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THE ROLE OF THE STATE IN ISLAMIC ECONOMICS LAW IN THE LIGHT OF ABBAS MIRAKHOR'S THOUGHTS

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Abstract: Islamic economics is a progressive and dynamic economy. Various new theories have been raised as an offer for the development of Islamic economics law, one of which is done by Abbas Mirakhor. This article discusses role of the state to the main principles of the Islamic economics system. To find out more about the Islamic economic thought offered by Abbas Mirakhor, from the main principles of the economic system to the role of the state in the economy. This article uses a qualitative type of research using literature research. The results of this study show that Abbas is a reputable practitioner of Islamic economics and finance in the world, both Islamic and Western, and is highly respected in the Islamic world. Mirakhor is considered a reformer in Islamic economics law, and is part of the Iqtishad school. In the field of Islamic economic system, Mirakhor argues that the main principle of Islamic economic system requires distribution in two mechanisms, namely freedom, and justice, without which prosperity will not be achieved. Therefore, there is a need for a hermeneutical approach to answer various problems that occur in the Islamic economic system. In the context of the state, according to Mirakhor, the state has a very significant role in the welfare of society, especially through productive policies. The state must also be present in realising justice in society. There is a need for a hermeneutical approach to answer various problems that occur in the Islamic economic system. In the context of the state, according to Mirakhor, the state has a significant role in the welfare of society, especially in productive policies. The state plays a very significant role in the welfare of society, especially through its productive policies. The state must also be present in realising justice in society. There is a need for A hermeneutical approach to answer various problems that occur in the Islamic economic law. In the context of the state, according to Mirakhor, the state has a very significant role in the welfare of society, especially through productive policies. The state must also be present in realising justice in society.

Keywords: Abbas Mirakhor, Islamic Economics Law, Role of the State

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1. Introduction

Islamic economics is one of the world's economic systems. Its existence is parallel to other world economies such as capitalist and socialist economies. Although there are many fundamental differences in them. With its *maslahah* and *falah* orientation, Islamic economics is at the forefront in offering various economic concepts that are non-discriminatory, harmful and exploitative. At this point, Islamic economics is ahead of and more advanced than the two existing economic systems.

Since its inception, Islamic economics law has been widely doubted, even considered unfounded and not based on scientific facts and methodologies, especially among Western scientists and economists. They do not believe in the ability of Islamic economics to answer various problems that arise in the economic field. Therefore, it is not surprising that the contributions of economic thought are ignored by Western scientists and economists, especially in the world's economic textbooks.

But when viewed from a historical aspect, Islamic economics has been discussed and practised in everyday life. Even since the time of the Prophet Muhammad and his companions. However, the development of Islamic economics stalled, due to the dichotomy between religion and science that was born due to dogmatisation that occurred in the dark ages.) In addition, the strong dominance of capitalist and socialist economics as a means of socialising the economy. the politics of Imperialism and Colonialism contributed to the neglect and marginalisation of the Islamic economy (Aravik, 2017).

Islamic economics began to be a serious study in the 1930s with the birth of progressive and dynamic Islamic economic thought that was able to answer various fundamental problems in the economic field. One of the important figures in the field of economic studies is Abbas Mirakhor, who offers many concepts of Islamic economics ranging from the main principles of the Islamic economic system to the role of the state in realising people's welfare.

2. Method

This research method was compiled using empirical juridical research types. Empirical juridical research is a problem approach regarding matters that are juridical in nature and the existing facts regarding matters that are juridical in nature. Empirical juridical research of knowledge is based on facts obtained from the results of research and observation. The type of approach applied in this writing is using the fact approach. The fact approach is an approach used to examine facts in the field that occur and are related to the legal issues under study.

3. Biography of Abbas Mirakhor

Mirakhor is a reputable practitioner of Islamic economics and finance in the world, both Islamic and Western, even considered as one of the world's Islamic economic reformers, who is credible and consistent in building the scientific discourse of Islamic economics. With the Qur'an and As-Sunnah and fiqh sources as his analytical tools. Markhor formulated the concept of an ideal Islamic economy. From there, Mirakhor found that Islam as a religion of *rahmatan lil alamin*, never separated between the profane and the sacred. With Tawhid as the foundation of economic and financial activities, Mirakhor believes that Islamic economics is the solution to many contemporary economic problems.

Born in Iran. Earned his Master's degree and Ph.D. degree in economics at Kansas State University in the United States. In 1968, Mirakhor started his academic career at the University of Alabama, USA. In 1984, he joined the IMF in Washington DC as an economist. He spent 24 years with the IMF, serving as the organisation's Executive Director and Dean of the Executive Board, stepping down in 2008. From 2010 to present he is associated with INCEIF (*International Centre for Education in Islamic Finance Malaysia*).

Mirakhor is one of the important figures of the Iqtishaduna school pioneered by Muhammad Baqir Al-Sadr, the author of Iqtishaduna. This school argues that studying economics should be seen from two aspects, namely the philosophy of economics or normative economics and positive economics. An example of positive economics is studying the theory of consumption and demand which is a common phenomenon and can be accepted by anyone without being influenced by ideology. Meanwhile, from the aspect of economic philosophy which is the result of human thought, it will be found that each group of people has a different ideology, perspective. For example, regarding the discussion of 'justice'.

According to the concept of classical capitalism, what is meant by "fair" is that you get what you deserve, meaning "you get what you have worked for". Meanwhile, classical socialism translates the meaning of "fair" as no one has the privilege of getting more than the other, meaning that no one has the facility to get more than the other, in other words that everyone gets equality. However, Islam has its own meaning of 'fair', which is *laatadhlimuuna wa laa tudhlamuuna* which means not judging each other (Aravik, 2017).

So according to the *Iqtishaduna School of* thought, there is a difference in principle between economics and Islamic ideology so that there will be no meeting point between Islam and economics. So economics cannot work in harmony with Islam. Economics remains economics, and Islam remains Islam. These two things cannot be reconciled because they come from different understandings and philosophies. One is not Muslim (do not believe in God) and one is Muslim (God). This difference in understanding and philosophy will have an impact on the different perspectives used in looking at an economic problem, including the analytical tools used.

In addition, this school argues that problems in the economy arise because of unequal and unfair distribution as a result of an economic system that justifies the exploitation of a group of weak parties by a group of strong parties, where the strong will be able to control existing resources while on the other hand, the weak do not have access to these resources. So that economic problems arise not because of limited resources, but because of unlimited human greed. In addition, in Islam it has been affirmed that Allah SWT has created the creatures in this world including humans with sufficient economic resources as affirmed in His word "And He has created everything and He determined its size as neatly as possible" (QS. al- Furqan [25]: 2). Thus, Allah Swt. has created everything that can be measured perfectly. This means that Allah Swt. has provided sufficient resources for humans. So in this case the concept of scarcity cannot be accepted (Aravik, 2020).

This school also rejects the notion that human needs are unlimited. Because, in certain needs such as eating and drinking when the stomach is full, then he is satisfied because his needs have been fulfilled. So the conclusion is that human needs are unlimited as explained in the concept of the law of diminishing marginal utility that the more goods consumed, at some point will cause additional satisfaction from each additional amount of goods consumed will decrease. With the various problems above, the term Islamic economics according to this madzhab is an inappropriate and misleading term, so the term Islamic economics must be stopped and eliminated. Instead, to explain the economic system with Islamic principles, offered a new term derived from Islamic philosophy, namely Iqtisad. *Iqtishad according* to this school is not just a translation of economics. *Iqtishad* comes from the Arabic qasd which means a state of balance or equal, balanced or between. All conventional economic theories are rejected and discarded, and replaced by new theories based on the texts of the Qur'an and Sunnah. Therefore, compiling and reconstructing economics separate from the Qur'an and Sunnah is a must (Aravik, 2017).

4. Abbas Mirakhor Economic Thought

Abbas Mirakhor is one of the important figures in the Iqtishad school outside Baqir al- Sadr, Ali Shariati, and Kadim As-Sadr. As of 2017, Abbas Mirakhor has written 19 books, 17 journals, and 7 papers. Thoughts on Islamic economics law can be found in his works such *as* Introduction to *Islamic Economics: Theory and Applications* (2014), *Risk Sharing in Finance: An Alternative to Islamic Finance* (2011), *Introduction to Islamic Finance: Theory and Practice* (2011), *Islamic Financial Stability: Creating a Resilient Financial Environment for a Secure Future* (2010), *Globalisation & Islamic Finance: Convergence, Prospects & Challenges* (2009), *New Issues in Islamic Finance and Economics: Progress and Challenges* (2009), *Introduction to Islamic Finance: Theory and Practice* (2006), Theoretical *Studies in Islamic Banking and Finance (*2005), and *Theoretical Studies in Islamic Banking and Finance* (1988). Here are some of Abbas Mirakhor's economic thoughts that have greatly contributed to the thinking and development of global Islamic economics and finance:

1. Key Principles of Islamic Economics Law

The Islamic economic system is a collection of institutions, i.e. formal and informal codes of conduct and their enforcement features, designed by the *shahibut tasyri'* i.e. Allah Swt. Through various regulations described in the Qur'an, operationalised by the Sunnah of Prophet Muhammad and extended tonew situations by ijtihad, to deal with the allocation of limited resources, production, exchange of goods and services, and distribution of income and wealth (Iqbal, Zamir; Mirakhor, 2011). Islamic economic system requires that in terms of distribution it must be based on two aspects, namely freedom, and justice. Freedom here is freedom framed by values-values of *tawhid* and justice, in contrast to the capitalist understanding which states as an act of freeing humans to act and act without interference from any party, balance between individuals and society as well as between individuals an society one community with another community (Zakiyah, 2017).

To provide a comprehensive understanding of the Islamic economic system, Mirakhor suggests that the approach in Islamic economic studies also uses a hermeneutical approach. This approach is different from interpretation because the hermeneutical nature is the process of extracting economic meaning from first-order interpretations. With this approach, it is estimated that Islamic economics law in the future will be rich with economic theories that are truly based on the Quran and Sunnah (Mirakhor, 2007). So as to achieve the purpose of Islam as a religion of rahatan lil alamin (QS. Al-Baqarah [2]: 107), where it fosters every Muslim to live a good life (QS. Al-Nahl [16]: 97) and live prosperously (QS. al-Hajj [22]: 77), providing convenience and poverty alleviation (QS. al- Baqarah [2]: 185), creating shared prosperity (QS. al-A'Ra'd [13]: 28) (Borhan & Sa'ari, 2002).

Methodologically, Islam has provided general guidelines and principles so that economic activities run along humanitarian corridors (Haneef, 2005). Epistemologically, Islam does not separate economics from the value system. Islamic teachings are a category of moral imperatives to control human economic behaviour (Wilber, 2003). The main principles of the Islamic economic law are as follows:

a) Property rights

The first basic principle of ownership in Islam states that Allah alone is the true owner of the original owner. In order for man to materially fulfil his duties and obligations, he is given the right to own. Hence, the second principle of ownership establishes collective rights over the resources that a person owns. A person can acquire ownership rights over property through his creative work, and/or by transfer by exchange, contract, loan, or inheritance.

b) Ownership obligations

The individual's responsibility for ownership is the responsibility of sharing the income and not wasting, destroying, squandering, or using these goods for purposes that are not allowed by sharia. If the individual has discharged hi obligation to share, in the manner and amount prescribed by sharia, and has not violated the rules of sharia, then the property rights of the individual are inviolable and no one has the right to forcibly demand (or expropriate) that person's property for others (Iqbal, Zamir; Mirakhor, 2011).

c) Contract

The concept of contract in Islam is not only important in the legal aspect of exchange, as a necessary institution for the legitimate fulfilment of human needs, but also as an underlying concept of sharia. A Muslim is constantly reminded of the importance of contractual agreements, and the believer must honour the agreement them with their Lord. One of the reasons why the Islamic system of *muamalah* (transactions) is so clearly based on the principle of firm contracts and is also based on the rights and obligations of each party to the contract.

d) Confidence

Islam emphasises trustworthiness as an obligatory trait for everyone. The root of the word faith is the same as the root of the word trust. Fulfilling the terms of contracts and always keeping promises with other members of society is a concept based on the obligation to be faithful to the original and primordial covenant between man and Allah SWT. (QS. Al-A'raf [7]: 172), keeping promises and trustworthiness are characteristics of believers (QS. Al-Mu'minun [23]: 1-8), the command to keep promises for believers and there is accountability in the hereafter (QS. Saba [34]: 17), and trustworthiness as the main characteristic of prophets and messengers (QS. Ash-Shura [42]: 107, 125, 143, 162, 178, and 193) and treason will be cursed (QS. Saba [34]: 17). Al- Anfal [8]: 58, Yusuf [12]: 52) (Iqbal, Zamir; Mirakhor, 2011).

e) individual obligations

The obligations, rights and restrictions set by *sharia* must be adhered to if an individual or system is to have an Islamic identity. Individuals have been guaranteed their natural rights, including the right of individuals to pursue their economic interests. This potential right remains even if the individual is unable to actualise it. Conversely, if the person is capable but does not fulfil his obligations, then the right is also nullified. In the context of self-interest, sharia justifies individual self-interest, provided that self-interest is in line with spiritual, temporal and eternal interests.

f) Work

Work is often referred to *asal-Amal and al-fi'il*. The Qur'an upholds work and places it on the level of worship, and considers it an integral dimension of faith On the contrary, laziness or spending time on unproductive and useless work is considered a sign of lack of faith and a trait of a person who has no faith. who do not believe. Since Islam does not teach class distinction, any type of work that does not contradict sharia is not a lowly job (Iqbal, Zamir; Mirakhor, 2011).

g) Wealth

Islam views wealth as the lifeblood of a society which must be proceed to rotate. Hence, the practice of hoarding wealth is prohibited. The implication is that wealth can be legitimately invested to improve welfare. The expenditure of wealth is an obligation governed by sharia. Once the obligation is fulfilled, the remaining wealth belongs to the owner but must be utilised according to the provisions of sharia. In addition, Islam regulates wealth to minimise conflict between the rich and the poor, through equitable distribution of wealth (Rahman, 2017).

h) Grace

An important factor in the Islamic incentive system is the concept of blessings which serves as a material inducement for individuals to follow justified behaviour. The concept of blessing states that righteous behaviour, i.e. behaviour that is approved by Allah SWT, will be rewarded manifold. The better the behaviour, the greater the presence of blessings. This concept emphasises that a person who spends his wealth for the sake of Allah, will not cause his wealth to decrease but instead increase. This kind of action will result in many rewards for the doer. This concept creates a positive correlation between behaviour and system welfare (Iqbal, Zamir; Mirakhor, 2011).

i) Risk Sharing

This is based on the principle of liability, which states that profits are justified based on the responsibility taken by a person, and it is even possible that each party is also responsible for losses and consequences that may arise. Tenth, competition and co-operation. The Islamic economic system does not make humans only a tool in achieving economic or state goals. Islam seeks to guide people towards direct and responsible individual action and participation in economic matters using solidarity and co-operation which will result in economic dynamics and growth.

Therefore, Islam uses cooperation and competition in organising an ideal society through harmonisation and reconciliation between two opposing camps. The *Qur'an* and *As-Sunnah* clearly state the nature of competition and co-operation, i.e. humans can co-operate and compete for good and bad. The *Qur'an* and *Sunnah* emphasise that competition and cooperation should be used in piety and righteousness, not evil (QS. Al-Baqarah [2]: 5) (Iqbal, Zamir; Mirakhor, 2011).

The paradigm of the Islamic economic law challenges conventional economic thinking in several areas, including a). Justice and equality are the most important priorities of Islam and its teachings in the field of economics. The idea of justice and equality from production to distribution is rooted in the system. Social justice in Islam implies efforts to create and provide equal opportunities and remove various obstacles to equality for every member of society. b) The Islamic paradigm includes a framework ofspiritual and moral which emphasises the value of human relationships over material possessions. c) the Islamic system creates a balanced relationship between the individual and society. individual self-interest and wealth are not prohibited but are regulated for the betterment of the greater collectivity. d) individual. The pursuit of maximum profit in enterprise and maximum satisfaction in consumption are not the sole objectives of society and wasteful consumption is discouraged. e) The recognition and protection of the property rights of all members of society is the basis of a shareholder-oriented society, protecting the rights of all people, and reminding them of their responsibilities (Iqbal, Zamir; Mirakhor, 2011).

2. Economic Justice

Allah SWT. has created and designed His creation including the universe and its natur, as well as humans in equal proportions. If there is a deviation from this balance, then theentire system of being can collapse or not function properly, including in economic activities carried out by humans (Adnan Abd Rasyid & Arifin Mamat, 2013). Islam states that justice is a universal goal to be achieved in perfect balance (Zakiyah, 2017). Meanwhile, the main goal of Muslims is the creation of economic justice, which is part of a just, healthy and moral society. Islam expects the creation of energetic human beings, a directed, prosperous, and equitable economy in which each member of society gets the rewards to which he is entitled. Components of justice the economy in Islamic society is: freedom and equal opportunity for all members of society to utilise theavailable, abundant, and unlimited natural resources (Baqir al-Hasani Abbas Mirakhor, 1998).

a. Freedom means that people are not restricted by other people to combine thei creative work with resources designed to be utilised by individual members of society following the rules of sharia. Opportunity is a meaningful situation that allows individuals to try everything. The success or failure ofone's endeavours depends on one's andabilities. Equality of opportunity must be maintained collectively. Equality of access to resources and equality of opportunity in Islam is based on theview that the resources natureare not created by man but given by Allah Swt. to all members of society, and therefore, the freedom and opportunityto use these should bedistributed equally to all people (Iqbal, Zamir; Mirakhor, 2011).

Since Islam recognises that individual are rational actors, in Islam the main causes poverty are viewed differently. Scarcity is not considered important in explaining poverty in Islam. The main cause of poverty is injustice created by corruption, maldistribution of wealth and opinions, and the wastefulness that accompanies it (Aska)

b. fairness in transactions. Islam conceptualises that market-based rules of conduct include regulating the sources of supply and demand for sharia-compliant facts and products before they enter the market, sharia-based rules of conduct for buyers and sellers, and the price bidding process, whichis free from various factors prohibited by sharia. The rules relating to supply and demand do not only regulate the permissibility of supply and demand products to be requested and bid on, but also investigate in depth this phenomenon. Not all requests for products are considered legitimate, and not all acts of supplying products to the market are permitted. Rules of behaviour for individuals in the market are designed to ensure fair transactions. Behaviours such as fraud, manipulation, practices monopoly, coalition, sellers and buyers, selling products at substandard prices, dumping, hoarding, and bidding without the intent to buy, are prohibited. Any form of behaviour that leads to ownership rights without going through the correct working process is prohibited (Iqbal, Zamir; Mirakhor, 2011).

Distributive justice is the mechanism by which freedom and equality are reconciled without violating each other. Islam views that poverty and inequality are not caused by scarcity or shortage of resources, or by unsynchronised modes of production and distribution, but rather by waste, extravagance, extravagance, and neglect of payments that are belongs to the community. Islam does not hesitate to assume that all individuals are connected to a certain standard of living; thus fulfilling the rights of the poor is a matter of equality and justice, not a matter of mere generosity (Iqbal, Zamir; Mirakhor, 2011).

1. The Concept of *Riba* and Gharar in Islam Law

The term usury is closely related to muamalah activities (Sofhian, 2015). The term riba refers to excess, addiction, and excess, and the verbs associated with this word mean, to add, multiply, exaggerate, take more than is due, opractice the lending of money at high interest. By focusing on usury on financial transactions, according *to* Shariah, it technically refers to the premium that borrowers have to pay to those who lend along with the principal amount of the debt as a condition for borrowing or extending the term of the loan (Iqbal, Zamir; Mirakhor, 2011).

In Arabic, usury is used in the sense of adding, expanding, fattening, fattening and having fun, and so on (Ahmed, 2013). Usury in English is called usury which means taking excessive interest on borrowed money, so it tends to lead to exploitation or extortion (Umam, 2018). While interest is an additional amount paid/received from the principal amount according to the agreement with the attached time period (A. Ahmad & Humayoun, 2011). Thus usury or interest is in principle the same.

Islam strictly prohibits usury (QS al-Rum [30]: 39, an-Nisa' [4]: 160-161, Al- Baqarah [2]: 278-279) (AUF Ahmad & Hassan, 2014) because Islam opposes any form of exploitation and supports an economic system to secure economic justice. Even dealing with usury-based transactions means declaring war with Allah Swt. and His Messenger (QS. Al-Baqarah [2]: 279) (A. Ahmad & Humayoun, 2011). For this reason, Islam condemns all forms of exploitation, especially injustice, where the lender is guaranteed a positive return without considering the risks with the borrower, or in other words, the borrower bears all kinds of risks. With the consideration that the property owned by an individual is a trust from Allah SWT, as is the life of the individual. For a person, the trust of wealth is sacred. So if the property is taken inappropriately, there is an injustice that tarnishes human sanctity (Iqbal, Zamir; Mirakhor, 2011).

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For a person, the trust of wealth is sacred. So if the property is taken inappropriately, there is an injustice that tarnishes human sanctity (Iqbal, Zamir; Mirakhor, 2011). acquisition of another's property by improper means (Surat Al-Baqarah [2]: 188, An-Nisa [4]: 29, An-Nisa [4]: 161 and At- Taubah [9]: 34). Interest aan investable resource is inefficient as it is allocated not according to productivity but according to the creditworthiness of the borrower. So the concept of usury is more than just a prohibition of charging interest, it is also prohibited from making more than what is given (Rahman, 2017).

In modern times, by the mid-1980s, economic and financial theory had shown that there were flaws in interest-based banking contracts. Among them:

a. These contracts or agreements create inefficient defaults on financial liabilities or assets.
b. Due to asymmetric information, money agreements contain moral hazard effects and adverse selection effects.
c. Fixed fee agreements create a fundamental conflict between the interests of lenders and borrowers.
d. Social sectors with low profitability will not be financed, new entrepreneurs with good projects may not be financed receive funds because it does not have the necessary securities (Iqbal, Zamir; Mirakhor, 2011).

So interest has become the dominant economic feature of western civilisation, whereas Islamic civilisation in its heyday functioned on the basis of profit-sharing and trade credit. The rejection of interest is an important step towards the economic revival of Muslims (Rahman, 2017). Many Muslim scholars claim that Islam's prohibition against usury has two dimensions; the first dimension is to present business and commercial contracts with an equal share of risk, and the second, to regard the act of lending as an act of benevolence on the grounds of helping someone in need. If someone needs capital for commercial purposes, it should be provided on a risk-sharing basis and if someone needs funds to cover a short-term need, that need should not be exploited and the borrower should not be burdened with onerous conditions.

Sharia regards borrowers as duty-free contracts, encourages Muslims to offer Loans (*qard al hasan*), and condemns wealth accumulation for the sake of wealth accumulation. Giving a loan without usury is considered a generous act worthy of blessings; on the other hand, lending money with usury has very long consequences

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(QS. Al- Hadid [57]: 11 and al- Taghaabun [64]: 17). Even Surah al-Rum [30]: 39 offers an interesting proposition that charity including interest-free lending is more valuable in the eyes of Allah, compared to wealth through usur (interest).

According to an existing tradition, the Prophet said; *Riba* is beautiful but the result is scarcity and quarrels. On another occasion, the Prophet said: boasting with usury brings destruction to a people (HR Imam Ahmad) (Iqbal & Mirakhor, 2012). From these various verses, the Qur'an has clear instructions regarding business and trade activities because income from trade (*Bai*) is a legal activity but based on interest (*Riba*) is illegal. Banking activities are part of economic activities and Islam only allows usury-free banking (A. Ahmad & Humayoun, 2011).

As an alternative to the interest system in the conventional economy, the Islamic economy offers a profit-sharing system when the owner of capital (surplus spending unit) cooperates with the entrepreneur (deficit spending unit) to conduct business activities. if the business activity generates profits, the profits are shared and if the business activity suffers losses, the losses are also shared. This profit-sharing system can take the form of *mudharabah* or *musyarakah* with various variations (Budiantoro et al., 2018). Meanwhile, *gharar* is the most important element in financial contracts. In simple terms, *gharar* comes from problems related to information and refers to the uncertainty created by the lack of information and knowledge about the outcome of the contract or the nature and quality of the subject matter or the lack of control in the contract (Uddin, 2015). *Gharar* is considered to be the neglect of important elements in a transaction, such as the exact selling price or the willingness of the seller to provide what is being sold, and so on. The presence of gharar in a contract makes the contract null and void (Iqbal, Zamir; Mirakhor, 2011).

Gharar is defined as a situation where one party to a contract has no information about the terms of the contract held by the other party, and/or the terms of the contract are something that cannot be controlled by either party. For example, the sale of birds or fish that have not yet been caught, calves that are still in their mother's stomach, and animals that have escaped and not yet been caught, and so on. All these cases involve the sale of items whose existence is possible. Another example is when the subject of the sale is not owned by any of the parties and there is uncertainty of its future ownership (Iqbal, Zamir; Mirakhor 2011). The prohibition of gharar refers to surah al- Baqarah [2]: 188, an-Nisa [4]: 29, al-Baqarah [2]: 219 and al-Maidah [5]: 93) (Uddin, 2015).

Gharar is any uncertainty in the quantity, quality, returnability, or existence of the goods that are the subject of the contract, all of which are contrary to sharia (Aravik, 2020). By *viewing* gharar as excessive uncertainty, one can negotiate gharar with an element of risk. The prohibition of gharar will force the parties to avoid uninformed contracts, and this prohibition will make the transacting parties more responsible and accountable. However, being gharar as a risk has a consequence, which is the prohibition of trading in gharar. The prohibition of gharar trading is considered a risk prohibition or prohibition of derivative instruments in today's financial markets, which are designed to transfer risk from one party to another. One of the implications of the prohibition of gharar is the prohibition of pure speculation and gambling activities, which contain asymmetric information, excessive uncertainty, extreme risk, and lack of control (Iqbal, Zamir; Mirakhor, 2011). In conventional insurance, it is uncertain, thus making conventional insurance feasible from the perspective of Islamic law (Uddin, 2015).

2. The Role of the State in Islamic Economics Law

Islam views economic relationships and behaviour as a way to integrate society into a higher level of reality. To this end, one is required to see his economic achievements as a means, not an end. All rules of behaviour relating to economic matters are addressed to individuals and groups. These groups are organised in a form of government, represented by the state. The state is regarded as the basic institution that must exist to organise social life, create material and spiritual well-being, and maintain and spread faith (Iqbal, Zamir; Mirakhor, 2011).

With the basic function as stated by Ibn Khaldun, which makes everyone follow sharia in their lives (Mulyana, 2017). The state must be present in the form of running an ideal justice system as an implementation of duties and responsibilities in the way of Allah, without discriminating even against itself and its people (Adnan Abd Rashid & Arifin Mamat, 2013). Because the state is the party authorised to lay the foundations of regulations that support and protec economic growth and activity (Hidayatullah, 2015). Meanwhile, the ultimate goal of a well-established state is to provide benefits to all its people without exception.

Maslahah must beable to deliver all members of society to the welfare of the world and the hereafter (Mahtum, 2019). The most important role of the state is closely related to Islamic political economy (Zakiyah, 2017). In addition, the role of the state is a derivation of the concept of *khilafah* and the consequent collective obligation (*fardhu al-kifayah*) to realise falah. The state is the holder of the mandate of Allah and His Messenger and the mandate of the community to carry out the collective task of creating prosperity and (*al adl wah ihsan*) for all people. In general, the role of the state will be related to realising an Islamic market concept and realising the overall objectives of Islamic economics (Sulistyowati, 2017).

According to Abbas Mirakhor, the role of the state in Islamic economics law is: *first, to* ensure that all people have equal access to natural resources and means of earning a living. *Second, to* ensure that every individual has equal opportunities to obtain education, skills, and technology as well as the opportunity to utilise all these resources. *Third, to* ensure that the market is properly monitored so that fairness in exchange can be achieved. Like the Prophet's habit, he often inspected the market to check prices and market mechanisms so that there were no actions that were contrary to sharia values. *Fourth*, ensuring the transfer of wealth from the rich to the poor following sharia rules. *Fifth*, ensuring equitable distribution of the next generation through the application of inheritance rules.

To maximise this role, the state is given the right to design certain economic policies to achieve all these objectives. To finance the expenditures necessary to carry out its duties, the state through sharia regulations is authorised to control, use and manage some natural resources, such as mining. *Shariah* also allows the state to levy taxes if there is a gap between revenue from resources and government expenditure. It is even permissible for the state to go into debt, as long as it does not involve interest and there is an emergency arena (Iqbal, Zamir; Mirakhor, 2011).

Thus, the state has the highest authority and role to eliminate inequality and disparity in society caused by various unhealthy economic practices such as hoarding, monopoly, oligopoly, and fraud. As expected by Ibn Khaldun, the role of the state as a facilitator of development and human welfare (Zakiyah, 2017). Therefore, weak state intervention in the liberal-capitalist economy has brought several negative accesses and consequences. Starting from unequal income levels, increasing poverty, and widening social gaps. This happens, the market that works optimally makes competition inevitable, entrepreneurs with large capital overpower and displace small entrepreneurs. Capital and wealth only revolve around a few people.

In contrast, in a socialist system, inequality, poverty and income distribution can be addressed. However, as competition is prohibited, the drive for achievement and productivity improvement tends to be absent. As a result, this system fails to foster significant economic growth. So in the perspective of Islamic economics law, the role of the state should contribute to ensuring the creation of conditions that support the economic mechanism of activities to run fairly, and encourage the birth of morality adorned with the attitude of honesty, openness, and justice to produce healthy competition, not as a liberal-capitalist or socialist-communist concept.

5. Conclusion

From the above discussion of the issues raised, it can be concluded that Abbas Mirakhor is one of the important figures in Islamic economics law, including a reformer in Islamic economics law and a follower of the *Iqtishad School*. Abbas Mirakhor's offer in Islamic economics law is seen in the use of the hermeneutic approach as a solution in research and comprehensive studies of the Islamic economic system.

In the context of the role of the state, Mirakhor demands that the state be present in the form of implementing an ideal justice system. Because the role of the state is closely related to Islamic political economy. Therefore, the state must ensure that all people have equal access to natural resources and earn a living, the state must ensure that every individual has equality in all respects, the state must ensure a market that is free from manipulation and control, and ensure that all people have equal access to natural resources transfer of wealth from th rich to.

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References

Books

Adnan Abd Rashid, & Arifin Mamat. (2013). Islamic Education's View of Leadership: Do Islamic Leaders Perform Their Responsibilities? *International Journal of Humanities and Social Sciences*, *3*(3),178-185.

Ahmad, A., & Humayoun, A.A. (2011). Islamic banking and the prohibition of usury/interest. *African Journal of Business Management*, *5*(5), 1763-1767. https://doi.org/10.5897/AJBM10.723

Ahmad, AUF, & Hassan, MK (2014). Usury and Islamic Banking Abu Umar Faruq Ahmad, University of Western Sydney. *Journal of Islamic Economics, Banking and Finance*, *line up*.

Ahmed, FASMFMAR (2013). Critical Analysis of the Islamic Concept Interests. *International Journal of Asian Social Sciences*, *3*(5), 1260-1267.

Aravic, H. (2017).*Contemporary Islamic Economic Thought*. Jakarta: Kencana.

Aravik, H. & F. Zamzam (2020). *History of Classical Islamic Economic Thought,* Palembang: Rafah Press.

Aravik, H. & F. Zamzam (2020). *Islamic Economic Philosophy; Diving into the Essential Values of Islamic Economics,* Jakarta: Kencana.

Askari, H., & Arfaa, N. (2007). Social safety net in Islam: The case of Persian Gulf oil exporters. *British Journal of Middle Eastern Studies*, *34*(2), 177-202. https://doi.org/ 10.1080/13530190701427925.

Baqir al-Hasani & Abbas Mirakhor. (1998).*Essays on Iqtishad: An Islamic Approach to Economic Problems*. Nur.

Borhan, JT Bin, & Sa'ari, CZB (2002). The Economic Function of the State: An Islamic Perspective. *Journal of Usuluddin*, *16*, 75-90.

Budiantoro, RA, Sasmita, RN, & Widiastuti, T. (2018). The (Islamic) Economic System and the Prohibition of Usury in Historical Perspective. *Scientific Journal of Islamic Economics*, *4*(01), 1. https://doi.org/ 10.29040/jiei.v4i1.138

Hanif, MA (2005). Can Economics be Religion-Based? The Case of Islamic Economics.*Post-Autistic Economics Review*,*34*(3), 41-52. http://www.peacon.net/PAEReview/issue34/Garnett34.htm.

Hidayatullah, I. (2015). The Role of Government in the Economy in Islam.*Dinar*, *1*(2), 77-89.

Iqbal, Zamir; Mirakhor, A. (2011).*Introduction to Islamic Finance: Theory and Practice*. John Wiley & Sons.

Iqbal, Z., & Mirakhor, A. (2012). Inclusive Finance: An Islamic Finance Perspective. *Journal of Islamic Business and Management*, *2*(1), 35-64.

Johanna Pesendorfer, OL (2016). Islamic Banking and Finance as an Ethical Alternative: A Systematic Literature Review. *ACRN Oxford Journal of Finance and Risk Perspectives*, *5*(2), 42-64. https://doi.org/10.31235/osf.io/jb5z9

Kalsum, U. (2014). Usury and Bank Interest in Islam; Legal Analysis and Its Impact on the People's Economy. *Journal of Al-'Adl*, *7*(2), 67-83. U Calcum- Al-'Adl, 2014 - ejournal.iainkendari.ac.id

Mahtum, A. (2019). State Intervention in Ahmad's Economy.*Statistical Field Theory*, *53*(9), 1689-1699.

Mirakhor, A. (2007). *Notes on Islamic Economics*. Islamic Research and Training

Mulyana Institute, RA (2017). The Role of the State to Realise Welfare in the Maqashidus Sharia Framework. *Al-Urban: Journal of Islamic Economics and Islamic Philanthropy*, *1*(2), 155-176. https://doi.org/10.22236/alurban

Rahman, FN (2017). Islamic Financial System Theory and Economic Growth. *Journal of Creative Writing*, *3*(1), 66-82.

Sofia. (2015). The Rationality of the Prohibition of Riba (Usury).*Al-Ulum*,

15(1), 237-266.
Udin, MA (2015). Principles of Islamic Finance: Prohibition of Riba, Gharar and Tuan. *Munich Personal RePEc Archive*, *67711*, 1-8. https:// mpra.ub.unimuenchen.de/67711/1/MPRA_paper_67711.pdf
Umam, K. (2018). The Prohibition of Usury and the Implementation of Sharia Principles in the System Banking Law in Indonesiaumam, K. (2018). The Prohibition of Usury and the Application of Sharia Principles in the Indonesian Banking Legal System. Mimbar Hukum -Faculty of Law, Universitas Gadjah Mada, 29(3), .*Mimbar Hukum - Faculty of Law, Universitas Gadjah Mada*, *29*(3), 391

Jurnal
http://ejurnal.unisda.ac.id/index.php/adilla/article/download/732/408/
Nur, E. (2008). Usury Versus Profit in an Exchange Economy: A Conceptual Foundation for a Stable Financial System in Islamic Perspective. *7th International Conference on Islamic Economics* and. http://www.kantakji.com/media/163535/file541.pdf
http://jocw.discinternational.org/index.php/jocw/article/view/42/46
http://journal.iaingorontalo.ac.id/index.php/au
https://jurnal.ugm.ac.id/jmh/article/view/284
Sulistyowati, S. (2017). Design and Universal Basic Values of Islamic Economics. *Istithmar: Journal of Islamic Economic Development*, *1*(2).https://doi.org/10.30762/itr.v1i2.946.

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