

The Influence of Islamic Business Ethics on Criminal Liability: A Transactional Analysis

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Info Article	Abstract
Article History Received : 2023-07-03 Revised: 2023-07-12 Published: 2023-07-30	This study examines the influence of Islamic business ethics on corporate criminal liability in the context of business law in Indonesia using a normative legal research approach (doctrinal research). The main focus is the principles of muamalah as the foundation of Islamic business ethics that demand justice, trustworthiness, and moral responsibility in corporate activities. This study examines the construction of the element of fault (<i>mens rea</i>) and its relevance in determining corporate criminal liability based on Indonesian positive legal norms. In addition, this study evaluates the application and modification of criminal sanctions in business crime cases that consider the corporation's efforts to comply with or violate muamalah principles. The results of this study are expected to provide a deeper normative understanding of the integration of Islamic ethics in the corporate criminal law system, while also providing recommendations for criminal policy reform that is more responsive to muamalah values.
Keywords: <i>Islamic Business Ethics;</i> <i>Criminal Liability;</i> <i>Muamalah</i>	

I. INTRODUCTION

Islam is proof of the existence of perfect teachings in this world. This is evident in Allah's command to balance aspects of worship (*hablum minallah*) and aspects of muamalah (*hablum minannas*) (Akhyar et al., 2024). In Islamic teachings, a Muslim is not only required to strengthen his spiritual relationship with Allah through mahdhah worship, but also to maintain harmonious relationships with fellow human beings through ethics, justice, and noble morals in various aspects of life, including economic activities.

Business activities are worldly because they aim to gain profit, or merely material gain. The goal of business is often to fulfill material needs. Businesses intended to seek personal gain are often misused by their perpetrators. This includes fraud, including rigging scales, pricing, bribing officials, and closing down other businesses. Unlike Islamic practices, Islamic businesspeople always consider business to be aimed at personal gain, just like other traders. However, they do not view profit as their ultimate goal, but rather as a tool for worshipping Allah SWT.

In terminology, ethics comes from Sanskrit, namely "*Ethics*", which refers to the principles,

tenets, and rules of life. The meaning of "Sila" and "Su" is to become better. Thus, Susila can be interpreted as the basic principles for living a better life. In the context of Islamic teachings, ethics (*akhlaq*) plays a significant role as a foundation for behavior, both in the personal and social spheres.

The uniqueness of Islamic teachings lies in teaching its followers to carry out economic practices in accordance with the norms and ethics established in Islam (Akhyar et al., 2025). Both Muslim and non-Muslim economists acknowledge that Islam contains fundamental economic values derived from the teachings of monotheism. Monotheism, as the primary foundation, fosters the awareness that all economic activities are part of worship to Allah and must therefore be carried out with full moral responsibility. It is estimated that economic ethics has core values, including: balance (*tawazun*), unity (*wahdah*), responsibility (*mas'uliyah*), and justice (*adl*), which are fundamental principles in the economic sector. These values direct Muslims to avoid economic practices that are *injustice, such as usury, gharar, and maysir*, and encourage the application of the principles of honesty, transparency, and public welfare.

Islamic law and business ethics are two interrelated concepts in conducting economic activities, whether within the context of individuals, companies, or nations. In Islam, law encompasses not only aspects of worship or the vertical relationship between humans and God, but also touches all aspects of social, economic, and business life. The primary foundation of Muslims is the Qur'an and the Hadith, which serve as guidelines and instructions for mankind in regulating various aspects of human life. Not only worship but also all human activities are regulated in these primary and fundamental guidelines for Muslims.

Furthermore, Islamic business ethics require avoiding practices that conflict with religious teachings, such as fraud, exploitation, and gambling. These are prohibited because they are considered to harm others and cause injustice. This means that in business, all actions must be conducted ethically and in accordance with Islamic moral principles. Upholding these ethics is crucial for maintaining a business's reputation and ensuring that every transaction meets high moral standards. Implementing business ethics will enhance a business's image, attracting consumers and other business partners.

II. RESEARCH METHODS

This research uses a normative legal research type (doctrinal research). The approaches used include:

- 1) Legislative Approach: Analyzing the criminal law regulations applicable in Indonesia regarding corporate crimes.
- 2) Conceptual Approach: Analyzing the concept of Muamalah in Islam and the concept of Criminal Responsibility in positive law.
- 3) Legal Sources consist of Primary (Al-Quran and Hadith, Laws, Court Decisions) and Secondary (Journals, Books, and Research related to Islamic Ethics and Criminal Law).

The analysis technique uses Descriptive-Prescriptive Analysis. Legal materials are analyzed qualitatively to describe the relevance of Muamalah and provide recommendations (prescriptions) regarding the accommodation of Muamalah within the criminal liability system.

III. RESULTS AND DISCUSSION

A. Research result

The results of this study indicate that Islamic business ethics based on muamalah jurisprudence have a significant normative influence on corporate criminal liability in the Indonesian legal system. Muamalah principles such as honesty (sidq), trustworthiness (amanah), justice (adl), responsibility (mas'uliyah), and benefit (maslahah) serve as an ethical basis for assessing corporate behavior, particularly in determining the presence of an element of guilt (mens rea) in business crimes.

Islamic jurisprudence (fiqh) in muamalah (Islamic transactions) not only looks at external actions but also emphasizes the intentions, goals, and moral responsibility behind business activities. Therefore, violations of these values can strengthen the basis for corporate criminal liability. Furthermore, this study found that the application or violation of Islamic business ethics can be taken into consideration in imposing and modifying criminal sanctions, where adherence to muamalah principles has the potential to be a mitigating factor, while violations of the values of justice and trustworthiness can aggravate sanctions.

Thus, the integration of Islamic business ethics into corporate criminal law is seen as capable of encouraging criminal policy reforms that are fairer, more humane, and more responsive to the interests of society and consumer protection.

B. Discussion

The concept of "ethics" was introduced by Aristotle in his work, *Ethica Nichomacheae*, which is considered the beginning of the development of ethics (Nurhaliza and Rohman, 2024). From an etymological perspective, "ethics" is derived from the Greek word "ethos," which refers to "the soul or essence underlying an action" (Hiplunudin, 2022). Over time, ethics became "rules."

Business encompasses all matters related to entrepreneurship, where individuals, groups, or organizations engage in buying and selling activities that can generate profits and drive economic progress (Wati et al., 2020). From an Islamic perspective, business is a series of

activities involving the ownership of goods and services, as well as profits, but must comply with limits on income, use, and benefits, and ensure that all elements of the business comply with Islamic principles and avoid prohibited things, as well as carry out halal business activities from production to distribution (A'yun et al., 2021).

Islamic jurisprudence (fiqh) in muamalah plays a crucial role in establishing ethical values that serve as guidelines for economic actors in carrying out their activities. Values such as honesty (sidq), trustworthiness (amanah), justice (adl), and social responsibility form the foundation for a secure economic system. According to Islamic jurisprudence, judging a transaction based solely on legal grounds is not sufficient; it must also be based on good intentions and consider moral considerations. In other words, Islamic jurisprudence (fiqh) in muamalah not only regulates external actions but also emphasizes the importance of motivation and purpose in every economic activity.

One of the most important roles of Islamic jurisprudence in establishing ethical standards is drawing the line between legitimate use and deviant practices. For example, Islam prohibits usury (riba), which is considered detrimental to economic equality and justice. This prohibition is not only legal but also reflects the moral need to protect vulnerable individuals in the financial system. In the modern context, this prohibition has encouraged the establishment of Islamic financial institutions that prioritize the principles of profitability, transparency, and contractual fairness.

Islamic business ethics reflects ethical conduct in carrying out business activities that integrate Islamic values. Business activities are free from anxiety because they are believed to be right. Islamic business ethics refers to the Qur'an and the Hadith as guidelines and strategies for good business practices. Islamic economic experts state that Islamic economic ethics is a science that studies the aspects of good and bad in economic activities by considering human behavior from the perspective of reason (ratio) and the guidance

of revelation (nash). Economic ethics is closely linked to morality, as both address the issue of good and bad in behavior.

Humans. Meanwhile, the goal of Islamic ethics from a philosophical perspective is to create a common understanding of good and bad behavior among humans across time and place based on human reason (Za, 2024).

In implementing Islamic business ethics, the first step is to raise awareness about business. Business ethics should be viewed as an integral element, a crucial part of the basic structure for responding to and understanding the growing awareness of immoral business systems in society. Furthermore, it is crucial to consider the application of business ethics in building an Islamic business order by conducting scientific studies on business and economics.

From an Islamic perspective, the purpose of business is to improve the welfare of society, not just to generate profits. Businesses that prioritize social values and sustainability, such as through corporate social responsibility (CSR) programs, can contribute to society by helping the poor earn income, reducing social inequality, and building infrastructure that benefits everyone. This aligns with Islamic principles emphasizing social responsibility.

1. Basic Principles of Islamic Business Ethics

The basic principles of Islamic business ethics are the moral foundations and rules of conduct drawn from Islamic teachings, which aim to guide business actors to operate with integrity, fairness and social responsibility.

a. Honesty

One of the main principles is honesty (as-sidq), which requires every business actor to provide correct and transparent information regarding the products or services offered, and to avoid all forms of fraud and cheating.

b. Trust (trust)

Amanah is another crucial principle, which teaches that every individual must fulfill their promises and responsibilities to others, including consumers, employees, and business

partners. In this context, amanah also encompasses the responsible and sustainable management of the assets and resources entrusted to them.

c. The principle of justice

The principle of justice requires businesspeople to treat all parties fairly and not to use their position or power for personal gain at the expense of others. This includes ensuring that prices are fair, non-exploitative, and that employees are fairly compensated. Ihsan, which means doing good and doing the best you can in all your actions, encourages businesspeople to not only follow basic rules but also go beyond them and take actions that can bring greater benefits to society.

d. The principles of halal and thayyib

This principle emphasizes that any product or service provided must comply with Sharia law and be beneficial to human health and well-being.

e. The principle of maslahah (public benefit)

Requires that business activities must provide benefits to the wider community and must not cause harm to the environment or society.

Overall, the basic principles of Islamic business ethics are not only a moral code, but also a strategy for creating sustainable and ethical businesses. By adhering to these principles, business actors can build trust, loyalty, and a good reputation among consumers and the public, ultimately supporting their businesses' long-term growth and success (Abidin & Kadarsih, 2024).

2. Application of criminal sanctions in cases of business crime

The definition of a crime (offense) is an act prohibited by a legal regulation (such as Law Number 8 of 1999 concerning Consumer Protection, hereinafter referred to as the Consumer Protection Law). The prohibited act in this law carries a threat (sanction) in the form of a specific criminal sanction if violated.

Business activities are civil (commercial) in nature, but can become crimes if there is a violation of laws governing trade that results in losses for the public as consumers. As with conventional crimes, fraud must be based on the intent (*mens rea*) to obtain economic benefit for the perpetrator.

Article 204 of the Criminal Code stipulates that the act of selling, offering, handing over, or distributing goods known to be dangerous to life or health is punishable by criminal penalties. This means that the threat of criminal penalties serves as an instrument to sanction fraudulent behavior by business actors in the economic sector as a means of enforcing and protecting the rights of consumers who have been violated.

The application of criminal sanctions in cases of business crimes in Indonesia for corporations includes the main penalty in the form of fines (categories III-VIII according to the threat of imprisonment) and imprisonment commuted to fines, as well as additional penalties such as revocation of business permits, temporary closure (maximum 2 years), freezing of assets, confiscation of illegitimate profits, and the obligation to repair damage. The main legal basis is Supreme Court Regulation No. 13/2016 which regulates procedures for handling corporate cases, the Criminal Code (Articles 509-519 for fraud, embezzlement, and breach of trust), and special laws such as the Corruption Law, the Environmental Law (Law 32/2009), and the Money Laundering Law. Main Types of Sanctions:

- a) Main Penalties: Category VI fine for imprisonment of less than 7 years; category VII for 7-15 years; category VIII for death/life/20 years.
- b) Additional Penalties: Business closure, activity restrictions, restitution of losses, job training (if not implemented, assets will be confiscated), and profit elimination.

Sector-Specific Sanctions: In corruption crimes (Tipikor), fines are increased by 1/3; environmental matters include ecosystem restoration and supervision.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Islamic business ethics, based on Islamic jurisprudence (Fiqh Muamalah), is a comprehensive and relevant value system to guide fair, transparent, and responsible business practices. The principles of monotheism, justice, *maslahah* (beneficial principle), trustworthiness, and the boundaries between what is halal and what is haram (permissible and haram), form a solid foundation for all Muslim economic and business activities. Therefore, applying Islamic jurisprudence (*fiqh muamalah*) in business is not impossible, but rather a process that requires shared commitment. Bridging the gap between theory and practice requires support from various economic actors, academics, regulators, and the public.

Through educational initiatives, adaptive regulations, and shared awareness, the values of Islamic jurisprudence (*fiqh muamalah*) can provide a solid foundation for creating a more just, humane, and sustainable economic system. Ultimately, ethical business practices based on Islamic jurisprudence (*fiqh muamalah*) bring not only global prosperity but also happiness and benefit to others.

B. Suggestion

Readers are expected to understand that Islamic business ethics not only serves as a moral guideline but also has strong relevance in legal practice, particularly in the context of corporate criminal liability. Therefore, business actors are advised to internalize the principles of Islamic jurisprudence (*fiqh muamalah*) such as honesty, trustworthiness, justice, and social responsibility in all business activities as a preventative measure against legal violations and potential harm to society. For academics and researchers, this article can serve as a reference for developing further studies on the integration of Islamic values into the positive legal system, particularly in the field of corporate criminal law.

Meanwhile, for policy makers and law enforcement officials, this article is expected to be a consideration in formulating regulations and law enforcement that are not only oriented towards imposing sanctions, but also encourage the creation of fair, ethical, and public interest-based business practices.

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