

The Local Wisdom In The Practice Of Profit And Loss Sharing (PLS) In The Fishery System: A Study Of Islamic Economic Activities In Tapak Kuda Village, District of Tanjung Pura, Langkat Regency, North Sumatera Province

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Abstracts

This research examines the practice of profit and loss sharing (PLS) in fishery system in Tapak Kuda village of Tanjung Pura, District of Langkat. This system is implemented by the fishermen and involved many parties. This kind of profit and loss sharing system has been a local wisdom of the community of this village. This reseach finds that this type of local wisdom is a result of internalization process in the context of social construction since long time ago. This internalization involved many factors. For further study, this research recommends a deeper study on local wisdom related to Islamic economic activity of Indonesian society.

Keywords: local wisdom, *musyarakah*, *mudharabah*, profit and loss sharing, revenue system,

Abstrak:

Penelitian ini mengacu kepada praktek profit and loss sharing (PLS) dalam sistem perikanan di Desa Tapak Kuda Tanjung Pura, Kabupaten Langkat. Sistem ini diimplementasikan oleh nelayan dan melibatkan banyak pihak. sistem semacam ini profit and loss sharing telah menjadi kearifan lokal masyarakat desa ini. Penelitian ini menemukan bahwa jenis kearifan lokal merupakan hasil dari proses internalisasi dalam konteks konstruksi sosial sejak lama. internalisasi ini melibatkan banyak faktor. Untuk studi lebih lanjut, penelitian ini merekomendasikan penelitian lebih dalam kearifan lokal yang berkaitan dengan kegiatan ekonomi Islam masyarakat Indonesia.

Kata kunci: kebijaksanaan lokal, *musyarakah*, *mudharabah*, profit and loss sharing, system pendapatan daerah.

Introduction

The local wisdom (local genius) is always associated with human life and their environmental. The local wisdom indicates a long experience, which precipitated, as a guide of a person's behavior. So, local wisdom is dynamic,

flexible, open, and constantly adapted to the times. Local wisdom is a process and product of human culture, created to sustain the life.

Thus, the local wisdom is a way of life, science, and life strategies of intangible activities undertaken by the local community to address their problems in the fulfillment of the needs. Besides, the local wisdom can be defined as a way of thinking in the social, political, cultural, economic, and environmental life in local communities.

The community of Langkat Malay has interacted with Islam as long as Islam came to this area. There is common phrase, "Masuk Melayu Berarti Masuk Islam (*To enter Malay means to convert to Islam*)." Islam has become the religion professed by the Malay community of Langkat and internalized long enough, especially when the Malay Langkat Sultanate, made Islam as the only official religion in the whole empire.

Various teachings in *muamalah* (transactional contracts), to meet the needs of families and communities have become a local wisdom in the life of the Malay community of Langkat. Various traditions in the society cannot be separated with the Islamic teachings such as marriage, birth, adulthood and other *muamalah* in economic daily activities.

Tapak Kuda is a village located 20 km from Tanjung Pura, one of district of Langkat Regency. Majority of Tapak Kuda Villagers are Muslims and 90% of the population rely on fishing for their survival. The community of this village have a tradition i.e. profit and loss sharing system in fishery. This tradition is unique and interesting because the Islamic religious doctrine today has not much touched *muamalah* subject.

Profit and loss sharing system is the principle used for cooperative efforts aimed to obtain goods and services at the same time. Profit sharing ratio determined by an agreed outcome in advance and benefit levels are determined from the profits in accordance with the principle of profit sharing. Profit sharing principle can be done by using *Musyarakah* and *mudharabah* contracts.

Musyarakah is a common form of business which the outcome defined as the cooperation agreement between two or more parties to a particular business in which each party contributes funds (or '*amal*') with an agreement that the benefits and the risks will be shared in accordance with the agreement (Ibn Rushd, vol II: 253). While *mudharabah* is one of *musyarakah* form.

The main differences between musyarakah and mudharabah lies in the contribution of top management and financial contribution or one of it. In mudharabah, the capital only come from one side, while in the musyarakah, the capital comes from two or more parties.

Mudharabah is a contract of business cooperation between two parties in which the first one (*shahibul mall*) provides the entire capital, while the other become a manager. Business profits are divided according to the agreements set forth in the contract, whereas if the loss is borne by the owners of capital, if the loss was not due to negligence of the manager. If the losses caused by the moral hazard or omissions of the manager, then he should be responsible for such losses (ash-Syarbasyi, 1987).

In a sociological study, the internalization of religion does not fully use the terms that brought by Islamic teaching. The implementation always been adjusted to the language and local traditions. So, in its implementation, it is not surprising if a community often use different terms that come from the local language itself. The problem is, the process of internalization into the process of implementation in the social history sometimes deviate moreover if the scholars (*ulama'*) do not perform continuous education and guide. However, the changes in the field of muamalah will be allowed. There is a principle that any kinds of muamalah transaction is allowed if it doesnot deviate from the basic principles of Islam.

This qualitative study aimed (1) To describe the implementation of the local wisdom among fishermen in the Tapak Kuda village of Tanjung Pura District of Langkat; (2) To analyze the internalization process that took place in the implementation of the profit and loss sharing system among the fishermen; (3) To analyze the suitability of the practice of profit and loss sharing system implemented by the fishermen with the principles of fikih muamalah law.

The results of this study will be useful to the study of socio-economic anthropology of Islam, especially in the Malay community and the sustainability of the process of internalization. This study will be also an input for the process of socialization and education of Islamic economics principles in the society.

Theoretical Framework

1. Principles of Profit and Loss Sharing In Shariah Real Sector

Islamic economics in the real sector is different from the financial institutions. Despite the financial sector is also related to the real sector, but what was intended in this research is the implementation of the principles of Islamic economics (muamalah contracts) in daily business besides the finance institutions do.

Profit and loss sharing principle is the principle used for cooperative efforts aimed to obtain goods and services at the same time. Profit sharing ratio determined by an agreed outcome in advance and benefit levels are determined from the amount of business profits in accordance with the principle of profit sharing. This profit sharing principle can be done by using Musharaka contract (shirkah) and mudarabah.

a. Syirkah

Etymologically, syirkah means *ikhtilath* (mixture), namely the mixture of one property to another. So, it cannot be distinguished between the two. Furthermore, the term syirkah was used by Muslims for defining a partnership deal in the business world (Az-Zuhaili, 1989, IV: 3875). In defining the syirkah terms, the scholars had different views that led to different interpretations.

Malikiyah said, that syirkah is granting authority to the parties to cooperate. That is, each party gives authority to the partner on property they owned but each of them still has authority on each property.

According to Hanabilah, syirkah is a collection of rights and authority to manage a joint business. According to Syafi'iyah, syirkah is the rights that exist in a business owned by two or more people. According to Hanafiyah, syirkah it is a contract between two people that are are reputable in the capital and profits (Az-Zuhaili, 1989, IV).

More precise and clear definition is the definition stated by Hanafiyah. He explained that the nature of syirkah is a contract of business cooperation between two parties in which each party contributes to the capital. The profits are shared according to the agreement. While other definitions do not lead to substance of syirkah but rather to the implications of sirkah itself. It was seen from the keywords they used in defining syirkah, such as the word “right” (*istihqaq*) and authority to manage (*tasharruf*).

Musyarakah is a general form of business sharing which. It is the agreement of cooperation between two or more parties to manage a particular business in which each party contributes funds (or *'amal*) with an agreement that profits and risks will be shared in accordance with the agreement (Ibn Rushd, vol. II: 253).

While *mudharabah* is a special form of *musyarakah*. The main difference between *musyarakah* and *mudharabah* lies in the contribution of management and capital or one of them. In *mudharabah*, the capital comes only from one side, while the capital of *musyarakah* comes from two or more parties.

Syirkah or *musyarakah* can be generally be classified to two, (1) *Syirkah Amlak* and (2) *Syirkah 'Uqud*. *Syirkah Amlak* is two or more people have the object/ property, which is not caused by *syirkah* contract. The ownership consortium was created by inheritance, wills, joint purchase, joint given, or other conditions that result in the ownership of the asset by two or more people. While *syirkah 'uqud* is a transactions conducted by two or more persons to associate in the capital and profits. In *syirkah 'uqud* there is forced characteristics (*Jabbari characteristics*). Therefore, all *syirkah 'uqud* are optional, so the the positive law of Egypt called this kind of *syirkah* as *syirkah ikhtiyariyah* (Ibn Qudamah, 5/1: 3877-3878).

The scholars have different opinions in dividing the type *syirkah 'uqud*. Although the types of *syirkah* are quite a lot, but in the contemporary period, the popular *syirkah* divided into five (1) *syirkah 'inan*, (2) *mufawadhah*, *Abdan*, *Wujuh* and *mudharabah*.

Syirkah 'inan is a contract between two or more people. Each party gives a portion of the overall fund and participates in the work. Both parties share in the profits and losses, as agreed between them. However, the portion of each party, both in funds and the outcome work will be different, according to their agreement. *Syirkah mufawadhah* are two or more person do joint business with the terms of the similarities in the capital, distribution of the profits and the losses, the similarity of work, the responsibility and the burden of debt. One party is not allowed to have shares (capital) more than his partner's. If one party has a capital 1000 dinars, while the other party has only 500 dinars, then this is not *syirkah mufawadhah*, but it became *syirkah 'inan*. Similarly, all other aspects, must have been equal. *Syirkah 'Amal/Abdan* is a cooperation contract between two or more

people to receive a work and share the benefits of the job, such as a tailor, a blacksmith, a carpenter, a architecture, etc. For example, the two parties agreed and said, "We will organize for our work and the benefits for both". This *Syirkah* is often called *syirkah Abdan* or *shana'iy*.

Syirkah Wujuh is a business contract between two or more people who have a good reputation and prestige, where they are believed to develop a business without any capital. For example, they are believed to bring merchandise without cash payments. This means that they are trusted to buy the goods on credit and then to trade these goods for profit. They share in profits and losses based on the supplier guarantee to each of them. Therefore, this business does not need capital, then the contract is commonly referred to *receivables syirkah* (Ibn Qudamah, 5/1: 3880-3889).

According to scholars, they are three pillars of *syirkah*. (1), the contracting parties (*'aqidani*). The partner must be competent (legally) in the transaction and certainly be competent in giving or receiving the authority to be a representative. (2), The object of contract (*ma'qud 'alaih*). The objects in this *syirkah* are divided into two elements, namely funds (capital) and employment. Funds (capital) should be given in cash. But some other scholars give the possibility of tangible capital assets when trading or even be in the form of non-physical rights, such as licensing and patents. When it was done, the whole capital should be assessed in advance in cash and agreed by the partners. Participation and intervention of all parties in *musyarakah* business are fundamental. It is not allowed if one of the parties states that he will not participate in handling the job. If he did not want to get involved directly, he must give the right to his partner as his representative. (3), *sighat (Ijab and qabul)*. There is no special form of *syirkah* contract. It can be words (verbal) or writings which show treaties and agreements to do business partnerships. *Syirkah* contract must be recorded documentally (Az-Zuhaili, 1989, IV: 3879-3889).

b. Mudharabah

Etymologically, the word *mudharabah* comes from the word *dharb* which means hitting or running. The meaning of hit or run is more precisely the process of a person strike their feet in running the business (Qal'aji, 1985: 221). The meaning of *mudharabah* in Islamic Fiqh is a form of cooperation between the *rab al-mal* or *sahib al-mal* (investors) and a second party (*mudharib*) that serves as

the manager of the trade. Iraq (Iraqi population) named this business as *mudarabah*, while the Hijaz people call *Qiradh*. Iraqi residents call *mudarabah*, because each party shares the profits of their portions (*dharb*). It is also called *mudarabah*, because the workers (*mudharib*) usually requires a trip to run a business. While traveling in Arabic is called *dharb fi al-ardh* (Az-Zuhaili, 1989, IV: 3901). *Mudharabah* can also mean mixture (*dharaba al-syai 'bi al-syai'*) and joining (*dharaba fi al-amr*) (Mu'jam al-Wasit, Section I, 1972: 89). It is said a mixture or joint, because in *mudharabah*, there is a partnership mixing / merging of two parties, namely the owners of capital (*shahib al-mal*) and the workers (*mudharib*).

Hijaz residents call *mudarabah* with *qiradh*. *Qiradh* was referred to *al-qardh* which means *al-qath'*, where the owner of the capital cut off a part of his property to be traded in order to get a profit. *Mudharabah* is often associated with the word *al-muqaradhah* which means *musawamah* (equality), because the owners of capital and workers are equally entitled to the benefit. The equality is also because they both contribute, namely the owners of capital have the property while the worker has the work (*'amal*) (Mun'im, 1996: 20).

In *syar'iy* terminology, *mudarabah* is a contract which the owners of capital give his capital to the workers to be traded and they shared the profits, with the conditions that they agreed together. The loss will be borne by the owners of capital. While *mudharib* do not bear the loss, but he just loss energy and mind (Mun'im, 1996: 20).

Based on the above definition, then *mudarabah* will be invalid if the object is benefits, such as shelter, because in the definition there is a word "delivery" (*daf'u*) and it is also illegitimate to conduct *mudarabah* with debt. It should also be noted that *mudharib* is not the representative, because *mudharib* and capital owners teamed up in profit. Owners of the capital are entitled to profit from his property, while *mudharib* entitled to profit from his work. If all the profit to the owners of capital, then the contract is not a *mudarabah* contract, but *mubadhah'ah*. Whereas if all profit be given to *mudharib*, it will be called *qaradh* (loan) (Mun'im, 1996: 20).

Business profits are divided according to the agreements set forth in the contract, whereas if the loss is borne by the owners of capital and the loss was not due to negligence of the manager. If the losses caused by moral hazard or

omissions manager, then he should be responsible for such losses (ash-Syarbasyi, 1987).

2. Internalization of Fikih Muamalah in The Community Social Construct

The construction of social (social construction) is a contemporary sociological theory of Peter L. Berger and Thomas Luckmann. According to these sociologists, the theory is intended as a theoretical and systematic study of the sociology of knowledge and not as an historical overview of the development of scientific disciplines. This theory emphasized more on human action as a creative actor of social reality (Berger and Lukmann, 1990; 40-41).

Social reality in the constructional paradigm is the result of human creation through the power of the social construction of the social world around them. Max Weber saw social reality as a social behavior which has a subjective meaning. Therefore, the behavior has a purpose and motivation. While Berger and Luckmann stated that social reality consists of three types, namely objective, subjective and symbolic reality. Objective reality is the reality formed from the experiences in the objective world beyond an individual. While the symbolic reality is a symbolic expression of objective reality in various forms. While the subjective reality is the reality that is formed as a process of re-absorption of objective reality and symbolic to the people through a process of internalization (Sudikin, 2002: 201-203).

If Durkheim and Weber saw the split between objectivity and subjectivity, then Berger viewed them as something inseparable. Community as an objective reality shows people are outside the human person and face to face with him. While society as a subjective reality, individuals are in the community as an integral part. In other words, individuals are forming communities and communities are forming individual (Sudikin, 2002: 202-205).

Berger linked the concept between subjectivity and objectivity through the concept of dialectics that run simultaneously, known as externalization, objectification and internalization. The externalization is an adjustment to the socio-cultural world as a human product. The objectification is a social interaction in the world of institutionalized inter-subjectivity (the process of institutionalization), whereas internalization is an individual identification to

himself in the midst of social institutions or social organizations in which the individual is a member of them. Thus, the so-called social reality is a product of social construction of society itself (social constructions of reality) in the course of its history in the past, to the present, and into the future (Berger and Luckmann, 1990: 41).

Community as an objective reality, - according to Berger and Luckmann-, in which there is a process of institutionalization that built on habitually. If this process has been going then it becomes a tradition. The overall human experience stored in his consciousness, makes him settles and eventually be able to understand himself and his actions in the social context of his lives and through this process, the experience ultimately be passed on to the next generation (Sudikin, 2002: 207). One important instrument in this transmission is language. A language used by humans for objectification of these experiences to others.

To make a community as a subjective reality or internal reality, we need a socialization, either primary, i.e. to the child or secondary socialization, i.e. to the adult who works to preserve and transform the subjective reality. Socialization always takes place in the context of a particular social structure, not only its content, but also the success rate.

Fiqh *muamalah* as a basic teaching of Islam in human relations, -in this case the field of economy and business- has become an objective reality in Tanjung Pura Malay community through the institutionalization of such recitals or other religious institutions. Furthermore, these teachings through a process of socialization as a subjective reality have internalized within every individual in the society.

Local Wisdom

Local wisdom according Naritoom (Wagiran, 2009) is as follows:

"Local wisdom is the knowledge that discovered or acquired by local people through the accumulation of experiences in trials and integrated with the understanding of surrounding nature and culture. Local wisdom is dynamic created by the function of local wisdom and connected to the global situation."

Based on the above understanding, there are at least some concepts of local knowledge, namely: (1) local knowledge is a long experience, which precipitated, as a guide of a person's behavior, (2) local knowledge cannot be

separated from the environment of the owners, (3) the local wisdom is dynamic, flexible, open, and constantly that adapted to the times. Thus, the concept at the same time also suggests that local knowledge is always related to human life and the environment.

Another understanding of local knowledge conveyed by Geertz (1973):

"Local wisdom is a part of culture. Local wisdom is the element of traditional culture deeply rooted in human life and community that related with human resources, source of culture, economic, security and laws. Local wisdom can be viewed as a tradition that related with farming activities, livestock, house building, etc."

In terms of basic philosophy, wisdom can be categorized in two aspects, namely: (a) ideas, thoughts, or reason that is abstract. The aspects of local wisdom include a variety of knowledge, views, values and practices of a good community gained from previous generations of the community, as well as those obtained by the community in the present, which is not derived from the previous generation, but of various experiences in the present, as well as from contact with people or other cultures. (B) Local knowledge in the form of concrete things can be seen. Local wisdom is usually in the form of objects artifacts, which adorn human life, and meaningful symbolic. In every corner of human life, there is always a local wisdom. At the very least, wisdom can appear on: (a) thinking, (b) the attitude, and (c) behavior. All three are almost difficult to separate. If all three there is unequal, then the local knowledge will fade (Geertz (1973)).

Based on the explanations above, it can be concluded that local wisdom of a particular community is the result of social construction so intensely through the process of externalization, objectification and internalization that can be visualized through the language prevailing in society. So, the profit and loss sharing system which has been a tradition in the Malay community in Tanjung Pura has become a local wisdom by using local languages through a long process of social construction. The problem is that the process of internalization into the process of implementation in the social history, sometimes will change if the scholars (*ulama*) do not always perform continuous education. However, the changes and shifts in the field of muamalah have the general principle that if it does not deviate from the basic principles, then it is still justified.

Methods

The method used in this research is qualitative-phenomenological. The study took place in a reasonable background/natural, the type of process is cycle; the researcher is the main instrument, and the data analysis is done inductively-qualitative. The research process is basically cycle, but can be distinguished for three main stages (in accordance with the nature / characteristic activities). First, the stage orientation / exploration is comprehensive, by doing what Spradley described as observation and / or grand tour questions. The second phase of exploration is focused, in accordance with the selected domain as the focus (of the analysis in Phase I); domain option use three types of considerations, namely *organizing domain*, *strategic ethnographic* and *theoretical interest*. Third, the stage of checking the results / findings of the study, especially by doing what by Lincoln and Guba call as a member check procedure. The data collection in this research used *in-depth interviews* and *unstructured observation*. Documentary techniques are also used, mainly for the needs thorough exploration stage.

The object of this study is a fishing community in Tapak Kuda village, Tanjung Pura District, Langkat Regency. The informants were selected as research subjects is a village chief of Tapak Kuda village, 2 “Taukes”, 2 “Tekong”, 2 fishing workers (men), 1 fish buyer (freelancer) and 1 person housewife (the wife of a fishing boat workers). Subjects observed were the village head's office, mosque, docks, fishing villages and fishing gear/ equipment's.

There are four techniques of data analysis used in this study, namely (1) analysis domain, (2) taxonomic analysis, (3) componential analysis, and (4) thematic analysis. These three first-mentioned data analysis are carried out simultaneously at the time of data collection in the field (domain analysis is used on a thorough exploration stage, whereas taxonomists and componential analysis used in the exploration stage focused). The latter data analysis (thematic analysis) is done after data collection and analysis activities in the field.

Results and Discussion

1. Local Wisdom in Profit and Loss Sharing System among Tapak Kuda Fishermen

Tapak Kuda village located in the district of Tanjung Pura. It is about 18.5 km from the city center of Tanjung Pura. There are only about 3 km good

roadway from Tanjung Pura, but the next road is very difficult to pass. It is wide but difficult to pass because there is a lot of holes moreover if it is raining. It seems that when the current research being carried out, the road is being repaired. According to the villagers, the road to Tapak Kuda today is better than a few years ago. In that times, it was very difficult to bring their products to the city. They had to send them to Tanjung Pura then Medan (The capital of North Sumatera Province).

When entering the village, we will find a gate. On either side of the street, there are many “panggung” houses (traditional house built on the wooden pillars) and roof is made of zinc. Along the streets, there are many palm trees and other tree species, especially mangroves. Just down the road, there is a “pelantaran” (small docks where boats stop). It is in the form of “joglo” (traditional house), red painted, tin roof, and it seems has been built not long ago. The dock is moored by several boats. Not far from the dock, there are several other docks belong to “tauke” (the capital owner).

The “taukes” in this village have their own docks as a place to anchor their boats. So, it will be easier for fishermen to cooperate and work with them to carry out various activities related to the fishing profession, such as boat moorings, bringing a variety of equipment such as nets, repairing boats and other equipment. Not far from the dock, we can see a small dock owned by Mr. Kadir, a man known by the people in the village as an “ustaz” (commonly called religious teacher). Pak Kadir is also a “tauke”, although he is not classified as a big “tauke”.

Next to the dock, there is Marine Police office. When arriving to this village, the researchers found that the office had been been locked up and there was no one in the office. In the left side of the office, there are some people working. They were very busy with various activities because the village got rain a day before. The women were also busy doing activities as housewives while the men have not looked down the sea or whether had not come home from the sea. The custom in this village that on every Friday, the fishermen would quickly return from the sea before Friday prayers or they chose not to go fishing.

Tapak Kuda village is seemed well located. This village looks neat with the size of the road that make the villagers easier to perform many activities. This village built by the government in a quite good manner. Tapak Kuda village is called by the village residents as Tapak Kuda Baru. This is because the Tapak

Kuda Baru is a new location of Tapak Kuda Lama. The displacement of the villagers of Tapak Kuda Lama (an island) started in 1986 and 1988. There was only about 15 families in that time. There were few reasons of the displacement, firstly as a result of coastal erosion that constantly eroded Tapak Kuda Lama. Secondly, because of the project of Wampu River alignment. Before that, the river flow is turn towards directly to Tapak Kuda Lama.

This new displacement is the program of the Social Department of Indonesia which aims to save the village and its citizens. Currently, the location of Tapak Kuda Lama become a mangrove, flora and fauna conservation. Now, the Island becomes wider than before because Wampu river flow also moved to “Jaring Halus” village. Thus no longer, lead to the erosion of the island.

The total population of Tapak Kuda is approximately 3000 people, made up of 576 families. It has five “dusuns”. The total area of nearly 1,500 hectares including the settlement area, and vacant land and forests. Ninety percent of the villagers are fishermen, the others are traders, clerks, teachers and others. The average of education level of the villagers is Junior High School generally Madrasah Tsanawiyah and some of them contonued their studied to Senior High School especially Madrasah Aliyah. This is due to educational facilities are available only to the Madrasah Tsanawiyah, while for Senior High School should be out of the village. Currently, only 20 women and 5 men continue their study to the university. Most of them Islamic Higher School of Jamai'ah Tanjung Pura, which is a private university that manages higher religious education.

Fishermen in the Tapak Kuda village can be classified to four types, namely (1) Tauke (the capital owner), (2) Tekong or skipper, (3) Fisherman and (4) Individual workers. Tauke is someone who has a strong capital, including having a boat, fishing gear (in the village is commonly known as the “pekarangan”) and the provision of capital for fishermen and their families who are members or partners of the cooperation. The total of “tauke” in this village is approximately 20 people and all of them are villagers. The boat in this village consists of several types based on the size. First, a large boat that can be used to do “merawai” to sea. Its length is 26 feet up. There are about 50 large boats in this village. Most are owned Mr. Abu Bakr, a famous “tauke” in the village. His boat is around 40 boats. Second, a medium-size boat. It could not be brought to do

“merawai”, but can be used with the number of about 3 fishermen. Third, a small boat which is usually owned by individuals.

“Tekong” or skipper is a fisherman who cooperate with “tauke” who is the leader of the boat and had subordinates when fishing. Tekong will be responsible to “tauke” in every activity to sea using his boat. Medium fishing boat workers are people who work and become subordinate of “Tekong in doing work on a boat during the activity to the sea.

Fishing tradition in this village has not much changed except in fishing gear. Before 1996, many fishermen used traditional boat. But after 1996, all of them used machine boats. Tapak Kuda fishermen are daily fishing. This means that they do not spend many days in the sea. The Government gives assistance such as giving small boats and the equipments. The assistance is given to the groups of fishermen. The group number can be up to 20 or more.

The equipment used in fishing have also developed. There are many types of equipments such as “tangkul”, a tool to catch crabs. “Bubu”, a trap to crabs made of bamboo. Today, “bubu” is made of “Medang” tied to bamboo. The working area of the fishing is beach or “Paluh-Paluh”. Other equipment is “Pukat layang” (swing trawl) where fishermen way down to the water. This trawl is the most widely used by fishermen in the village. Then there “pukat lepu” (lepu trawl) and “grandong” trawl. The use of “Grandong” trawl is prohibited because it can damage the ecosystem of the sea in the long term. In addition, there is a tool called “rawei”. This kind of tools made of a lot of hooks at each end of the rope. While the individual fishermen used “langgai” net. This is a traditional nets of Tapak Kuda village.

The government assistance in the form of giving a small boat and its equipment is often obtained by the fishermen of this village. It is continuously given to the groups of the fishermen. Generally, these groups are impromptu because for assistance only. The group number can be up to 20 more groups. There is no fishing cooperative in this village. According to the chief of the village, the local government is projects oriented. The government does not want to make a pilot projects. Whereas if it is successful, the project will be easy to duplicated by other villagers. He said that the government should make OVOP program (One Village One Product).

The cooperation among fishermen is the cooperation between “tauke” (the owners of capital), “Tekong” and fishermen. There are two types of models of cooperation, firstly, the capital, such as the boat and the entire “pekarangan” (equipment) including the provision both for fishermen and the family borne entirely by “tauke”. While “Tekong” just manage and catch the fishes. “Tekong” will be assisted by fishing workers. The fishing workers are also included in the core of cooperation. Secondly, the boat is belong to “tekong” and the all of the equipments (pekarangan) is belong to “tauke”.

There 3 types of the determination of the profit ratio (the term used in the Tapak Kuda villagers “panggu”). First, it is based on the division of the two parties. This ratio will be chosen if the fishermen are not helped by men. The percentage of this ratio is: the fishermen will get revenue from sales, including operating costs. Sales of seafood (shrimp or fish) must be to “tauke”. He will give the base price to fishermen, while he will get the profit from the sales he conducts to the town.

It can be concluded that the model of the determination of the ratio of the first type is the price earnings of products for the fishermen. This income is deducted from the operating costs. While the revenue ratio for “tauke” is the profit margin on the sale of the products to the other party.

Second, the determination is based on the distribution ratio to the three parties. Ratio determination is done among “tayke”, “tekong” and “working men”. There is a general rule in determining this ratio, which is part of the working men is “one part”. So when there are two working men, then a part of “panggu” (ratio) is 2 parts; each will get one part. Similarly, if there are 3 working men, so the portion will be 2 parts for “tauke”, 2 for “tekong” and 3 for working men.

Third, the determination of the ratio is equal to the determination of the ratio of the second kind. Only in this case “Tekong” has the boat. What distinguishes the second type is related to the determination of the selling price. The selling price of the products from “Tekong” will be more expensive than of the second type, so that “Tekong” income will be more than of the second type above.

The first type differ from the the second and third types where in the first kind, “tauke” will only get the profit margin of the sales price to the other party.

While in the second and third types, “tekong” income is earned after the products are sold to “tauke”.

As explained earlier, that the products are sold to “tauke”. The purchase price is the price of tekong to tauke. While selling the products to the market in Medan, “tauke” will get the profit from the margin. The difference between the second and third types are in the determination of the purchase price to “tauke”. In the third type, Tekong gets the price higher than the second type. For example, if the selling price to “tauke” for 1 kg of fishes is Rp. 10.000, - then the selling price in the third type of 1 kg of fishes is Rp. 15.000, -.

In addition to the above, there are other types of price, called “harga preman”. This kind of price is not the price given by “tauke”. This is this the price which taken by “tauke” from fishermen who are not cooperating with him. Actually, this term arises because there are deviations in the cooperation agreement. For example, “tekong” or his men hid most of their catch and sell it to others with higher prices. This is called “harga preman”

“Harga preman” can be a trigger to conflict. Usually, this happens when there is a difference in price between one “tauke” with another when a “tekong” communicate with other and compare their prices. From these interactions, it will appear jealousy. According to a “tauke” Abu Bakr and Chief of the village, it is due to mental attitude of fishermen in the village who do not want to be troubled in treating and dealing with fishing equipments. They want more revenues without any hard efforts.

2. The Process of Internalization in Profit and Loss Sharing System of Tapak Kuda Fishermen

The implementation of the profit and loss system among the fishermen in Tapak Kuda Village has run for long time. This fact is understandable, as explained in the above that the Malay society has long interaction with Islam. Historically, the social conditions of the Malay community in this region are formed with strong influence of Islamic values in its various aspects.

This is demonstrated by, first the education system which still survive is Islamic schools (madrasah). This indicates that the values of religiosity are retained in the education system. Second, the habit of fishermen in this village especially on Friday, they choose not go to the sea or going home earlier before Friday prayers. Third, the community give a high regard for the scholars as well

as Islamic tradition that implemented by the household in Tapak Kuda. Therefore, the profit and loss sharing system that became a tradition among fishermen is an initial public interaction in this village with Islamic teachings passed down from generation to generation.

Abu Bakr, a “tauke” who is the richest men in the village are descendants of the previous richest “tauke” in Tapak Kuda. Of course, this profit sharing system bequeathed to his son anyway. Unless, some other “tauke” as Mr. Kadir who built his own business from the beginning. He has only has five ships.

Based on the above, Islamic teachings related to muamalah has become a social reality which has undergone a process of externalization, and internalization and objectification. However, the process of internalization of Islamic teachings which occurred at the beginning of the Malay community in the village is experiencing a disconnection. The role of scholars is very limited in teaching muamalah. The role of scholars is just related to the worship and family ways only. This is as stated by Mr. Kadir, who is also regarded as an elder in the clerical field.

Another indication is that the fishing community in this village also assume that what they are doing is a part of the tradition.

3. The Compliance of The Practice of Profit and Loss Sharing System in Fishing with Fiqh Muamalah

If fiqh muamalah used as the default, then the implementation of the system of revenue sharing among the fishermen in Tapak Kuda village can be categorized to two types. First, the sharing system can be categorized as cooperation with the Musharakah agreement. This can be seen in the type of ratio determination of the ratio of the third type above. “Tauke” on the one hand provide capital, equipment and operational costs, while “Tekong” on the other hand also has a boat. In this regard, the proportion for the working men is regarded in Tekong portion. Precisely, they play the type of *Musyarakah al-inan*, because the capital contribution is not the same.

Secondly, the system of profit and loss system performed by Tapa Kuda fishermen can be categorized as cooperation with mudharabah. This can be seen in the first and third type of determination ratio. The entire capital of this kind is borne by “Tauke” (shahibul mal) while “Tekong” and his men are managers or *mudharib*.

There are two types of calculation in determining the profit sharing ratio. First, the revenue sharing models. This applies to the first type. This kind can be described as follows:

- a. Profits divided is income (revenue);
- b. Profit for “tauke” is the profit margin of the sales price to the other party and for “Tekong” is the purchase price of “tauke” to the Tekong;
- c. Tekong net income is net of operating costs.

For example, the income is Rp. 75.000, -. The purchase price of “tauke” from Tekong is Rp. 50.000, - and the operational cost is Rp. 20.000, -. Then the “tauke” proportion is Rp. 25.000, - and the proportion of Tekong is Rp. 30.000, -.

Second, the determination of profit sharing ratio with the model. This applies to the second and third types. In the second and third types can be described as follows:

- a. Profits divided is profit
- b. The advantage is that income has been reduced by the costs. In this case, the entire cost of operasioanal will be the responsibility of “tauke”;
- c. Tauke gets 2 portions. Tekong gets 2 portions two portions for the working men. (if his men are two people);
- d. “Tauke” still obtain a profit margin of the sales price to the other parties in addition to income for the profits obtained.

This second model is different from the rules in muamalah. This means that operating costs in the profit and loss sharing agreement is included in the financial management structure of the business, but in this case, it becomes a part of the capital of the owners.

Another problem is that the determination of the ratio including the sale price and the type of business should be clearly agreed in the contract agreement in this cooperation. There are some principles that must be obeyed in any transaction; Firstly, the freedom of the parties should not be restricted. Secondly, the principle of willingness of the parties. There should be no compulsion. Thirdly, the principle of fairness, no one feels oppressed.

If we compare the concept above with the practise of Tapak Kuda fishermen, we can get as follows:

- a. Sales of the products should be on the hand of "Tauke". It seems that the fishermen are not given the freedom to conduct transactions.

- b. The price of the fishes determined by “tauke”. “Tauke” compares the price he gets from Medan because all the products will be sold in Medan. The fishermen do not have the power to participate in pricing, so that the principle of willingness can not happen.

Based on the explanation of “tauke,” all the above provisions have been agreed in the beginning of the contract of cooperation and has become a tradition in this village. Yet, there is still a moral hazard, where the fishermen sell their fishes to the other party.

Based on the above, it can be seen that the profit and loss sharing system implemented in Tapak Kuda village is a system of cooperation (*syirkah*) especially *syirkah al-‘inan* and *mudharabah* (profit and loss sharing system). Thus, the “panggu” system can be regarded as *mudhrabah* in fisheries where the owners of capital act as owners of capital (*shahib al-mal*) and the fishermen act as managers (*mudharib*).

In the observation, it can be seen that the owners of capital are fully entrust the management of the fishing boats to managers and did not intervene. From interviews conducted with fishermen can be concluded that the system is still done traditionally in which contract made orally (no written agreement). This is because the owners of capital and fishermen usually know each other and live in the same village.

For the future, this system will be is possible to develop. There are several things that can be developed in the system:

- a. There should be a written agreement containing binding rights and obligations of the owners or manager of capital. Written agreements can also avoid the risk of any disputes between the parties.
- b. There should be a regular coordination between all the parties.
- c. The capacity of the fishermen should be enhanced by increasing the quality of science of fishery.
- d. The system could be developed in the pattern of mutual cooperation, where the owners of the capital can be more than one person.

In term of moral hazard, then the Koran actually reminded in surah Shad verse 24:

قَالَ لَقَدْ ظَلَمَكَ بِسُؤَالِ نِعَجَتِكَ إِلَىٰ نِعَاجِهِ ۗ وَإِنَّ كَثِيرًا مِّنَ الْخُلَطَاءِ
لَيَبْغِي بَعْضُهُمْ عَلَىٰ بَعْضٍ إِلَّا الَّذِينَ ءَامَنُوا وَعَمِلُوا الصَّالِحَاتِ وَقَلِيلٌ مَّا
هُم ۗ وَظَنَّ دَاوُدُ أَنَّمَا فَتَنَّاهُ فَاسْتَغْفَرَ رَبَّهُ وَخَرَّ رَاكِعًا وَأَنَابَ ﴿٢٨٢﴾

David said: "He has been unjust to you to ask the goats were to be added to the goat, and Indeed most of the people who organize it they do wrong to others, except those who believe and do good works; Very few. David knows that we tested; So he asked for forgiveness from God and fall down prostrate and repented.

The above verse clearly states that in the *syirkah*/profit sharing system, the parties are potentially treacherous. Therefore, the parties are expected to have good faith and love each other. This attitude will prevent deviant behavior in *syirkah* system. Therefore, it is also important for the capital owners and managers to know each character and meticulous analysis of the potential gains and risks.

Despite the profit-sharing system essentially based more on belief systems, but Islam also stressed the importance of writing and administration (QS. al-Baqarah: 282)

The above verse confirms the importance of the process writing in business transactions. Profit and loss system is based primarily on the belief system, but it must be written carefully in a good manner administration. The agreement explains the rights and obligations of the parties and avoid disputes in the future. Similarly, the importance of the presence of a witness who witnessed the transaction process.

From an economic perspective, the profit and loss system is done in Tapak Kuda village could provide a positive contribution to improve the local economy. This is because the mutualism symbiosis between the parties.

The profit and loss system can be an alternative as a deduction of unemployment in rural communities. With a profit and loss system, the idle labor in the village can be empowered and maximized. The system also allows for development especially to give value-added in any products of the sea such as salted fish, shell crafts and others. For that, the fishermen need a training and

counseling. So, they should also earn other income besides the fishing. For example, the marine tourism with the background of fishing communities is developing nowadays. This is possible because Tapak Kuda Lama Area is already a supporting zone.

The fishermen should improve the quality and quantity of the products. Above all, the fishermen have to possess integrity and honesty. The result of an Islamic system should be done by actors who are also applying the principles of Islam.

From the Islamic economic perspective, the profit and loss system can be an alternative to deeper study especially to increase the scientific treasures of Islamic economics. Today, the study of the real sector and fishermen is still minimal in Islamic economics perspective. Hence, Islamic financial institutions can give attention to this system. One of financial institutions to be considered more appropriate is a *shariah* cooperative (BMT). This institution is considered sufficiently prospective to take part in this profit and loss system.

Conclusion

The local wisdom in the implementation of profit and loss system among fishermen of Tapak Kuda village is a result of the internalization process in the context of social construction. This local wisdom is a result of the internalization process among fishermen. The results of the research showed that the process of internalization was supported by the some social background factors, while the educational functions of scholars play less attention in muamalah area. Although, there is a shift in the implementation of the system but still be possible to be compared with the muamalah jurisprudence.

Based on these results, the viscosity and the strength of local wisdom should be our concern, especially relating with the implementation of Islamic economic system in society. Further research is needed in especially actions research to raise awareness and empowerment process in the profit and loss system among fishermen. This issue can be a part of the socialization program of the government and Islamic economics activists.

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