



Regress as a Change of Community Law on Games and Their Effect on Property Ownership

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Abstract

There has been a change in Islamic law in interpreting game play in society when the Eid celebration takes place and has made it a tradition. Changes in the law in the form of ignoring the rules of Islamic law regarding qimar (gambling). The purpose of this study is to explore how the process of partial abandonment of Islamic law is related to the implementation of the tasks of the community subsystem, namely Islamic economics and explore its influence on the abandonment of Islamic law. The method used is qualitative with a case study approach. Sources of data by looking at the social situation about the game to the point of boredom, data collection techniques through in-depth interviews with interview guides addressed to informants in the form of contract actors, as well as religious leaders, in addition to observation and analysis using qualitative descriptive analysis. The results of the study explain that first; The community plays games as a means of enlivening the Eid celebration every year in one village, in addition to being a means of property ownership for the community in a village. Second, there is a partial regress, especially in the form of disclaiming Islamic economic rules, so that the function of Islamic law as a comprehensive social control cannot be achieved. The implication of this research is the view of betting-style game play and then being raffle into a new and cultivated habit.

Keywords: Regress, Game, Property Ownership, Islamic Law

Abstrak

Telah terjadi perubahan hukum Islam dalam memaknai permainan di masyarakat saat perayaan Idul Fitri berlangsung dan telah menjadikannya sebagai tradisi. Perubahan hukum berupa pengabaian aturan hukum Islam tentang *qimar* (perjudian). Tujuan penelitian ini adalah untuk mendalami bagaimana proses penelantaran sebagian hukum Islam terkait dengan pelaksanaan tugas subsistem masyarakat yaitu ekonomi Islam dan mendalami pengaruhnya terhadap penelantaran hukum Islam. Metode yang digunakan adalah kualitatif dengan pendekatan studi kasus. Sumber data dengan melihat situasi sosial tentang permainan hingga kebosanan, teknik pengumpulan data melalui wawancara mendalam dengan pemandu wawancara yang ditujukan kepada informan berupa pelaku kontrak, serta tokoh agama, selain observasi dan analisis menggunakan analisis deskriptif kualitatif. Hasil penelitian menjelaskan bahwa pertama; Masyarakat memainkan permainan sebagai sarana memeriahkan perayaan Idul Fitri setiap tahun di satu desa, selain sebagai sarana kepemilikan harta benda bagi masyarakat di satu desa. Kedua, terjadi kemunduran parsial, terutama berupa penyangkalan kaidah-kaidah ekonomi Islam, sehingga fungsi hukum Islam sebagai kontrol sosial yang menyeluruh tidak dapat tercapai. Implikasi dari

penelitian ini adalah pandangan bermain game ala taruhan dan kemudian diundi menjadi kebiasaan baru dan dibudidayakan.

Kata Kunci: Kemunduran, Permainan, Kepemilikan Harta, Hukum Islam

INTRODUCTION

Community attachment becomes a behavior to be carried out. The Pandai Sikek community was carried away by the influence of contamination on the stage patterned with prize games. People's desire to get prizes is very tempting, but prizes are obtained by buying lot cards to be drawn. Social change is a change in the social structure and pattern of people's lives (Agus Suryano, 2019), and goes on continuously from time to time whether planned or not which results in something in an unstable and changing world.(Lisdiyono & Suatmiati, 2017) including the law.(Beg, 2021; Simmler & Markwalder, 2019).

This social change in the form of changes in the norms of people's lives (Fuady, 2011). This change is a change in people's standard of living, when norms begin to change, the economic subsystem must also change and must adjust to create new sustainability. And this change occurs continuously in society.

Previous studies that talked about social and legal change were classified into four kinds; first, legal changes in family law, education (Anderson & Genicot, 2015; VanWynsberghe & Herman, 2015); second, related to ideology and the promotion of social change (Becker, 2020); third, Norms as a standard for social change (Ocheje, 2018; Tankard & Paluck, 2016). In this case, there are still few studies that discuss legal changes in the form of changes in the norms of people's lives, therefore this paper discusses how the norms of people's lives change, especially in the aspect of Islamic economics in terms of how to get property.

The purpose of this study is to supplement the shortcomings of studies relating to social changes in the Islamic economy in order to obtain wealth. This review will examine how the process of changing the norms of people's lives occurs, especially with regard to economic transactions. Changes in the norms of people's lives in the form of legalization and transformation of contemporary qimar contracts as a means of ownership of property. Islam recognizes that social changes in society have led to the emergence of new contracts whose legal status is not explained by mashadir ahkam, in the form of the Qur'an and hadith. And Islam also views that in the aspect of mu'amalah contains elements of mubah. This is illustrated in the rules of fiqh:

الاصل في المعاملة الاباحة الا ان يدل دليل على تحريمها

"The law of origin of the form of muamalah is permissible, unless there is a proposition that prohibits it"(A.Djazuli, 2019)

The Islamic legal system in the material of muamalah, the Qur'an and hadith only explains in general to be in accordance with the times and civilizations of the tu society and the conditions of society behind the occurrence of social change. And in relation to social change and its effect on the law, this is in accordance with the rules proposed by Ibn Qayim al-Jauziyyah, about changes in law adjusting the situation of social conditions of society, namely:

تغري الفتوى واحتالفها حسب تغري الأزمنة والأمكنة والحوال والنيات والعوائد

"Changes and differences in fatwas are caused by changes in zamaan, changes in place, and changes in social circumstances, intentions, and customs of customs"(Al-Jauziyyah, 1961)

Research assumed that a stage patterned with game play at the Eid celebration event was a way to get treasure. In addition, giving the first meaning, the community plays games as a means of entertainment in enlivening the celebration of Eid every year in one village, and as a means of ownership of property for the community in a village. Second, the occurrence of partial regress, especially in the form of a disclaimer of Islamic economic rules, so that the function of the rule of Islamic law as a comprehensive social control is not achieved.

LITERATURE REVIEW

Social Change in Society

Social change is a process that describes and explains how a particular community, group or society becomes different from previous iterations (Beg, 2021) demographically, geographically, culturally, politically as well as economically (Simandan, 2020). As for what is used as an object of social change in the form of a social structure that will be innovated or transformed (Avelino, 2021). In the aspect of social change, they need social structures or repetitive social practices as a means and resource for social action (Umanailo, 2019). Social change is also influenced by various subsystems in the form of economy, politics, culture.(Umanailo, 2019) and the structure of functionalism in the form of norms,(Ocheje, 2018) economic organization, educational apparatus, government policy (Umanailo, 2019). In the economic aspect, social change aims at economic development in society (Li et al., 2022).

Social change is the provision of concrete resources in the form of jobs, health care, education for marginalized communities to be empowered (Gillard et al., 2016) or united and politically mobilized and suppress the need to change individual and collective identities and assumptions in society (Talesh & Pélisse, 2019). The purpose of social change is to frame the rights of minorities as a viable segment for the majority (Mello, 2016). Social

change occurs when science is spread evenly among academics and the general public.(Lewis, 2018; VanWynsberghe & Herman, 2015)

Norms and mindsets that are deeply rooted in society are the main barriers to social change (Gillard et al., 2016). According to Gillard, he said that there are two reasons that social change is unacceptable to the public or the general public are; first, the emergence of innovation in society requires actors (movers) who support the occurrence of such change, where actors are able to move the time or group that wants change; second, society does not want sudden changes or intermittent changes that are not permanent(Gillard et al., 2016).

Mohammed Musallem Binham Alameri and Khawlah M. AL-Tkhayneh, classified social change into five stages, namely (Alameri & AL-Tkhayneh, 2021); first, the phase of conquering the opponent; second, the phase of authority and dominance; third, the phase of emptiness, when the group or groups that make social changes experience the peak of glory from an economic and political point of view; the fourth phase, the phase of submission to the beliefs of the grandmothers, this is in the form of reviving previous beliefs or myths; fifth phase, society moves away from social justice.

Gaming as a Means of Gambling

Gambling or other terms such as gaming or game of chance come from the Anglo- Saxon language which is "game" and gamon which means sports or playing.(Salamon et al., 2015). Gambling or other terms such as gaming or game of chance come from the Anglo- Saxon language which is "game" and gamon which means sports or playing.(Salamon et al., 2015). Gambling is an activity that involves betting (Salamon et al., 2015) and the winning party gets all the bets, but the losing party loses the bet.(Ashraful et al., 2015). Gambling is the willingness to risk valuables or money by expecting rewards (Das et al., 2019). In the practice of gambling, in particular online lotteries it was found that age affects the set bet amount, the higher the age of the bettor the more bets are given.(Chagas et al., 2021)

One form of gambling that is commonly done by the public is in the form of lotteries, football bets, virtual race bets, slot machines, digital games and scratch cards (Bunn et al., 2021; Hundric et al., 2021; McGrath et al., 2018). Gambling is classified as one of the forms of dependence, that is, pantological addiction without chemical substances. This comes from compulsive behavior that is performed repeatedly and atypically and also causes neoplastic effects, tolerance and desire. (Venturella et al., 2018). In addition, gambling can also trigger family problems, school problems, interpersonal relationships and gambling addictions, sadness, loneliness, lies and failure to return the bet money (Hundric et al., 2021; Venturella et al., 2018).

Islam views that business is a legal and halal practice in Islamic law, except to include trade containing elements of pork, alcohol and gambling.(Ghalmallah et al., 2021; Salamon et al., 2015; Shinkafi et al., 2017). Islam views that unavoidable risks, gharar or uncertainty, usury, speculation, monopoly, hoarding of wealth (kinaz), profits obtained without going through effort / risk-taking, fraud and investment in unlawful assets, these things are prohibited in Islamic law.(Bouslama & Lahrichi, 2017).

Community Participation

Community participation is to promote a community that is independent and responsible for citizens and communities (Baqueiro, 2016; Pirannejad et al., 2019; Salemink & Strijker, 2018). In community participation, citizens must be stimulated so that they are no longer fully dependent on the government. But in this case, the government must provide facilities and provide initiatives so that their goals are achieved. (Salemink & Strijker, 2018). Community participation is understood as a picture of factual development facilitated by the State in the form of responsibility of each citizen for their own life and actively contributing to society, community and the environment(van Kersbergen & Metliaas, 2020). The state will provide facilities that actively support by providing freedom to its citizens and the beliefs they believe in and providing security in the event of obstacles on the ground (van Kersbergen & Metliaas, 2020).

In the order of community participation, citizen initiatives are seen as important actors in dealing with government projects.(Salemink & Strijker, 2018) The relationship between local governments and community residents is problematic, resulting in policies not being accepted by the community. Because as a rule maker, it supports initiatives that come from citizens of the community. In a society that adheres to democratic principles, society can create norms or rules about how the procedures behave from the political, governmental and economic sides that can affect the entire society(Wallman Lundasen, 2015).

Community participation is the contribution of the community to policies, activities and economic development that occurs in the local area. Especially in the aspect of community economic development, by using the community participation system, they will realize that economic policy is based on the welfare of the people. The benefits of community participation are; first, community participation is a method of obtaining an overview and condition of a particular society; second, the public will appreciate the public policy that comes down to it because it involves all components of society; third, in the democratic principle adopted by the Indonesian people, it is stated that the people are obliged to improve themselves (Balenina, 2019).

According to Belania, the community's participation in economic development has stages and levels of authority delegated by him. Therefore, according to him, there are four forms of community participation, namely; first, participation in decision-making; secondly, participation in the implementation of activities; third, participation in development monitoring and evaluation; and fourth, participation in the form of development results (Balenina, 2019).

RESEARCH METHODS

This research method uses qualitative with a case study approach in the Pandai Sikek Area. The reason for choosing the area is because the place has a new tradition that is seen as a matter of course that is used as a fan of the hometown. Source data by looking at the social situation about game play by people who are involved in buying lottery papers, youths who raise events. Data retrieval techniques through deep interviews with interview guidance instruments addressed to informants. Interviews were conducted to key informants, continuing to roll to other informants face to face. The data obtained is collected, then sorted out which one is appropriate, then displayed and reviewed descriptively qualitatively.

RESULT

Nagari Pandai Sikek's young people are engaged in carrying out an activity in the form of a major senagari event. All nagari residents are involved in doing so both giving moral and material donations. Anak nagari works how to make the event a success by building relationships with elements of society. This is illustrated in Table 1:

Table 1. Community Involvement of Pandai Sikek

Elements of Society	Activities
Sikek's Clever Residents'	Make perfunctory donations
Nomads	Buying numbers (all elements of society from who buy numbers)
Youth	Make perfunctory donations and buy numbers
	Carry out activities and buy numbers

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The community is directly involved in the success of activities to enliven the atmosphere of Eid al-Fitr. This is why all residents contribute on the basis of collecting funds to their homes to provide perfunctory. The donation must be filled regardless of the rate, no particular rate is charged to the nagari residents. This involvement is formed by a series of activities in funding needed at the event. The donation involves all residents

regardless of how much it is given. The youth ran by asking him to go to a resident's house in an envelope.

The youth prepare infrastructure facilities needed in nagari festivities, especially on Eid al-Fitr. The preparation of all these means also costs money, therefore they move to run the funds in various ways. Youth youth formed an activity to enliven the village by gathering all residents in one place at the event, so that residents could attend to enliven and build a breakthrough gathering at one point with the game play.

Nomads who return home can also gather in touch with close family, close relatives, relatives, and can also meet with peers and peers at the event. Gathering of community elements so that they can fill activities in the form of entertainment. Entertainment can deceive people's attention.

Nagari Pandai Sikek people, game play is one of nagari children's games as a form of celebration of Eid al-Fitr, and they do it on the 3rd or 4th of Shawal. (interview with D, a resident of Nagari dated September 15, 2022). Game play as a means of celebrating Eid al-Fitr is a new "tradition" that has been carried out since 2017 (interview with F,) nagari residents dated September 16, 2022), and according to the confessions of some residents, they said that initially the game was introduced and sponsored by a politician of Tanah Datar Regency as a form of political campaign (interview with R, T, W, residents of Nagari Pandai Sikek on September 16, 2022).

In its implementation, the game begins on the 3rd of the shawal every year. On the 3rd of Syawal, they collected or asked for donations to the community in the form of giving envelopes that were delivered to all the houses of the community. The delivery of envelopes aims to make the public participate in this celebration in the form of monetary contributions with a certain nominal amount and without any tariffs set by the implementing committee. When they gave the envelope, they advised the recipient of the envelope, that "*mute crew ambiak envelope ko*" (*they will pick up the envelope back the next day*). (interview with I resident Nagari Pandai Sikek dated September 16, 2022).

The game was held on the 4th of Shawal. The game starts at 08.00 until it is over. They generally carry out this game until dawn the next day. And for people who want to participate in this game game, they are required to pay a levy for one bet for Rp. 100,000 (interview with L residents of Nagari Pandai Sikek dated September 16, 2022). Based on the information given by J, he said that the participants who participated in the game were not only from Nagari Pandai Sikek, but also from Nagari- Nagari which is adjacent to Nagari. J said" *Nan ikuik permaninan game ko indak urang kru sajo doh, ado juo urang Koto Laweh, Koto Baru jo Aie angek*" "Participants who participated in the game play not only came from local residents, but also came from

Koto Laweh, Koto Baru and also came from Aie Angek" (interview with J September 16, 2022).

The participants who take part in the game, they manaruah or place bets differently according to their abilities and economic conditions. The participants of the game play paid a levy of Rp. 100,000 for one shuffle (interview with M resident Nagari Pandai Sikek dated September 16, 2022). "M said that "*hamyo crew mamasang ciek nyo number, but that number ndak kalua*" "*I only put up one lottery but the number I put did not come out*".

Some participants said that they put up two numbers by paying Rp. 200,000, and only one number came out. This is based on the author's interview with R, he said that "*the crew of the sabanyak number of the fruit duo, ciek nan kalua, nan ciek it is the crew of dapek tong sarok*". "*I put up two lotteries, but I only won one bet, and I got a trash can*". Meanwhile, D as a game participant said that he had participated in game games for two consecutive years (twice Eid al-Fitr) and he placed a bet of four to five numbers and one of the numbers he placed got the main prize, namely a motorcycle. He said that "*the crew is ikuik event ko salamo duo year, sakali main crew mamasang sabanyak Rp. 500.00 for limo times play, and diantaro limo number nan crew pair tu, lai kalua ciek and crew dapaek Honda*". I have been participating in this game for two years, one game I put up a lottery of five numbers for Rp. 500,000 and among the five numbers I put up, only one number came out, and I got a motorcycle.

The participants of the game, they said that among the factors that caused them to participate in this game was to get the main prize, namely a motorcycle. With the hope of getting the grand prize they put up as many lotteries as possible, with the hope that one of the numbers they put up would get the grand prize. This can be seen from the words of the game players who said "*the crew knew the number of sabanyak limo fruit, how come lai kalua ciek or bara buah masang number last night? Lai ado nan kalua, or sia nan dapek Honda last night? Bara fruit anyo masang number tu?* (I put up the lottery five times, and I hope that among the five numbers I put up, one of which I will get a reward or how many times did you put up the lottery last night? did anyone come out? Or who got the motorcycle last night? How much did he put up a lottery?" (interview with Y, G, H, game play participant, September 17, 2022).

The participants who bought the lot hoped to get a big prize in the form of a honda, thus trying to buy more lots in order to get a honda, but in fact from the large number of participants at one event one year Eid honda was only provided one. For the creators of the event, honda is the biggest prize and attracts the attention of citizens, especially those who buy lottery lots. The form of the prize is displayed as in table 2:

Table 2. Form of Gift Form

Form of Goods	Price
Honda	Expensive (only one)
Blender	Keep
Magic Jar	Keep
Iron	Keep
Large umbrella	Keep
Dirty Clothes Place	Cheap
Rubbish bin	Cheap
Water dipper	Cheap
Coffee box	Cheap
Food Box	Cheap
Etc.	

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DISCUSSION

For the people of Nagari Pandai Sikek, game play has two main functions, namely; first, the means of enlivening the celebration of Eid; second, the means of ownership of property. For Indonesians, game play as a means of play and fundraising was first known as Porkas and SBDB. The game was played in 1986(Nurdin & Rohmana, 2019).

One of the factors of the Nagari Pandai Sikek community doing game play is the ease of ownership of property. By paying a bet of Rp. 100,000, they have the opportunity to get a motorcycle, this shows that gambling is a potential income(Bunn et al., 2021; Hall et al., 2019).

The implementation of game events as a means of entertainment and Eid al-Fitr celebrations for the people of Nagari Pandai Sikek involves all components of the community in the form of monetary donations and labor donations. This proves that the community participated in this event. The involvement of the entire Nagari Pandai Sikek community is a form of community participation. The involvement of all components of society directly proves that they want social change, especially in the aspects of the Islamic economy. With social changes in the aspect of acquiring property, it causes contract transformation in game play which causes legal changes. The game is a transformation of the *qimar* contract. Therefore the legal provisions governing *qimar* and its probelamtics govern the play of the game. This is seen in qaidah:

حکم اُغلى بىنطبق على معظم جزئياته

Laws of a general nature and that law can cover every other specific aspect
(Zarqa, 1996)

There is a change in the sitgma in society which views that game play is one of the methods in terms of ownership, this shows that there has been a social change in society. Social change is a change that aims to build equality in society(Becker, 2020). Social changes in the Islamic economy, resulting in the nagari Pandai Sikek community, deny some of the dogmas of Islamic teachings that govern the Islamic economic system which resulted in that Islamic law which was the purpose of comprehensive social control was not achieved, because they abandoned islamic rules that were assembled with the economy, especially the ownership of property.

With the emergence of societal problems in the form of the presence of game play as a means of ownership of property, it shows that society wants change to be fundamental (Abebe et al., 2020), that is, changes that are able to break the social order that once existed. And generally the method they use as a means of social change is to change and influence a person's perception of the norms prevailing in society, because norms aim to guide human behavior(Tankard & Paluck, 2016).

The negative effects produced with the emergence of social change are the loss of a culture of creativity, respect for the elderly, the emergence of new traditions in society, as well as the loss of constructual thinking.(Greenfield, 2016). For the people of Nagari Pandai Sikek, the game game aims to enliven the celebration of Eid al-Fitr, because they do this game on the third or fourth day of the month of Shawal, and it is enforced as a tradition because it has lasted for five or six years. Therefore, the encouragement to make an event at the moment of gathering of all residents for fun, but community participation is involved in funding and then managed in the form of games.

The levels of social change in society are classified into four stages, namely: first, stability; second, inertia; third, incremental social change, and fourthly *dramatic social change* (de la Sablonnière, 2017). Social changes in society cause changes in the law. There is a correlation between legal change and people's reluctance (Wang et al., 2020). At first the change of law was carried out by doing certain deeds by the community, then followed by the understanding of doctrine as a measuring tool for the deed (Wallenius, 2019). One of the ways that people do to change the law is to reform One of the ways that people do to change the law is to reform (Stippel & González, 2021)

Changes in law in society have an impact on activity, politics, community, and community identity.(Bernstein, 2018). Changes in law that affect system changes in society should not be viewed as a solution for marginalized groups.(LeBlanc et al., 2018). Changes in law in society are caused by the competition of idiosyncrasies or thoughts that develop in society. Legal changes in society have a relationship with humans as social

capital as well as the growth and development of society.(DIttmar & Meisenzahl, 2020).

There are several social realities that influence the occurrence of legal changes, namely: first, social realities in an objective macro-order; second, social realistic in subjective macro order, social reality in objective micro-order and social reality in micro subjective. (Lisdiyono & Suatmiati, 2017)

CONCLUSION

A new way in the midst of people's lives during the Eid atmosphere is to obtain treasures through game games with prizes. This event brought about a new, favorable norm. This method has been understood by the public to be a common thing, not to judge a gambling. However, if the essence of the law of law is to deny the rules of the Islamic economy because there is an element of maisir, so that the function of the Islamic rule of law as a comprehensive social control is not achieved.

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