

The Position of Online Ojek Based on the Perspective of Islamic Law

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ABSTRAK

Di era sekarang ini, manusia mengutamakan sistem dan bisnis, namun seiring dengan kemajuan Islam, ekonomi dan bisnis berbasis syariah kini mulai berkembang. Untuk memenuhi kebutuhan sehari-hari, transportasi saat ini menjadi kebutuhan yang mendesak bagi setiap orang. Hal ini dikarenakan transportasi dapat menunjang segala aktivitas di masyarakat. Jenis angkutan ini juga mempengaruhi perputaran kegiatan yang dapat dimanfaatkan dalam bidang ekonomi, pengiriman barang atau jasa, dan angkutan penumpang. Penelitian ini bertujuan untuk menganalisis posisi ojek online dalam perspektif hukum Islam. Melihat perkembangan ekonomi Islam saat ini, banyak yang tidak mengikuti syariat Islam dalam pengembangan ekonomi dan bisnis. Dalam hal ini, kasus yang menarik untuk diteliti adalah perkembangan bisnis transportasi online. Penelitian ini menggunakan metode yuridis normatif. Dalam penelitian normatif, untuk memperoleh data harus menggunakan sumber data sekunder atau data kepustakaan dan menyalahgunakan hukum dan hadis, atau al'qur'an sebagai acuan penulisan. Maka dari pembahasan tersebut dapat kita lihat bahwa perusahaan jasa transportasi online telah berhasil mencapai prinsip-prinsip bisnis syariah. Ini semua dibuktikan dengan kemajuan ekonomi dan telah menciptakan kesejahteraan masyarakat.

ABSTRACT

In today's era, humans prioritize systems and business, but along with Islamic progress, Sharia-based economy and business are now starting to develop. To meet daily needs, transportation is currently the urgent need for everyone. This is because transportation can support all activities in the community. This type of transportation too affects the rotation of activities that can be utilized in the economic sector, delivery of goods or services, and passenger transportation. This study aims to analyze the position of online ojek based on the perspective of Islamic law. Looking at the current development of the Islamic economy, many do not follow Islamic law in economic and business development. In this case, a compelling case for research is the development of the online transportation business. This study uses the normative juridical method. In normative research, to obtain data, you must use secondary data sources or library data and abuse laws and Hadith, or Al'qur'an as a writing reference. So, from the discussion, we can see that online transportation service companies have succeeded in achieving Sharia business principles. This is all proven by economic progress and has created community welfare.

1. INTRODUCTION

To meet daily needs, transportation is currently the urgent need for everyone. This is because transportation can support all activities in the community. This type of transportation too affects the rotation of activities that can be utilized in the economic sector, delivery of goods or services, and passenger transportation (Afandi & Sari, 2019; Putra & Raharjo, 2021). Rapid development of transportation online-based or online motorcycle taxis make enthusiast in the work too is increasing, the work that generally done by a man now also can be done by people woman (Maeni & Ningtyas, 2021; Silalahi et al., 2017). Online motorcycle taxi service providers provide opportunities for Indonesian people

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to join as online motorcycle taxi driver partners with a partnership agreement. Of course, this aims to increase the effectiveness and efficiency of its users (Amin & Faizal, 2021; Septiani et al., 2017).

The rapid development of online motorcycle taxi service providers, of course, cannot be separated from the participation of users and their driver partners. Based on the existing fact, the increase in the number of users is due to the large number of users who entrust online motorcycle taxi services to meet their needs. This of course has an impact on the increasing need for online motorcycle taxi service providers to have online motorcycle taxi driver partners. So that it opens up wide opportunities for the community to join as an online motorcycle taxi driver partner (Amin & Faizal, 2021; Saputra et al., 2020). Islam is a religion that highly upholds adab and behavior. Islam is a religion in which every aspect of life is very well regulated. Allah SWT sent down the Qur'an as a guide for human life. Humans are social beings who are interdependent with other humans because humans have a very high social spirit (Muh Asriadi & Hadi, 2021; Othman et al., 2014). Humans always have the nature of helping each other, exchanging benefits in aspects of life both in business, work, renting, trading, or in other Javanese fields.

The partnership agreement applied by online motorcycle taxi service providers is of course different from the work agreement that has been regulated in Law Number 13 of 2003 concerning Manpower. As explained by previous research which concluded, the Gojek partnership agreement cannot be covered by the Manpower Act, because there is no element of command and work wages (Sonhaji, 2018). So that legal umbrella of this partnership agreement is returned to the civil realm, which is related to the legal terms of the agreement and the principles of the agreement. People prioritize the economic and business systems in this day and age, but as Islam progresses, Sharia-based economy and business are now starting to develop. Judging from the current development of Islamic economics, many still do not carry out Islamic law in economic and business development.

In this problem, a fascinating case to be researched is the development of an online transportation business. The business is called an online motorcycle taxi. The purpose of the online motorcycle taxi is to make it easier for consumers to travel from their original place to the desired location by simply ordering using the application that can be downloaded on the gadget. In this case, business people strive with technological advances in today's era, seeking to do everything efficiently. Businesses that use virtual application systems to facilitate transportation services are called Grab businesses. Several studies suggest the characteristics of online transportation users, namely people who are relatively young, educated, and financially sufficient (Sari, R., & Sastrawati, 2019; Valenci & Winata, 2020). Meanwhile, when viewed in terms of age and gender factors, these factors do not affect the use of online motorcycle taxis, income factors affect the use of motorcycle taxis, where by having sufficient income, customers are quite capable in terms of ordering the online transportation service, education level also affects online motorcycle taxi users, it can be seen that most students also use online motorcycle taxi applications (Imtiaz & Kamal, 2021).

At this time, there are still many cases of sexual harassment that occur in public transportation. One of the parties who very often experience incidents of sexual harassment are women, such as verbal sexual harassment that can even lead to rape. In the sense that what is meant by sexual harassment is an act of sexual behavior in words, writing, physical, and visual for sexual interest to make the victim feel angry, embarrassed, or uncomfortable for the action. The main aspect that I want to emphasize is the Islamic view of the materialistic approach. Islam does not denounce the need for material in the activities of human life. Therefore Islam provides provisions in achieving material wealth, meaning that in Islam efforts to obtain wealth or seek sustenance are well regulated (Sari, R., & Sastrawati, 2019).

The factor in the occurrence of sexual harassment can be supported by wearing clothes, especially if it is noticed that nowadays young people's associations are increasingly free, starting from the way of dressing and socializing. Therefore it is not uncommon for many women to dress inappropriately or habitually. It is said to be indecent. Ironically, victims of sexual harassment do not only happen to women who have chronic physical conditions, but people with disabilities get the abuse treatment. This attitude of sexual deviation has occurred for centuries and continues to affect people's lives, and society should have a solid form of rejection of sex. Sexual morality is an integral part of ethical behavior that can apply to humans, which includes sexual ethics are some of the various social norms, behavior patterns, and personal habits directly related to sexual instincts. Therefore, it is better if the Ojek Online company that is the subject of study for Grab Bike Car can create application features to protect customers so that women can choose as they wish and prevent sexual harassment from occurring, even those who must be considered as online business entrepreneurs, The importance of paying attention to a business position from a religious perspective becomes the central part because if a business is carried out based on good religious rules, it cannot be denied that the business will be far from bad things. This study aims to analyse the position of online ojek based on the perspective of Islamic law.

2. METHODS

In the data analysis stage, the authors process the data obtained from online motorcycle taxi partnership agreements as primary legal materials, legal publications related to partnerships as secondary materials and other information using deductive thinking methods (Mustofa, 2016). The final stage of this data analysis is to check the validity of the data. After this stage, the compiler performs the stage of interpreting the data from the interim results, based on the theoretical framework that has been built previously as well as drawing conclusions from the research results.

As a source of normative research where in this research the author uses secondary data sources or library data, the approach in this study has a goal to determine the position of an online business to discuss problems using the method of legislation and the rules of the Qur'an and hadith. In addition, this writer uses a normative juridical approach by analyzing issues and topics descriptively, qualitatively, by explaining legal provisions and sources of Islamic law relating to these problems.

3. RESULTS AND DISCUSSIONS

Results

Factors Occurrence of Sexual Harassment Against Female Customers That Occurs In Online Ojek.

The internet and smartphones have made Muslims live in the real world and the virtual world. Both will have legal implications because they are related to whether or not to do something. This is the urgency of reforming fiqh and law in the era of cyberspace. Currently, the economic activities in the digital world are increasing with the adoption of smart contracts in the blockchain and its derivative products, such as e-commerce, fintech (financial technology), and others. However, the discussion of smart contracts in terms of law (e.g., national law and Islamic law) is still relatively small. Although some studies have discussed it, the discussion is still not integrated and comprehensive to provide understanding to the public on technical, legal, and Islamic legal aspects related to the topic.

Islamic law has advantages that are not owned by man-made laws in various aspects and meanings. Man-made law is limited to a set of rules that are material and mundane. In Islamic law, the dignity and rights of human life and the rights attached to it have received maximum attention. Thus, humans have the right of *karamāh* (right of glorification) and the right of *faḍīlah* (priority of humans). This is in accordance with the main mission of the teachings of Islam itself, namely *rahmatan lil 'ālamīn*, namely safety and welfare is an absolute offer for human existence on earth. Online transportation has been widely used since 2015 since technological advances have made it easier for people's lives. Many large companies have taken advantage of these advances, one of which many companies are seeking to create an online transportation tool, which helps the community, in particular, making it easier to travel from one place to another. to another location. However, technological advances are also inseparable from crimes that lead to criminals.

Advances in technology used to simplify people's lives are often misused by some people, for example, in online motorcycle taxi technology. Initially deployed in the community, online motorcycle taxis became an effort to make travel more accessible, but customers still feel harassed, such as sexual harassment. This case is obtained by women and can be obtained by any group. Because the principle of freedom in contracting is still limited to the principles of benefit and lawful causes. So that it does not cause a change in the status of ability in *muamalah* activities to be prohibited. Then it seems that good faith must be the most important capital for the parties. With the increasing number of sexual harassment cases in online transportation services against female customers, people feel increasingly uncomfortable, and there is a feeling of fear in using online transportation services. The community strives that the case must be responded to firmly by law enforcement officers because this is a crime that is very disturbing and violates the rule of law and social norms.

Various factors can influence the increasing prevalence of sexual harassment in online transportation. Several factors can cause the high potential for sexual harassment of women. According to Tangri, Burt, and Janson, quoted in Anisa Karlina and Hendri Prabowo, three factors cause sexual harassment: biological and socio-cultural factors. Biological factors indicate that a man has a relatively large sexual drive compared to a woman, so a man will tend to initiate and commit acts of harassment against a woman. This factor means that a man and a woman both have a sense of sex but tend to start from the thoughts of a man. Therefore, the received stimulus in women is a feeling of being flattered by the action. But in reality, victims of harassment feel humiliated and harassed by perpetrators of sexual harassment. In this element, sexual violence is seen as a manifestation of patriarchy, where men are seen as more powerful, and this assumption is supported by the public. So far, society tends to support men for aggressive and domineering sexual behavior, while women are expected to act more passively and submissively. Each gender must behave according to the assigned role.

Sharia Business Perspective on the development of online motorcycle taxi transportation.

In Indonesia, there are two kinds of law, namely private law, and public law. Private law concerns legal outcomes centered on individual interests, while public law affects a more comprehensive local area. General Islamic law is a positive law that applies in Indonesia, which is sourced from Islamic law (which is Islamic teachings sourced from the Qur'an). Improving Islamic law in Indonesia is new because not all Islamic countries have it. In Saudi Arabia, for example, there is not a single authoritative guide item used as an aid in state existence. What is remembered for general Islamic law can include family law, financial law, political law, procedural law, and so on, which are essential to the abundance of legal information in Indonesia and are trained in every legal workforce at all universities.

Therefore, what is meant by sharia business cannot be separated from or deviate from the provisions of Islamic law. What must be understood in sharia business is that business people must distinguish between what is halal and what is haram according to the perspective of sharia itself. Based on the Sharia business perspective, the Basic Principles of Sharia Business concept is key to determining whether a business is in line with Sharia Business. The general guidelines on good Sharia business explain that there are 3 (three) basic principles of Sharia business, among others, the basic principles of Sharia business, Sharia business ethics, and Sharia business objectives.

In the Sharia business concept, the basic principles of Sharia business are the key to determining whether a company is in line with the rules stated in the sharia business. The basic principles and regulations in doing business according to sharia are Halal and Tayyib (good). In this case, tayyib has a division consisting of Ihsan and tawazun. The basic principles of halal in doing business are regulated in the Qur'an, in business activities or transactions involving elements prohibited in the Qur'an, the transactions in question are transactions containing elements of usury, masyir, gharar, al-batil (falsehood), al-fasad (damage), and al-zalim (tyranny). If viewed from the sources of fiqh, which have been agreed upon by the scholars, it is stated that all commercial activities or buying and selling are generally permitted except for commercial types, which are prohibited based on the Qur'an and Hadith.

Commercial activity in the Grab online transportation service business is an act or transaction in buying and selling services. Grab's online transportation service company provides online motorcycle taxi transportation services or uses Grab's online implementation, which results in the online motorcycle taxi transaction process where prospective consumers or passengers. If you want to use a taxi service, you must make an order through the application listed in the Grab application feature. So, in the business of buying and selling goods or services, the pillars and terms of buying and selling must be considered from the start to find out what a business or transaction will be carried out on a primary basis. And must be by the principles of sharia law.

The thing that must know in the process of buying and selling transactions is to pay attention to the contract (ijab kabul), which is an oral relationship between the seller and the buyer, the sale and purchase transaction has not been said to be valid before the ijab and kobul are carried out as the consent kabul shows willingness (pleasure). Shobirin nd) In terms of buying and selling also not only focusing on the purpose of the contract but also focusing on the terms of the sale and purchase itself, what is meant by the terms of sale and purchase is something that is based on the pillars of buying and selling, for example in the case of contracts, where the transaction must be clearly understood between For two parties, the party who commits must have reason so that he can understand the intent of the transaction.

In the context of this discussion, the goods and services traded are goods and services that are lawful, good, and clear from the form of source and quality, so that there is no doubt between the exchange value of the substitute goods and services. Three conditions must be met in a transaction. Firstly, the store of value in question is the condition that the transaction can store value. Secondly, the unit of account is meant to value an item.

Therefore, if combined with the online motorcycle taxi transportation order process, Grab, which is called a business transaction company in the field of buying and selling services, can be said to have fulfilled the pillars and requirements of business or halal transaction activities, such as in the sale and purchase transaction flow related to transportation services, or before using transportation services, prospective customers or potential consumers first order through the Grab application, wherein the Grab application it is clearly stated what type of service you want to use, as well as the price or cost of transportation, travel routes, and the identity of the driver Online motorcycle taxis that pick up and provide transportation are listed very clearly, even that is supported by the advantages of the application in terms of communication between customers and drivers so that indirectly there is a transaction contract or the right to choose to decide to use or order transportation services can be a team bang first.

Discussion

When connected with Grab's online motorcycle taxi transportation service in achieving Sharia business goals, namely in achieving material benefits and non-material profits, it can be said to be by the Sharia business concept, wherein material profits the company has succeeded in achieving gains; it can be seen from several ASEAN countries that are almost all of its people have used the Grab transportation service, so the company's profits are increasing (Jayanto et al., 2020; Karman, 2021). In contrast, if you try to see the non-material benefits of the online Grab transportation service company, it has succeeded in making transactions in the community, where the company has registered its partners in several insurances so that their partners will always feel safe at work (Ariyanti, 2019; Sadat, 2018). So from the explanation above that in achieving Sharia business goals, online grab motorcycle taxi transportation service companies have succeeded in achieving goals that are by the Sharia business perspective, all of which has been proven by economic progress, which consists of increasing partner income in business and has created community welfare because it has created job opportunities for all people who need work.

Cases of sexual harassment are often carried out while traveling and are carried out by drivers of motorcycle taxi services against female customers. Sometimes the perpetrator acts of sexual harassment while sitting together on a motorbike with the motive of getting closer to a female customer, and sometimes this sexual harassment is carried out verbally where the driver tries to invite the customer to speak, which refers to obscene words that lead to sexuality (Merkin, 2008; Sadruddin, 2013). This action is carried out in a quiet location and can be carried out in a crowded place. Many modes are carried out by drivers, such as passing through uneven roads, so that drivers often use the vehicle brakes by shock to carry out their sexual intentions. The driver who took action seemed to understand very well how to carry out his dirty intentions so that customers who were victims of sexual harassment seemed not aware when they were victims (DeGue et al., 2021; Mehmood & Li, 2018). Still, some customers realized that they were victims of sexual harassment but remained silent because they were afraid. with what happens if you immediately rebuke the evil intentions of some unscrupulous drivers

Meanwhile, the impact of sexual harassment on customers can be traumatizing, so psychological disorders occur when someone experiences violence or sexual harassment both verbally and physically. It can be very traumatic for those who share it, mainly when the incident occurred children and adolescents. , the trauma will become a mental disorder and even become a prolonged fear (DeGue et al., 2021; Gillander Gådin & Stein, 2019). Based on the observation that the level of stress disorder for victims of abuse will differ based on the level experienced by the victim, therefore to avoid incidents of sexual harassment that occur in online motorcycle taxi transportation, drivers should get coaching and get a good understanding of the regulations, because this incident will also have an impact on the sense of comfort in using the online motorcycle taxi transportation services.

In Islam, social behavior is one element in life socialize. Humans in terms of spirituality are created from various kinds of instincts of them have good and evil instincts. The good instinct of humans as social beings is that which is called fitrah, and evil instincts if not guided by nature and religion will become a negative instinct. Allah swt created human which consists of physical, psychological, spiritual and intellectual aspects. Intellectual abilities possessed Humans are actually a support so that humans can distinguish between good and bad things bad (Maas et al., 2022; Tyagi & Sen, 2020). Through reason, humans can do work, socialize with the environment to know what to do and what to avoid human mind has a very important role. There is reason, so that humans can be distinguished with other creatures, including with fellow humans.

Sharia business is an activity carried out by a person to earn an income or income to meet his life needs, not only in terms of material, but Sharia business also expects to get benefits both in non-material terms, such as getting the blessings and pleasure of Allah AWT. The reference sources for Sharia business are none other than the Qur'an, hadith, and ijihad. The sharia business referred to in this paper is a transportation service business. In the language of sharia, it comes from the Arabic "Syariat" or "syari'at, which means the Muslim law or better known among the public as Islamic law (Effendi, 2018; Pasharibu et al., 2018). Sharia also means behavior related to values that adhere to faith and unity. Therefore, based on the description above, we can conclude that in buying and selling motorcycle taxi transportation services, online grab car bikes are not prohibited by Islamic law, because in the transaction there are no elements that are harmed, and do not contain usury, masyir, gharar, batil, facade, and sera.

The basic principle of Tayyib (good). In this case, Tayyib (good) is meant from various good values to achieve Sharia business goals to achieve material or non-material profits, create economic growth, and maintain business effectiveness that is pleasing to Allah. In terms of tayyib, it is divided into two parts, namely ihsan and tawazun. Ihsan is a gift of good behavior in business and business activities, or in the sense of providing exemplary service in developing a business process to customers or

consumers to avoid behavior that makes a business and business lose money (Suwito et al., 2022; Utama, 2016). Therefore, if the author tries to relate it to the online transportation service Grab in terms of providing services to consumers or the public, then the service has been considered to meet the characteristics and principles of good business in terms of ihsan. Suppose you look at the number of users of online Grab motorcycle taxi transportation services today. In that case, it can be interpreted that it is true that the existence of these services provides a benefit. The intended benefits include helping consumers or customers to be younger on the way, becoming more efficient, saving time, saving energy, and more importantly, being easy to use for all ages in society.

The meaning of Tawazun itself can be interpreted with a balanced meaning if it is associated with a Sharia business perspective, balance, if it is related to a Sharia business point of view, then what is meant is balance in terms of agreement and fairness in running a business, which pays attention to the rights partners, so that if we examine how to operate, the Grab online transportation service, it can be stated that the service has complied with and implemented the tawazun system (Ahyani et al., 2022; Nurhayati et al., 2022). So Grab's online transportation service can have value in running a fair business system and paying attention to all forms of customer interests. By continuing to implement sustainable Sharia business ethics, it can create a conducive environment for forming an Islamic corporate culture. Therefore, in every subject of Sharia business, it must be clear in formulating Sharia business ethics for its business activities. Therefore, one of the efforts in Sharia business ethics is to maintain the principles of business ethics in competition for transportation services. The online Ojek management Grab always tries to remind drivers to remain obedient to the rules to minimize problems in the pick-up process. Based on the explanation above, we can interpret that the online motorcycle taxi transportation service company Grab has implemented or has carried out the principles of Sharia business ethics in conducting its business.

The implication of this study providing overview related to Sharia business. The goal of getting non-material gifts is to get help in the life of the broader community so that it has a safe environment, has overall brotherhood values, and maintains social conditions. Profits that are not always associated with materials will create a comfortable atmosphere in life in society. Based on the explanation above, and we can interpret that the online motorcycle taxi transportation service company Grab has implemented or has carried out the principles of Sharia business ethics in conducting its business.

4. CONCLUSION

In the Sharia Business View, what is meant by good business is a business that provides profits and benefits. In this paper, the online grab transportation service has achieved the Sharia business concept, which includes the basic principles of Sharia business, Sharia business ethics, and Sharia business objectives. Therefore, an online motorcycle taxi business does not have many disadvantages because the online motorcycle taxi business will help economic growth by creating jobs.

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