



SURAT TUGAS

Nomor : 1335/D/LL/2024

Assalamu'alaikum warahmatullahi wabarakatuh,

Pimpinan Fakultas Teknologi Industri dan Informatika Universitas Muhammadiyah Prof. DR. HAMKA, memberikan tugas kepada:

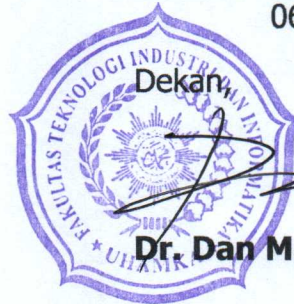
- Nama : **Zuhratul Aini Mansur, Lc. MA.**
- Tugas : Menjadi Pembicara pada kegiatan Pertemuan Internasional Asosiasi Dosen Lulusan Al-Azhar 2024
- Waktu : 13 – 14 September 2024.
- Tempat : Universitas KH. Abdul Chalim Mojokerto Jawa Tengah, Indonesia.
- Lain-lain : Setelah melaksanakan tugas agar memberi laporan secara tertulis kepada Pimpinan Fakultas Teknologi Industri dan Informatika UHAMKA.

Demikian surat tugas ini disampaikan, agar dapat dilaksanakan dengan sebaik-baiknya sebagai amanah dan ibadah kepada Allah SWT.

Wabillahit taufiq walhidayah,

Wassalamu'alaikum warahmatullahi wabarakatuh.

Jakarta, 10 September 2024 M
06 Rabiul Awal 1446 H



Dr. Dan Mugisidi, ST., M.Si.





CERTIFICATE

No.87 /ADAl/SI/IX/2024

This certificate is proudly presented to:

Zuhratul Aini Mansur

For his/her outstanding contribution as a **Presenter** at The 1st Annual Meeting and International Seminar of The Lecturers Assosiation of Al-Azhar Graduates (ADAl) 2024 held on September 13-14, 2024 at the University of KH. Abdul Chalim (UAC) Mojokerto, Indonesia

September 14, 2024



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Gharar On Contemporary Muamalah Application: Philosophical And Theoretical Review

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Abstract

One of the fundamental problems of the shift in muamalah activity in the contemporary era is the existence of tyranny in muamalah activities, it means that gharar activities have been implemented. The phenomenon of derivatives of classic gharar activities in contemporary muamalah has been addressed by scholars. With the above problems, this study aims to formulate an approach to the phenomenon of classical gharar derivatives in contemporary muamalah activities from the perspective of several scholars. It uses literature studies and literature reviews, to find the main dimensions of the scholars' answers regarding gharar in the contemporary muamalah phenomenon. It is concluded in this study that eliminating and minimizing harmful gharar habits requires contextualization of the Islamic worldview so that the acceptance of modern gharar in muamalah does not recur. This requires integration between the understanding of religion, belief, and adab al-Islam in contemporary muamalah applications. So that this study strengthens the discourse on Sharia studies, the reality of classic gharar derivatives in contemporary muamalah must be addressed through a comparative lens of ulama perspective and societal benefit.

Salah satu persoalan mendasar dari pergeseran aktifitas muamalah di era kontemporer yaitu fenomena yang berseberangan dengan idealisme. Adanya kezaliman dalam aktifitas muamalah berarti telah menerapkan aktifitas gharar. Fenomena turunan aktifitas gharar klasik dalam muamalah kontemporer telah dijawab oleh para ulama. Sehingga didapatkan adanya pemetaan dan standarisasi praktik gharar yang dibolehkan atau sebaliknya. Dengan problematika diatas, kajian ini bertujuan untuk merumuskan pendekatan terhadap fenomena turunan gharar klasik kedalam aktifitas muamalah kontemporer dengan perspektif beberapa ulama. Menggunakan studi literatur dan kajian pustaka, untuk menemukan dimensi utama dari jawaban ulama berkenaan dengan gharar dalam fenomena muamalah kontemporer. Kesimpulan dalam kajian ini bahwa menghapus dan meminimalisir kebiasaan gharar yang merugikan, diperlukan kontekstualisasi pandangan hidup Islam (Islamic Worldview) sehingga kemakluman adanya gharar kontemporer dalam muamalah tidak terjadi kembali. Hal tersebut diperlukan adanya integrasi antara pemahaman agama, keyakinan, adab al-Islam dalam aplikasi muamalah kontemporer. Sehingga kajian ini menguatkan diskursus kajian Syariah bahwa realitas turunan gharar klasik dalam muamalah kontemporer perlu untuk direspon dengan kacamata perbandingan perspektif ulama dan kemaslahatan di masyarakat.

Keywords: *Gharar, Scholars Perspective, Philosophical Contextualization*

Gharar On Contemporary Muamalah Application: Philosophical And Theoretical Review

THE 1st ADAI

Annual Meeting And International Seminar

Mojokerto, 13-14 September 2024

Zuhratul Aini Mansur

2024

Problem Research Identification

- ❖ The majority of scholars agree with their respective opinions that gharar tendencies are always present in economic transaction activities. Because these tendencies are sometimes unconscious and similar to permissible things.
- ❖ In reality, the transactions that have been carried out are not always correct or have a negative impact and do not comply with islamic shari'a.
- ❖ The seller and the buyer didn't know how the buying and selling system has been implemented
- ❖ The attitude of caution
- ❖ In fact, in general, previous studies, are concerned about the nature of gharar and its impact on muamalah transactions carried out by Muslims.
- ❖ No centralization of the problem of gharar continues to occur and turns into urf in the plural of humanity
- ❖ How to elaborate on gharar from the perspective of the ulama and how it relates to the contextualization of islamic business transactions
- ❖ Efforts to understand and examine gharar from a literary point of view have become a necessity, accompanied by a philosophical study based on the Islamic worldview.

Research Methods

- This study implemented two approaches (1) the conceptual approach used an assessment of Islamic law from gharar as well as several scholars' (ulama) perspectives (2) the philosophical dimension used which is accompanied by the urgency of the Islamic worldview, hence will find the ease to provide solution within the contextualization of contemporary muamalah activity
- This research is part of a qualitative descriptive method, considering the many pieces of literature used here and the method of analysis used



Definition and Legal Basis of Gharar

The opinion of Ibn Taimiyah, namely gharar is something whose consequences are unclear (*al-Ghararu huwa al-Majhulu al-Aqibatu*). The final result of the transaction that has been carried out is unknown and hidden in nature so the intent of the contract will not be fulfilled when the result is doubtful (whether it materializes or not)

Opinion of Ibn Qayyim, namely gharar is something that cannot identify its essence and size (*al-Ghararu biannah ma la ya'lamu hushulahu aw la ta'rifu haqiqatahu wa miqdarohu*)

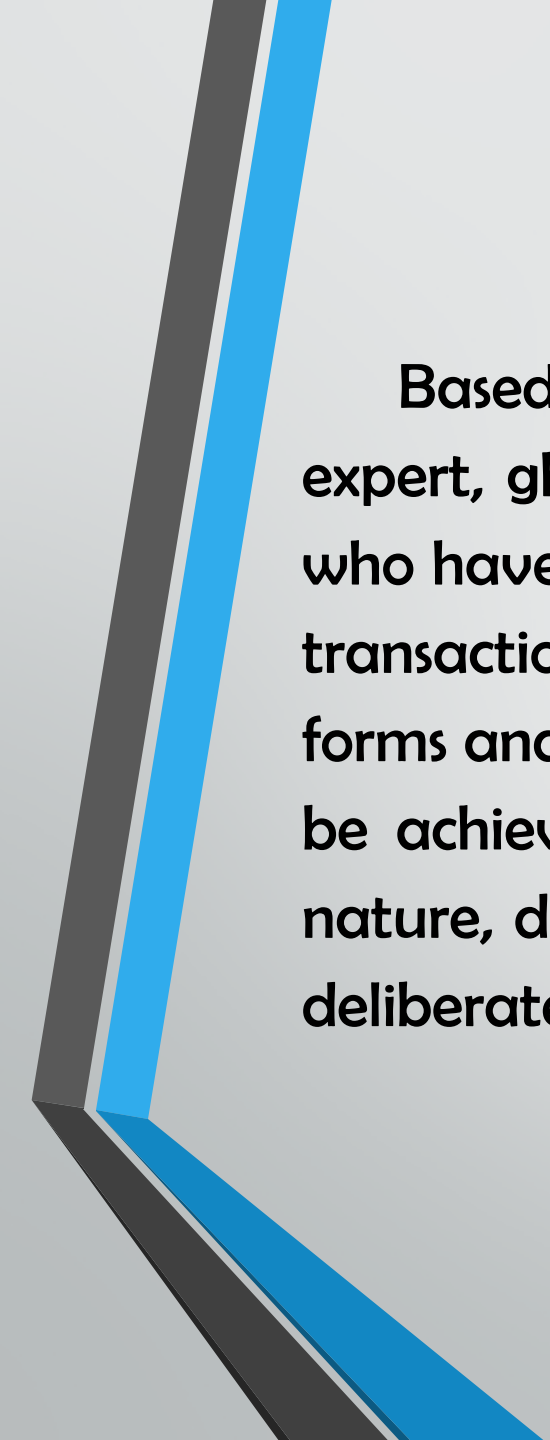
Opinion of Abu Ya'la: that is, in gharar, there is confusion between the two matters and the ambiguity is more dominant (*ma taraddada baina amroini laisa ahaduhuma adhbhar*)

Al-Jurjani's opinion: that in gharar there is a lack of clarity about the consequences, whether it can be realized or not (*al-Ghararu ma yakunu majhula al-Aqibati la yadri ayakunu am la*)

Al-Khattabi gives the opinion that the consequences of gharar are unknown, and its core and secret forms are also hidden

Ibnu Mundhir argues that Rasulullah SAW's prohibition against gharar is also a branch of buying and selling. Buying and selling that have been held only contain ignorance between the seller and the buyer

Adiwarman Karim argues that gharar is a condition in which information is incomplete. Due to the ambiguity of both parties involved in the transaction (uncertainty to both parties)



Based on several opinions and definitions that have been reviewed by every expert, gharar contains harm to anyone. So that it is detrimental to the parties who have carried out the transaction. So the root is tyranny from the obscurity of transactions that have been carried out. Broadly speaking, gharar includes two forms and patterns. 1) first: doubts about the existence of an object whether it can be achieved or not, 2) second: loss of transparency or obscurity regarding the nature, dosage, weights, and others. Or in other words, gharar occurs because of deliberate neglect of the essence of the transaction.

MAPPING OUT THE PRINCIPLES AND THEORY OF WHETHER GHARAR STANDARDS ARE PERMISSIBLE OR NOT

FIRST: *gharar katsir* (*excessive gharar*). Namely the type of gharar with a high level of ambiguity, for example selling fish that are still in the river. It is not known yet the quantity and quality of fish in the river, so it is impossible to get what is expected.


This transaction is unlawful and prohibited in Islam. An example of this gharar category is where the object of the transaction is unknown or unclear, such as selling a baby animal that is still in its mother's stomach without selling the mother

SECOND: *gharar mutawassith*, this category is in the middle in terms of gharar, while the lack of clarity is between the few gharar categories, still tolerable and also intolerable gharar. For example, by selling something hidden in the ground, the buyer pays for the goods before the object is received. Another example is a buying and selling transaction without the object of the transaction or goods

THIRD: *gharar qolil*, that is, when the elements of the transaction are unclear and the levels are not too much. So tolerance can do gharar qalil. Tolerable here means that it is understandable that there is such ambiguity between the two parties (between the seller and the buyer). An example of this gharar qalil category is selling a battery whose durability level is not known, another example is selling a house but the buyer has not seen the foundation firsthand. The category of gharar qolil is also sometimes termed slight gharar (ignored gharar) or allowed by scholars.

Contextualization of Islamic Worldview in Contemporary Gharar Transformation

1. constructive paradigm of change in this modern era, namely by revitalizing the perspective of Muslims towards the teachings of Islam. Besides that, Islamic adab has given enlightenment to the brain to guide every human activity
2. The role of the Islamic way of life and Islamic manners is a necessity to return all economic activities to the corridors of the Islamic religion.
3. Through the worldview of the life of Muslims as a guide to life, old problems such as gharar which are repeated by modern people can be anticipated quickly
4. Changes or cures of contemporary gharar habits can be carried out because the central point of the problem has been found, namely the absence of a strong personal foundation such as adab and worldview (Islamic worldview).
5. This is where the contextualization of the concept that belongs to part of Islamic teachings manifests itself. And will have a change impact on sustainability.



**Alhamdulillah
jazakumullah aktsar**