

Society, Law and Economy: Contextualizing Ibn Khaldun's Thought

JM Muslimin¹

Abstract. *Economy and the law are the two inseparable things. There is always a relationship between the two. This writing explores the role of Ibn Khaldun (1332-1406 AD) in paving the way for creating foundations of socio-economic study. According to him, the role of law in economic activity can be seen from two sides, in two equal interests, namely: a. Law is seen from the dimensions of economic activity; and b. Law is seen from the dimension of the state over its authority. Departing from the economic goals, in fact to obtain the maximum profit, the law is merely seen as a useful external factor and can be utilized to secure the economic activities and objectives to be achieved. The essence of Ibn Khaldun's thought is still relevant to the modern time. Departing from his ideas and comparing them to the western and modern ones, one may conclude that Ibn Khaldun's philosophical analyses could be contextualized.*

Keywords: *Law and Economy, Contextualization, Philosophy of Law*

Abstrak. *Ekonomi dan hukum adalah dua hal yang tak terpisahkan. Selalu ada hubungan antara keduanya. Tulisan ini membahas peran Ibn Khaldun (1332-1406 M) dalam membuka jalan bagi pembentukan fondasi studi sosiologis. Memurutnya, peran hukum dalam kegiatan ekonomi secara umum dapat dilihat dari dua sisi, dalam dua hal yang sama, yaitu: a. visi undang-undang dilihat dari dimensi kegiatan ekonomi; dan b. hukum dilihat dari dimensi negara atas kekuasaannya. Berangkat dari tujuan ekonomi, bahkan untuk mendapatkan keuntungan yang maksimal, hukum hanya dipandang sebagai faktor eksternal yang berguna dan dapat dimanfaatkan untuk mengamankan kegiatan ekonomi dan tujuan yang akan dicapai. Penelitian ini membuktikan bahwa esensi dari pemikiran Ibn Khaldun masih relevan dengan masa modern. Berangkat dari ide-idenya dan membandingkannya dengan arus pemikiran Barat, dapat disimpulkan bahwa analisis filosofis Ibn Khaldun sangat mungkin ditafsirkan kembali serta dikontekstualisasikan.*

Kata kunci: *Hukum dan Ekonomi, Kontekstualisasi, Filsafat Hukum*

¹Islamic State University Syarif Hidayatullah Jakarta

Email: JM.muslimin@uinjkt.ac.id

Introduction

In its development, philosophy continues to develop until it shrinks to scientific discipline. Philosophy of law that governs all aspects of people's lives not infrequently and quite dominantly regulates how humans can live and meet their needs. This is what is called the economy. The philosophy of law develops and reflects its scope to produce a philosophy of economic law. Philosophy of economic law contains elements of what are the needs of the human economy, how to meet them, what goals and what are the limits or good rules related to achieving the fulfillment of human needs.

The dynamics of society, government, law, the rise and fall of nations have attracted attention of Ibn Khaldun. This famous author of *Muqaddimah* can rightly be called the most famous socio-economic experts in the course of Islamic history.

Method

The research uses historical and philosophical approaches as well as comparative analyses. The historical and philosophical approaches enable the writer to trace socio-economic and philosophical ideas, whereas the comparative step assists to redefine inner message and find its contextual relevance.

Result and Discussion

Ibn Khaldun's Social Biography

Like the tradition that was developing at that time, Ibn Khaldun began the lesson from his biological father. After that, he went to study with prominent scholars, such as Abu Abdillah Muhammad ibn al-Arabi al-Hashayiri, Abu al-Abbas Ahmad ibn al-Qushshar, Abu Abdillah Muhammad al-Jiyani, and Abu Abdillah Muhammad ibn Ibrahim al-Abili, to learn various sciences, such as Arabic grammar, Hadith, Fiqh, Theology, Logics, Natural Sciences, Mathematics and Astronomy (Karim, 2004).

Ibn Khaldun was a member of an elite group, both because of his descendants and education. In 1352 AD, when he was still twenty years old, he had become a master of the seal and began his political career that continued until 1375 AD. However, whether in prison or the palace, in a state of rich or poor, being an

escape or minister, he always took part in political events of his day, and always remained in contact with other scientists who were coming from different backgrounds: Muslims, Christians, and Jews. Ibn Khaldun had never stopped learning in any situation. (Karim, 2004)

From 1375 AD to 1378 AD, he retired at Gal'at Ibn Salamah, a castle in the province of Oran, and began writing world history with Muqaddimah as his first volume. In 1378 AD, because he wanted to find material from books in various large libraries, Ibn Khaldun received permission from the Hafsid Government to return to Tunisia until 1382 AD. Then he left for Alexandria, he became a professor of law. The rest of his life was in Cairo until he died on March 17, 1406. (Karim,2004).

Law and Society according to Ibn Khaldun

Ibn Khaldun's Social Biography

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According to Taha Husayn, Ibn Khaldun based his theory on the law of causality, it is the extract of formed civilization (*'umran*). This statement shows the existence of causality in social reality that can be used as a guide to estimate the effects that can be predicted in society. Epistemologically, this raises the assumption that a policy can be applied if the expected benefit is estimated correctly (Zym, 2017).

Seeing from the existing society, Ibn Khaldun concluded that religion can be the main factor for strong social integration. Based on this law of causality, Ibn Khaldun states that a vast and powerful state must be based on religion. Religion strengthens the first power fostered by the state originated from in-group feeling of solidarity (*'asabiyyah*). Thus, *'asabiyyah* remains and contains the meaning of in-group feeling, in-group solidarity, tribal fanaticism, nationalism or social sentiment that is the love and affection of a human being to his siblings or neighbors or primordial attribution (Samsinas, 2009).

The second legal basis is the law of similarity (*Qanun al-tasyabuh*). According to Ibn Khaldun, beside religion, the basis of the human feeling of similarity and social integration is the unity of the intellectual mind of humanity guided by the learned people and their opinions. Categorically, people are following those trends through *taklid* (imitation) mechanism. At this level, people are divided into three, namely the people's imitation to the ruler, the imitation to the dominant and the imitation to the minority. In such a situation, people are classified themselves. In many cases, the majority can be imitators to the elite minority. Instead, the majority culture becomes a minority style. It happened cross-reference society. These three types of imitation are the law of similarity that is generally accepted in human civilization. In the study of legal philosophy, this becomes the basis for the implementation of government policies towards its people, especially in the application of laws. The laws were drafted by the elite minority. But due to their influential position and logical power of reasoning, the majority accept the minority opinions.

The third basis is the law of difference, meaning that not all societies are the same, but each has its specificity that characterizes the difference. If the law of equality applies based on reason and reality and power, the law of difference applies based on research. This requires an investigation of differences in place and time, because the people in one place are different from the others. Likewise, the people in a place will experience differences from time to time. The three laws above are philosophical foundations of the different legal conditions due to changing circumstances (Salleh, 2013).

Ibn Khaldun's Economics

By a time when the political and socioeconomic decline of the Muslim world had begun, Ibn Khaldun issued many ideas or ideas related to science, sociology, and economics. Among the ideas in economics is about: labor, values, prices and market mechanisms, money and wealth, and the role of the state in the economy (Chamid, 2013).

Ibn Khaldun once said that the wealth of a country is determined by the level of state production and positive balance of payments. Because the factors of production are the driving force of development, absorbing labor, increasing state income and generating demand for products are the key solutions (Mannan, 2016).

In his thoughts on economics, he is of the view that the main motives arising from economic activity is due to the unlimited human desire, while the goods that will satisfy their needs are very limited (Hoetoro, 2007).

According to Ibn Khaldun, if the demand for a product increases, this will encourage the improvement and development of expertise in producing the goods. The population of the city will try to learn the skills needed and expect the income that he will use to meet their daily needs. Meanwhile, for a product that is not in demand, the tendency to master the expertise decreases and will gradually be ignored and abandoned. Therefore, the decision of wage which is expressed in the regulation and law is dynamic, based on the interchange and interrelation of the mentioned factors. It can be stated as push and pull factors.

This discovery has advanced the theory of value and the relationship between labor relations, introducing the division of labor, helping open marketing (Suadi, 2018). Thus, Ibn Khaldun had discovered the concept of labor (Rifai, 2012).

Ibn Khaldun's View of Market Mechanisms and Prices

Ibn Khaldun has explained the mechanism of supply and demand in determining the equilibrium price and the effect of competition among consumers to obtain goods on the demand side and he also explained the effect of increased production costs due to taxes. According to him, if a city develops and subsequently has a large population (such as urban areas), the procurement of staple goods will receive priority in its availability, so that as a result, the supply side will increase and this will mean lower prices. As for luxury goods, demand will increase in line with the development of the city and changing styles (Fauzia 2014, Muhammad 2004, & Medias 2018).

Relating to Public Finance, Ibn Khaldun supports a country that prioritizes justice, development and prosperity and the state can guarantee the application of the balanced and just law. The state should also function as an instrument of development and welfare of the people (Chapra 2012 dan Huda 2016). The effective role of the state is not only to balance with justice but also as partners, catalysts and facilitators to realize the vision and mission of the economy.

Ibn Khaldun's and the Philosophy of Economic Law: Comparison, Contextualization

Ibn Khaldun stated that the development of legal philosophy and economic law can affect human life. The question is: how humans can act according to laws and rules of law to meet their economic needs in a good and fair manner. The purpose of the existence of the law is the creation of justice. The philosophy of economic law means the achievement that must be achieved is justice in economic terms, in which all people have the right to meet their economic needs regulated by these economic laws.

Ibn Khaldun is in the opinion that in the view of Islam, every human being can have the right to collect as much wealth as possible through economic activities. However, all economic activities must be in accordance and remain within the limits set by Allah Ta'ala in Islamic law. This condition is inseparable from one's level of faith. Because, one's faith is very influential and plays an important role in living the Islamic economy (Agustin, 2017). Islam strongly emphasizes that human economic activity is one manifestation of human responsibility as a caliph on earth, so that the balance in life can be maintained. In the context of Islamic teachings, Islamic economics or also known as Sharia economics is the values of an economic system which is built based on Islamic teachings. Using sociological approach, Ibn Khaldun defined: *"Islamic economics as a collection of general principles about economics taken from the Qur'an and Sunnah, and the economic foundation which is built on these basic principles by considering environmental conditions and time (quoted from al-Tariqi, 2004)."*

Western Tradition and Perspectives

Philosophy can be defined as a critical reflection of a man about everything that has been experienced to get a more detailed and integrated meaning and is the result of human reason itself (Finnis, 2014, Santoso, 2012). The law itself is an order or obligation for someone or several people to act or refrain from something (Barberies, 2014, Pavon, 2015). The nature of the law itself is forced and oriented towards ethics. On the other side of the concept of law according to Hart is what is known as positive law, where there is a separation between law and morals (Lacey, 2007).

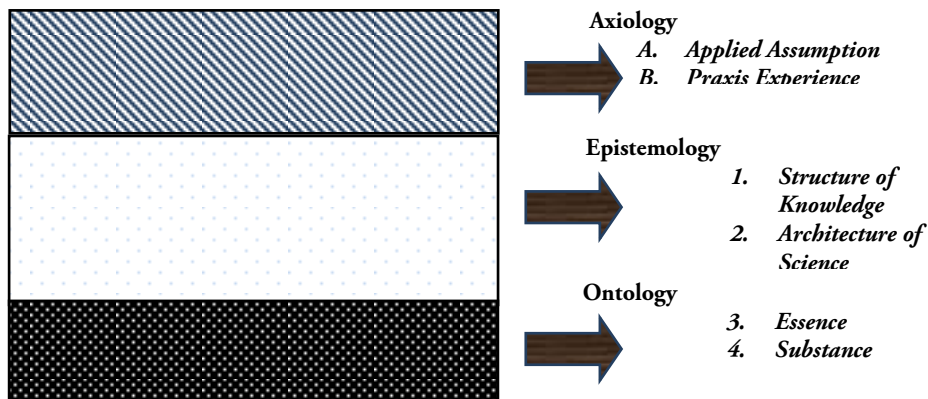
Broadly speaking, there are two kinds of laws namely descriptive and prescriptive law. Descriptive law is a law that shows something that can happen, for

example, the law of gravity or laws relating to natural science. While prescriptive law is the law that contains instructions or roads, usually made by bodies that have the authority to regulate the things that can be done and should not be done (Anshori, 2018).

Philosophy of law is simply a branch of philosophy that studies behavior or ethics. Apeldoorn (1985) for example mentions three important questions in the philosophy of law, namely: (1) what is the meaning of applicable law; (2) what legal basis is strong and bound; and (3) what is meant by natural law. Lili Rasyidi (1990) also reveals questions that are a problem in legal philosophy including: (1) the relationship of law and power; (2) legal relations with socio-cultural values; (3) what causes the state to punish someone; (4) what causes people to obey the law; (5) accountability issues; (6) property rights issues; (7) contractual issues; and (8) the problem of the role of law as a means of community renewal (Anshori, 2018).

Philosophy of law includes questions from the ontological, epistemological, and axiological aspects. Ontological terms try to answer what is the law or the nature of law, while epistemological answers the question of how it can be said to be law, meaning answering any measures so that something can be called law. From the axiological point of view, it tries to explain the relation between law and morality, law with power or others who try to answer the engagement with other things.

The Structure of Philosophy of Economic Law



(Sources: Anshori, 2018; Barberies, 2016; Payon, 2015)

The Development of the Philosophy of Economic Law: Adam Smith, Karl Marx and the Rise of Capitalism

The Period Before Adam Smith

The discussion of the economy has been a long time, but a more focused discussion was only raised in the middle of around 1700 AD. Until then the economy was still seen as parts of a broader science, such as politics, moral values, and theology. This period was influenced by Greek and Roman philosophers.

Plato looked at the economy from a moral standpoint on how to behave wisely about household management (Schumpeter, 2006), while Aristotle defined economics in the form of Nichomhacean Ethics and the Politics. According to Aristotle, Economics is part of a broader investigation of ethics and politics. The teachings of Aristotle were used by people as their textbooks in the study of and making new theories, namely Aristotelian Economics (Alvey, 1999). Besides Greece, Roman contributions were also considered important. The legal experts of the Roman period not only studied normative or legal issues but their implications as well (Schumpeter, 2006).

Adam Smith and his Influences

Adam Smith, regarded as the father of economics, succeeded in changing economics that was originally based on speculative philosophy to be more empirical positivistic. According to Adam Smith, nature is the most perfect place because it was created and governed by an almighty God. According to him, humans are machines in this world to maximize happiness. Nature is already perfect, but humans are limited in their abilities, encouraging them to think about how humans can create their happiness within this perfect world (Wijaya, 2009).

Adam Smith's thoughts began with his criticism of the economic pattern of mercantilism, where there was government interference in running the economic system. According to him, the policy regarding the liberation of the market, or in other words the free market, will achieve its justice called equilibrium (Alvey, 1999).

The value formed the basis of his opinion is that humans will always meet self-interest, so he thought that the market should not be regulated by policy, but must be freed up to be efficient (Wijaya, 2009). On the other hand, he also said that no human being will be happy by themselves. According to him, humans will be

happy if their family members are in an established life, meaning that all needs can be met. Therefore, he argued to achieve that, humans must work or may also trade with the owned capital (Schumpeter, 2006).

In addition to formulating economic theory, he also provided a solution that uncertainty in economics can be seen or predicted using tools or models, in this case, he mentions mathematical models through the concept of calculus (Brady, 2006).

Discussing the law, Adam Smith argued that there are two views about the law: first, the law must encourage economic progress, meaning the law is as a facilitator in economic development (Alvey, 1999). Second, the law is perceived as a violation of natural freedoms that violate justice. So according to him, the law has two sides: the law is needed to encourage economic progress, on the other hand, the law can also cause injustice because there are restrictions that cause economic activity to run unnaturally (Alvey, 1999).

Thus, Smith's basic assumption of economics is social conflict and economic domination. It is just the same as Karl Marx's ideas. Though on the surface, they differ in practical manifestations.

Ibn Khaldun and Basic Rights of Socio-Economic Welfare: Joseph Stiglitz, Contextualizing Ideas and Criticism to Smith's Capitalism

Comparing Ibn Khaldun's theory and Adam Smith, some points should be noted. The points relate to basic rights and Islamic economics. Some of those points are identical to the ideas of Joseph Stiglitz. Following the ideas of Ibn Khaldun and correcting basic assumption of capitalism or materialism, forwarded by Smith and Marx, it may be concluded that Ibn Khaldun had inspired basic concepts of Islamic economics:

Recognizing the proprietary (either individual or public)

This point makes the basis of Islamic economics by recognizing human rights to have whatever he wants for consumption or production, but does not give these rights absolutely because in essence the ownership rights only belong to God. According to the basis of sharia, assets are lawfully owned except assets that have been prepared for public use. Islamic economics regulates property rights by combining individual and general *maslahah*. Humans are given responsibility for property rights to relish, utilize the facilities that God provides, such as land that is used for agricultural land or as a business field. Later on the Day of Judgment, humans must be responsible for the mandate of property rights (Mardani, 2015).

Conditional Economic Freedom

Islamic economics provides human freedom of property rights, both in producing and consuming. Humans are given the freedom to make *muamalah* as the case in determining wages/ prices of the economy with a variety of nominal values, as long as that it does not contradict with the general *maslahah* (public interest) and Islamic sharia. Humans are also given the freedom of property which becomes the right of ownership to be given to anyone he wants, such as giving or giving gifts during his lifetime or bequeath after the time of his death in accordance with those specified in Islamic sharia (Izzan and Tanjung, 2007).

Likewise, *muamalah* provides human freedom to developed property in a good way were there are no forbidden elements by Islam, such as *usury*, *maysir*, *gharar* and exploitation. There are conditional economic freedom that must be met as the conditions (Mardani, 2015), as follows:

I. Commitment to the obligations determined by rule of law

The commitment of human to carry out they obligations must exist and it is embedded in every human being. If humans want the Islamic *Shari'a* that is *kaffah*, then the most important human commitment is to practice what are the obligations that have been determined by Islamic law, such as the obligation to issue zakat of wealth, provide maintenance (*nafkah*) to wife, needy parents, sons until mature, children until marriage, and also close relatives, *infaq*, and alms.

II. The right to make association with neighbors or work partners

The right to make association (mutual ownership) in the Islamic economy is guaranteed. It is implemented when someone who has assets over common property rights, then he has to get consent from the other party if he wants to sell the common property assets. So, in the sale of joint property, there must be an agreement on the two owners of common rights, not a unilateral decision since it is shared property. This is based on Islamic teaching that prohibits the sale of common property without a collective agreement, as it will make others harmed (Izzan and Tanjung, 2007).

III. Prohibition to manage personal property that harms the interests of many people to strengthen social security (At-Takaful Al-Ijtima'i)

At-Takaful Al-Ijtima'i or social security, in the framework of the Islamic economy is a mutual risk between human beings so that one another becomes a guarantor of another's risk. Islam has an attitude of solidarity which means to think

about each other, pay attention, and help to overcome difficulties. The concept of at-Takaful al-Ijtima'I in Islam is manifested in several institutions such as zakat, loans, gifts, grants, alms, sacrifice, aqiqah, expiation, and others (Izzan and Tanjung, 2007).

Philosophy of Economic Law: Ideas and Contextualization

Key Person	Ibn Khaldun Joseph Stiglitz	Adam Smith Karl Marx
Ontology	Social Harmony is the Goal	Conflict is Historical Necessity
Epistemology	Social Justice is a Reality	Social Justice is an Imagination
Axiology (Basic Assumption Ideas and Systematization)	Holistic Prosperity is a Worldview	Materialism is Prime Motive

(Sources: Stiglitz, 2002; Rosenthal, 1967; Patrick, 1989; Nicola, 2007; Roll, 1978, Smith, 1937)

Conclusion

The essence of Ibn Khaldun's thought on Society, Law and Economics is that law exists because of rapid economic growth and development. Laws are used to regulate human activities. Therefore, economic law exists with the aim that the developing economy does not harm the people. In its development, philosophy continues to develop until it becomes part of scientific discipline. Philosophy of law that governs all aspects of people's lives quite dominantly regulates how humans can live and meet their needs. This is what is called the economy. The philosophy of law develops and reflects its scope to produce a philosophy of economic law. Philosophy of economic law contains elements of what are the needs of the human economy, how to meet them, what goals and what are the limits or good rules related to achieving the fulfillment of human needs.

In the context of society, law and economy, the essence of Ibn Khaldun's theories can be summarized as follows: a. recognizing the proprietary; b. conditional

economic freedom; c. the right to welfare, managed by rule of law; d. public welfare is more important than individual interest; e. social security and justice are the ultimate goal of economic activities. Those points are more identical to the ideas of Joseph Stiglitz than to Adam Smith or Karl Marx.

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