard, regulatory complexity, and a lack of public awareness and understanding of Islamic finance.<sup>11</sup>

Many studies have been conducted on the application of *fiqh* rules in Islamic financial products. Still, most of them are fragmentary and do not provide a comprehensive picture of this topic. Therefore, a systematic review is needed to integrate existing findings, identify emerging patterns, and evaluate the impact of applying *fiqh* rules on the effectiveness and sustainability of Islamic financial products.

This research aims to conduct a systematic literature review on the application of *fiqh* rules in Islamic financial products. This review is expected to generate a deeper understanding of how *fiqh* rules are applied in various Islamic financial products, as well as identify the successes, challenges, and impacts of the application. Thus, this study is expected to make a meaningful contribution to the development of Islamic finance theory and practice, as well as offer insights for practitioners, academics, and policy makers to optimize the application of *fiqh* rules in the Islamic finance industry.

## Methodology

This research uses a systematic literature review that adopts guidelines from Kitchenham & Charters.<sup>12</sup> This systematic literature review aims to determine the application of *fiqh* rules in Islamic financial products in Indonesia. To achieve this goals of research, the research defines two research questions (RQ), RQ<sub>1</sub>: How are

(Pious Endowment): Research Article," *Religion and Development*, Vol. 2, No. 1, (September 20, 2023): 21–40, <https://doi.org/10.30965/27507955-20230014>.

<sup>7</sup> Mahmoud Fayyad, "Reconstructing Lease-to-Own Contracts: A Contemporary Approach to Islamic Banking Standards," *Heliyon*, Vol. 9, No. 9, (September, 2023): e19319, <https://doi.org/10.1016/j.heliyon.2023.e19319>.

<sup>8</sup> Burhan Uluyol, "Financial Derivative Instruments and Their Applications in Islamic Banking and Finance: Fundamentals, Structures and Pricing Mechanisms," *Borsa Istanbul Review*, (March, 2024), S2214845024000334, <https://doi.org/10.1016/j.bir.2024.02.013>.

<sup>9</sup> Siti Khadijah Ab Manan and Muhammad Hakimi Bin Mohd Shafiai, "Risk Management of Islamic Microfinance (IMF) Product by Financial Institutions in Malaysia," *Procedia Economics and Finance*, No. 31, (2015): 83–90, [https://doi.org/10.1016/S2212-5671\(15\)01134-X](https://doi.org/10.1016/S2212-5671(15)01134-X).

<sup>10</sup> Irwan Maulana, "Implementasi Qawaid Fiqhiyyah dalam Ekonomi dan Industri Keuangan Syariah," *Jurnal Asy-Syukriyyah*, Vol. 19, No. 2, (Oktober, 2018).

<sup>11</sup> Alvian Chasanal Mubarroq and Luluk Latifah, "Analisis Konsep Muamalah Berdasarkan Kaidah Fiqh Muamalah Kontemporer," *Tadayun: Jurnal Hukum Ekonomi Syariah*, Vol. 4, No. 1, (2023): 95–108.

<sup>12</sup> Barbara Kitchenham and Stuart Charters, "Guidelines for Performing Systematic Literature Reviews in Software Engineering," *EBSE Technical Report EBSE-2007-01*, (2007).

*fiqh* rules applied in Islamic financial products?, RQ<sub>2</sub>: What is the impact of the application of *fiqh* rules on Islamic economic activities?

The database used in this research is a comprehensive database in the field of *fiqh* rules and Islamic financial products. The data sources chosen are Science Direct (sciencedirect.com), Proquest (search.proquest.com), and Google Scholar (scholar.google.com). These databases are used because they contain research that discusses the application of *fiqh* rules in Islamic financial products in Indonesia.

The keywords used in the search process were *fiqh* rules and Islamic financial products. The researcher also used the keywords “Islamic savings”, “Islamic deposits”, “Islamic financing”, “Islamic pawn”, and “Islamic current accounts” to replace the keywords “Islamic financial products” in order to get more complete and comprehensive results.

Researchers applied inclusion criteria to obtain articles relevant to the research topic. The inclusion criteria applied were “articles must describe the application of *fiqh* rules in Islamic financial products”, and “research publications in the range of 2017 - 2024”. The article search stage was conducted on May 15, 2024.

Table 1 presents the number of articles generated during the search process. The initial search results amounted to 65 articles. The next step was to check the relevance of the articles by applying the inclusion criteria in the title and abstract in turn. And as a result, the researcher got 12 articles to review.

**Table 1. Search Result**

Database	Initial Result	Relevant (Chapter)	Relevant (Abstract)
ScienceDirect	7	3	0
Proquest	9	3	0
Google Scholar	49	24	12
Total	65	30	12

**Data Extraction**

The researcher started the demographic analysis on the 12 articles that had been obtained. The selected articles were published between 2017 and 2024, with the distribution presented in Figure 1. Figure 1 presents the distribution of articles based on the year of publication. In 2020 and 2021 no articles were found that discussed the specified topics. The year 2023 has the highest number of articles, namely five published articles.

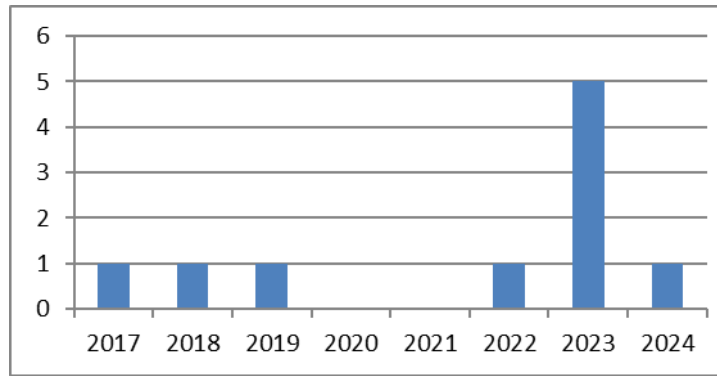


Figure 1. Article Distribution

## Result and Discussion

### Application of *Fiqh* Rules in Islamic Financial Products (RQ1)

The following is a literature review related to the application of *fiqh* rules to sharia financial products in Indonesia, including: *sharia* credit card, *sukuk*, Islamic finance, *murabahah bil wakalah* contract, *musyarakah* agreement, and *mudharabah* agreement.

Table 2. Application of Rules

Islamic Financial Products	<i>Fiqh</i> Rules	Article
Sharia Credit Card	الأصل في المعاملة الإباحة إلا أن يدل دليل تحريمها	Rizaludin, et. al., 2023 <sup>13</sup>
<i>Sukuk</i>	الأصل في المعاملة الإباحة إلا أن يدل دليل تحريمها المحافظة بالتقديم الصلح والأخذ بالجديد الأصلح تغير الفتوى واختلافها بحسب الأزمنة والأمكنة والأحوال والنيات والعوائد	Alvian Chasanal Mubarroq and Luluk Latifah, (2023) <sup>14</sup>

<sup>13</sup> Rizaludin, Hari Susanto, and Jaih Mubarak, "Analisis Kaidah Urf pada Fatwa DSN-MUI No. 54 tentang Syariah Card," *Al-Kharaj: Jurnal Ekonomi, Keuangan & Bisnis Syariah*, Vol. 5, No. 4, (December 31, 2023): 1904–21, <https://doi.org/10.47467/alkharaj.v5i4.1823>.

<sup>14</sup> Alvian Chasanal Mubarroq and Luluk Latifah, "Analisis Konsep Muamalah Berdasarkan Kaidah *Fiqh* Muamalah Kontemporer," *Tadayun: Jurnal Hukum Ekonomi Syariah*, Vol. 4, No. 1, (2023).

Islamic Financial Products	Fiqh Rules	Article
Islamic Financing	الخراج بالضمان الأصل في المعاملة الصحة و في الغقود الزوم القرم بالقنم المشقة تجلب التيسير الأمر بمقاصدها	Nurjamil, <i>et. al.</i> , (2024); <sup>15</sup> Ai Imas Mursyidah Zein and Fauzan Januri, (2023); <sup>16</sup> Hendri Hermawan Adinugraha, (2017); <sup>17</sup> Eja Armaz Hardi, (2019); <sup>18</sup> Irwan Maulana, (2018); <sup>19</sup>
Akad Murabahah bil Wakalah	الأمر بمقاصدها الأصل في الشروط المعاملة الحل والإباحة إلا بدليل إنما البيع عن التراض المشقة تجلب التيسير	Vidairotul Hamdiah and Yenni Samri Julianti Nasution, (2023); <sup>20</sup> Muhammad Adi Permana Abdullah, (2021); <sup>21</sup>
Akad Musyarakah	الأصل في المعاملة الإباحة إلا أن يدل دليل تحريمها	Iva Lisrohkhathim, <i>et. al.</i> , (2023); <sup>22</sup> Imam Kamaluddin, <i>et. al.</i> , (2022) <sup>23</sup>

<sup>15</sup> Nurjamil, Rachmat Syafe'i, and Mustofa, "Implementasi Kaidah Al-Kharaj bi Adh-Dhamaan dalam Pembiayaan Sindikasi Syariah dalam Perspektif Hukum Ekonomi Syariah," *Res Nullius Law Journal*, Vol. 6, No. 1, (2024): 41–59.

<sup>16</sup> Ai Imas Mursyidah Zein and Fauzan Januri, "Konsep dan Implementasi Kaidah Fiqhiyah tentang Syirkah (Studi di Koperasi Syariah Baitul Mu'min Ujung-Berung Bandung)," *Rayah Al-Islam*, Vol. 7, No. 1, (April 28, 2023): 306–24, <https://doi.org/10.37274/rais.v7i1.674>.

<sup>17</sup> Hendri Hermawan Adinugraha, "Penerapan Kaidah Al-Ghunm bi al-Ghurm dalam Pembiayaan Musharakah pada Perbankan Syariah," *Economica: Jurnal Ekonomi Islam*, Vol. 8, No. 1, (May 31, 2017): 81–102, <https://doi.org/10.21580/economica.2017.8.1.1827>.

<sup>18</sup> Eja Armaz Hardi, "Kaidah Al-Masyaqqah Tajlibu At-Taisir dalam Ekonomi Islam," *Nizham: Jurnal Studi Keislaman*, Vol. 6, No. 02, (2019): 99–110.

<sup>19</sup> Irwan Maulana, "Implementasi Qawaid Fiqhiyyah dalam Ekonomi dan Industri Keuangan Syariah," *Jurnal Asy-Syukriyyah*, Vol. 19, No. 2, (Oktober, 2018).

<sup>20</sup> Vidairotul Hamdiah and Yenni Samri Julianti Nasution, "Analisis Praktik Akad Murabahah Bil Wakalah di Bank Sumut Syariah KCP Marelana Raya dan Keterkaitannya dengan Kaidah Fikih Ekonomi Islam," *Intelektiva*, Vol. 5, No. 3, (November, 2023).

<sup>21</sup> Muhammad Adi Permana Abdullah, "Critical Study Concept and Implementation of the Sale and Purchase Murabahah Based on a Review of Sharia in Islamic Banking," *Laa Maisir*, Vol. 9, No. 1, (June, 2022).

<sup>22</sup> Iva Lisrohkhathim, Erfi Dwi Mutahharo Tunnisak, and Alfina Ratna Wardani, "Penerapan Kaidah Fiqh Manajemen Laba pada Lembaga Keuangan Syariah dalam Perspektif Islam," *Digital Bisnis Jurnal Publikasi Ilmu Manajemen dan E-Commerce*, Vol. 2, No. 2, (June, 2023).

<sup>23</sup> Imam Kamaluddin, Nurul Rahmania, and Syamsuri, "Implementasi Qowaidh Fiqhiyyah pada Bagi Hasil Perbankan Syariah melalui Akad Musyarakah," *Al-Muamalat: Jurnal Ilmu Hukum dan Ekonomi Syariah*, Vol. VIII, No. 2, (2022).

Islamic Financial Products	Fiqh Rules	Article
Akad Mudharabah	الأصل في المعاملة الإباحة إلا أن يدل دليل تحريمها القرم بالقنم الضرر يدفع على قدر الإمكان	Eja Armaz Hardi, (2018); <sup>24</sup> Abidin Nurdin, <i>et. al.</i> , (2022); <sup>25</sup> Iva Lisrohkhathim, <i>et. al.</i> , (2023) <sup>26</sup>

The rules of *fiqh*, in addition to being applied to worship activities, can also be applied in economic behaviour.<sup>27</sup> If this *fiqh* rule is applied in economic activity, it will become more directed and have a clear purpose, besides making all decisions based on it.<sup>28</sup> One of the *fiqh* rules applied in Islamic economic activity is the rule of *al-masyaqqatu tajlibu at-taisir*.<sup>29</sup>

Based on this research, this *fiqh* rule can be applied in economic activities by classifying the level of difficulty faced. In its implementation in the world of Islamic economics, there are several categories of convenience, namely ease with the elimination of difficulty, reduction of difficulty, substitute for difficulty, introduction, termination, *rukhsah*, and change. One example is financing in Islamic banking. To avoid usury, Islamic banks offer financing products with a profit-sharing system, buying and selling, and leasing.

Another application of *fiqh* rules is the application of the rules of *al-ghunm bi al-ghurm*,<sup>30</sup> This rule if interpreted means that every profit that arises is accompanied by risk. If implemented in Islamic banking *musyarakah* products, the *musyarakah* contract has benefits and risks. One of the risks in the *musyarakah* contract is the fluctuating profit level. Because the *musyarakah* contract does not determine the profit at the beginning like the interest system.

In addition to *musyarakah* contracts, this *fiqh* rule can also be applied to *mudharabah* contracts. This contract has two links, namely obtaining profits with a partnership system and bearing mutual risks if the business experiences losses, both of these systems will be borne by both parties. However, in this contract, if the loss is intentionally committed by the business actor or the one who manages the capital, the loss is only borne by the business capital manager, while the capital

<sup>24</sup> Eja Armaz Hardi, "Kaidah Al-Masyaqqah Tajlibu At-Taisir dalam Ekonomi Islam," *NIZHAM: Jurnal Studi Keislaman*, Vol. 6, No. 02, (2018).

<sup>25</sup> Abidin Nurdin, *et. al.*, "Tujuan Hukum Islam untuk Kemaslahatan Manusia: Penerapan Kaidah Fiqh dalam Bidang Ekonomi dan Hukum Keluarga," *Jurnal Hukum Keluarga*, Vol. 5, No. 1, (June, 2022).

<sup>26</sup> Lisrohkhathim, Tunnisak, and Wardani, "Penerapan Kaidah Fiqh Manajemen Laba pada Lembaga Keuangan Syariah dalam Perspektif Islam," *Digital Bisnis: Jurnal Publikasi Ilmu Manajemen dan E-Commerce*, Vol. 2, No. 2, (2023).

<sup>27</sup> Awal Rifai Wahab, "Implementasi Qawāid Fiqhiyyah dalam Ekonomi Syariah," *AL-KHIYAR: Jurnal Bidang Muamalah dan Ekonomi Islam*, Vol. 2, No. 1, (May 26, 2022): 102–13, <https://doi.org/10.36701/al-khiyar.v2i1.540>.

<sup>28</sup> Dewi Dewi Maharani, "Implementasi Prinsip-Prinsip Muamalah dalam Transaksi Ekonomi: Alternatif Mewujudkan Aktivitas Ekonomi Halal," *Jurnal Hukum Ekonomi Syariah*, No. 1, (November 10, 2020): 131, <https://doi.org/10.30595/jhes.v0i1.8726>.

<sup>29</sup> Hardi, "Kaidah Al-Masyaqqah Tajlibu At-Taisir dalam Ekonomi Islam."

<sup>30</sup> Adinugraha, "Penerapan Kaidah Al-Ghunm bi al-Ghurm dalam Pembiayaan Mushārahah pada Perbankan Syariah."

owner is not responsible for the loss.

In the case of Islamic financial products, the *fiqh* rules that are widely used are the rules of *fiqh al-ashlu fi al-mu'amalah al-ibahah illa 'an yadulla dalilun 'ala tahrimihaa*.<sup>31</sup> This rule if interpreted linguistically means 'all *muamalah* is basically permissible, unless there is evidence that forbids it'. If examined in an essential and rational manner, all *muamalah* activities are permissible except those that have been proven to be forbidden. This *fiqh* rule is the basis for determining the laws relating to *muamalah*.

An example of the application of this *fiqh* rule in Islamic financial products is in a *mudharabah* contract,<sup>32</sup> Based on this contract, *mudharabah* contracts may be carried out considering the different human conditions. In these namely conditions, one has capital while the other party has expertise. So, seeing the *maslahah* that will be obtained, *mudharabah* is allowed by making some rules and regulations so that this *mudharabah* contract can be carried out in accordance with *sharia* principles. Then, for the parties involved, an agreement will be made between the two, and then the profits will be divided based on the agreed contract.

In addition to *mudharabah* contracts, this *fiqh* rule is also applied to Islamic financial products with *murabahah bil wakalah* contracts,<sup>33</sup> in research conducted by Hamdiah, *et. al.*, Islamic financial products with this contract are included in products that are in great demand by consumers, because in addition to the easy process, this product can also be used to meet consumer needs such as housing and so on.

But in reality, the practice of this *murabahah* contract, if traced further, mixes the *murabahah* contract and the *wakalah* contract because the bank asks the consumer to buy the goods needed. So, that here it is not the Islamic bank directly that buys the wholeness but the consumer. Then the researcher relates the case that occurred in this field to one of the *fiqh* rules, namely *al-umuru bi maqosidiha*, which means that everything depends on the intention.

This rule is the basis for the practice of the *murabahah bil wakalah* contract. The Islamic bank and consumers must both have a clear intention so that the objectives of both parties will be achieved. Because if one of the parties or even both is not based on the right intention, problems will feared to arise.

### The Impact of *Fiqh* Rules on Islamic Economic Activities

The implementation of *fiqh* rules in the activities of Islamic economists will have a positive and significant impact,<sup>34</sup> because *fiqh* rules are basic principles derived from the al-Qur'an and Hadith. The impact of the application of *kaidah fiqh* is for example the creation of justice and balance, avoiding prohibited rights such as usury (*riba*), *gharar* and can better understand the concept of *halal* and *haram*.

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<sup>31</sup> Nurdin, *et. al.*, "Tujuan Hukum Islam untuk Kemaslahatan Manusia: Penerapan Kaidah Fiqh dalam Bidang Ekonomi dan Hukum Keluarga."

<sup>32</sup> Lisrohkhathim, Tunnisak, and Wardani, "Penerapan Kaidah Fiqh Manajemen Laba pada Lembaga Keuangan Syariah dalam Perspektif Islam."

<sup>33</sup> Hamdiah and Nasution, "Analisis Praktik Akad Murabahah Bil Wakalah di Bank Sumut Syariah KCP Marelana Raya dan Keterkaitannya dengan Kaidah Fikih Ekonomi Islam."

<sup>34</sup> Mirzam Arqy Ahmadi. *et. al.*, "Implementasi Kaidah Fiqh dalam Kesepakatan Ekonomi Lembaga Keuangan Syariah: Evaluasi Aspek Etika dan Operasional," *Al-Iqtishady: Jurnal Ekonomi Syariah*, Vol. 02, No. 01, (April, 2024).

As an example of this impact, the rules of *fiqh* can provide legal legitimacy for various forms of economic transactions such as the rule '*al-ashlu fi al-muamalah al-ibahah illa an yadulla dalilu 'ala tahrimiha*' ensures that all economic activities carried out by Muslims are in the corridors of *sharia* law so as to create a sense of security to the public against legal certainty in transactions.<sup>35</sup>

With the application of *fiqh* rules, economic activity will become more transparent and ethical. Economic practices that lead to speculation, fraud, and injustice will be minimized. Likewise, in Islamic banking activities, for example,<sup>36</sup> By applying *fiqh* rules, banks will have clear rules in running their financial products. Banking will automatically have guidelines that are by Islamic law, such as avoiding usury. In addition, the Muslim community will better understand the concept and meaning of *halal* and *haram*. *Fiqh* rules will make financial products and services meet *sharia* standards. This will create a safe and trustworthy market for consumers, especially Muslim consumers.

Overall, the implementation of *fiqh* rules in economic activity will not only create a fair and ethical economic system, but can also encourage futuristic and sustainable economic growth, in order to realize the goal of Islamic economics itself, namely *falah* or community welfare.

## Conclusion

The application of *fiqh* rules in Islamic economic activity has an important role in shaping and directing economic practices that are in accordance with *sharia* values. The rules of *fiqh* provide a framework that ensures that all economic activities are in accordance with *sharia* principles. The implementation of *fiqh* rules also aims to achieve social justice and general welfare.

In addition, the rules of *fiqh* also provide guidance for various economic transactions, to avoid the occurrence of things that are unethical and violate ethics. With the rules of *fiqh*, economic activity is protected from exploitation and abuse. For example, the prohibition of usury protects people from the exploitation of high interest. In the field of business, the application of *fiqh* rules also emphasizes ethical aspects in its implementation, so that Islamic principles such as trust and mutual help can be implemented to the fullest.

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<sup>35</sup> Nurdin, *et. al.*, "Tujuan Hukum Islam untuk Kemaslahatan Manusia: Penerapan Kaidah Fiqh dalam Bidang Ekonomi dan Hukum Keluarga."

<sup>36</sup> Iwan Permana, "Penerapan Kaidah-Kaidah Fiqih dalam Transaksi Ekonomi di Lembaga Keuangan Syariah," *Tahkim (Jurnal Peradaban dan Hukum Islam)*, Vol. 3, No. 1, (March 2, 2020), <https://doi.org/10.29313/tahkim.v3i1.5617>.



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