

Model of Sharia Compliance on Developing Tourism Industry in Indonesia

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Abstract: The trend of sharia tourism development is increasing. Muslim tourists from Indonesia include the top 10 tourists who travel to various countries around the world. However, it has not formulated a model of compliance to halal tourism. The absence of a model of compliance to the norms of halal tourism will lead to the absence of standardization of halal tourism. The research method used in this research is juridical and normative method. The data have been collected and analyzed qualitatively to be able to parse and formulate the model of sharia obedience related to halal tourism. The study concludes offered models by this study are modifications of existing models. The model was built on legal maxim. The legal maxim is (الأصل في السياحة) الإباحة إلا أن يدل الدليل على خلافه the principle of law of tourism is permissible unless there is a proposition to the contrary. The paper modifies four major components of tourism development: government, infrastructure, human resource development, and products and services. The other one is the community. Enhance the development of halal tourism through more inclusive action by involving the community at large.

1 INTRODUCTION

Sharia compliance is the submission of values, norms, and rules that refer to the Will of Allah Almighty Allah's will is contained in the Al-Qur'an and the Sunnah (tradition) of the Prophet Muhammad. All the activities of Muslims should not violate the provisions of sharia. Implementation of sharia provisions will get reward and praise. Violation of Sharia provisions can result in sin and reproach for the perpetrators (F.B. Hakeem et al., 2012). Among the activities of Muslims is tourism travel. Although the activity, in essence, aims to perform relaxation and entertainment, but this activity must still be implemented within the corridor of Muslim adherence to sharia (Battour, 2015). Therefore, it is necessary to draw up a set of rules governing tourism activities for a Muslim. The set of rules must be universal in a way that can be applied to all Muslims. It is in this framework that a sharia compliance model is required in tourism activities.

This research was compiled as a commentary on the opinion of Hatem el-Gohary (2015) who argued that halal tourism should be intact and complementary. If there is any portion that is illegally (haram) then it cannot be called a halal tourism.

Unlike Hatem el-Gohary, the authors argue that halal tourism is a complicated activity. There are complementary components and substitution, between halal and haram. As long as the blending of halal and haram can be localized, then the haram remains haram and the halal remains halal. Then from these arguments a model of Sharia compliance is drawn up. This model is built from the premise that tourism activity is *mubah* (legal). Tourism activity is part of muamalah area not worship. In contrast to the area of worship that is closed from the creation and innovation of the law, the muamalah area opens space for doing *ijtihad* in order to create relevant creations, innovations and legal modifications within the framework of benefit. Basically, the activity of sharia tourism which is then called a halal tour is a demand for a friendly tourism activity for Muslims. Thus, tourism activities that do not interfere with routines as Muslims to perform worship and remain protected from all the restrictions of sharia, such as not involved in shirk, immorality, or consume haram (illegal) food.

2 METHODS

The method of the study is a qualitative method. The research is about compliance or legal approach. So, specific method that applies in the research is juridical-normative method (Soerjono Soekanto, 2001; Sonata, 2014). The method is chosen because it can describe the relationship between doctrines contained Islamic teachings and tourism activities. The description of this relationship can shape a model of compliance with Islamic law.

3 LEGAL COMPLIANCE THEORIES

There are several theories that explain how a person complies and has obedience the law. Broadly speaking the theories of obedience to law can be divided into two groups: the theory of coercion and consensual theory. The man who argued that obedience to the law based on the coercion is Max Weber (Soerjono Soekanto, 1982; David M. Trubek, 1972). Weber argued that the basic assumption of the coercion theory is that the ruler has a monopoly over the physical and psychological coercive means which is the basis for the legal purpose of achieving order. The law is established on the basis of the authority derived from the legitimacy of the society in which the law is enforced. However, the law is established on the basis of certain rationality authorities. Various law variations have their own rationality. Subsequently, important components of the law are conceptualized into standards, norms, principles and rules applied by specialized agencies that impose coercive sanctions (David M. Trubek, 1972). Critics of the theory of coercion come from various angle. B. Russel (1965) asserted that the exercise of power accompanied by sanctions and threats will not last long. Law will lose its power when it is not supported by public sentiment.

Base on criticism, a second group emerged who believed that the law, ideally, was built on the consciousness of society. Law enforcement through the application of legal sanctions is the lowest level of law enforcement. Because, According to Ph. Selznick the purpose of the law is not to apply sanctions but the purpose of law is to realize order in society (Soerjono Soekanto, 1982).

Consensual theories are formulated by Plato, Imanuel Kant, and E. Rostow. They argued that the source of the obligation to obey the law lies in the agreement to take an action. Thomas Hobbes (1958) and John Locke (1952) asserted that the agreement

was built on equal position as a member of society in a social contract. Joseph Raz (1979) did not recognize the existence of a general obligation to obey. Raz asserted that there is only and independent attitude of respect for law. Leslie Green (1988) added the consensual attitude with the term "civility". Green and Raz explain respect for and obedience to the law is not based on threats of sanction or coercion of others but as individual virtue. (Tamar L. Smith, 1990)

This research builds on consensual theory and its derivatives: individual virtue. The theory of legal compliance on the basis of individual virtues will be able to explain how a Muslims perform the rules of sharia in all of their activities, including when conducting tourism activities. Compliance with Sharia provisions is shaped as a manifestation of the individual virtues. The individual virtue of a Muslim is a manifestation of obedience to God. For some Muslims, the obedience to the rules of religion is stronger than adherence to positive law. Obedience to the rules of religion is a manifestation of the internalization of religious teachings that are believed. Soerjono Soekanto (1982) quoted H.C. Kelman outlines on three stages of compliance process, first compliance, second, identification, third internalization. Compliance is pragmatic compliance. Obedience based on expectations to get rewarded or sanctioned. Stronger than compliance is identification. This second-level adherence is not based on the value of the instrument, but it based on, obedience to the spirit of togetherness in a group or community. The highest adherence is compliance that has been internalized to the individual. Thus, someone obeys the law not because of external factors but is driven by intrinsic motivation. The third level of compliance strength lies in the belief in law makers and legal goals.

4 HALAL TOURISM CONCEPT

4.1 The Nature Law of Halal Tourism

Tourism sharia has been introduced since 2000 from the OIC meeting discussion. Sharia tourism is a travel request based on lifestyle of Muslim tourists during the holidays. In addition, sharia tourism is tourism that is flexible, rational, simple and balanced. This tourism is intended that the travelers are motivated to get happiness and blessing from Allah SWT (Munirah, L., and Ismail, H. N. Muslim, 2012). There are several terms that describe the concept of sharia travel. Malaysia used the term Islamic tourism.

United Arab Emirates called family friendly tourism. While, Japan prefers the term halal tourism. Indonesia used to use sharia tourism. Recently, Indonesia is using the term halal tourism (Arif Yahya, 2016).

In the Islamic tradition known for several terms that describe a trip with various motivations. *Siyar* (السير), *safar* (السفر), *al-siyâhah* (السياحة), *al-ziyârah* (الزيارة), atau *al-rihlah* (الرحلة). The contemporary Arabic prefers that term of *al-siyâhah* uses to the concept of tourism. According to the terms *al-siyâhah* (tourism) has a variety of meanings. In fact, there are 43 so-called definition of the *al-siyâhah*. According to Naqur, the complete definition of tourism is economic activity, either directly or indirectly, to travel a distant place or country of residence. This trip requires a number of services to meet their needs during the trip. (Husain Naqur, 1424 H.)

There are several definitions of halal tourism. Researchers have different perspectives on defining halal tourism. The various perspectives can be categorized into three groups: the perspective of motivation, needs and service, and teachings.

Crescent rating magazine compile some definition on halal tourism on article "defining what is halal travel or muslim friendly tourism." There are three perspectives. Firstly, motivational perspective. According to Duman (2011) "Islamic Tourism" can be defined as "the activities of Muslims traveling to and living in places outside the normal environment for no more than a year in a row for the participation of activities derived from Islamic motivations that do not related to paid activities from places visited ". Secondly, perspective needs and services. As niche market niche "tourism" includes; halal hotel, halal transport (halal airlines), halal food restaurant, halal tour packages and halal finance. Therefore, halal tourism consists of various sectors that are interconnected with each other. Sureerat (2015) defines halal tourism as a package offering of tours and destinations specially designed to meet Muslim considerations and address Muslim needs. Thirdly, the doctrinal perspective. Fatin Norain Osman (2015) defines Muslim tourism based on Islamic teachings that encourage individuals, especially women and children to travel with their muhrim which means that someone who has a blood relationship with them to give them security.

The tourism is *muamalah* category. Therefore, the origin of law of the tour is allowed. From this grand preposition could be derivate a legal maxim (*qaidah fiqhiyah*)

الأصل في السياحة الإباحة إلا أن ينال الدليل على خلافه.

the principle of law of tourism is permissible unless there is a proposition to the contrary

This permissibility turns into a prohibition if a Muslim has the intention to perform a sinful act during his / her tour. Intention becomes an important part for tourism actors, because the intention can determine the legal status of a Muslim's actions. Despite being in a place that is mixed between halal and haram, a Muslim may perform tourism activities in the place as long as he can separate halal and haram. Such as Muslim, by necessity, stay in a hotel that provides alcohol. As long as the Muslim does not consume the alcohol and can keep the good intention, the travel tour is still allowed.

IbnTaymiyya (2004) point out a theory called separation between halal and haram (*tafriq bayna halal a al-haram*). This theory is, later, derived to be a legal maxim by Ali Al-Nadwi (2000):

مَنْ اخْتَلَطَ بِمَالِهِ الْحَلَالِ وَالْحَرَامُ أُخْرِجَ فَذَرَّ الْحَرَامَ وَالْبَاقِيَ حَلَالًا لَهُ
 whoever is his property mixed between halal and haram then remove the haram, then the rest is lawful for him.

The concept of halal tourism does not always mean fully halal, as understood by Hatem El-Gohary (2015). As the process of Islamic law was gradual, the development of halal tourism can be done gradually, fulfil the necessity, the need, and then the complement.

We can make levelling as it does in Malaysia. Malaysia has levels of Muslim friendly hotels. They are basic, intermediate, and extensive level.

Table 1: Levels of Muslim Friendly Hotels in Malaysia.

Basic	Halal food, no alcohol, Qiblah signage, prayer mat, bidet in the room
Intermediate	Separate recreation facilities for male and female, mosque, no adult entertainment, prayer time, Mosque location
Extensive	Zakat counter, Islamic related brochure, classes, Azan at floor level, Islamic tourism packages

Source: (MdSalleh, 2014).

The Ministry of Tourism and the creative economy of the Republic of Indonesia have issued a Ministerial Regulation number 2 in 2014 related to the guidelines of the implementation of sharia hotel business. The Regulation has three aspects of sharia hotels; Product (consisting of 8 elements and 27 sub elements), service (consisting of 5 elements and 20 sub elements) and management (consisting of 2 elements and 2 sub elements). In each sub element there is an absolute and non-absolute rule. Examples of absolute rules of all foods in mini bar have halal logo. Examples of rules that are not absolute:

available Al-Qur'an. The absolute rule indicates that there is an option for the organizers of sharia hotels in managing their hotels. However, of course, this is a consideration for consumers

4.2 Model of Developing Sharia Compliance in Halal Tourism

Sharia tourism is a new concept of travel that grows rapidly this decade. Utilizing the World Tourism Organization (UNWTO) shows that foreign Muslim tourists has contributed 126 billion US dollars in 2011, this number has defeated the number of tourists of Germany, the United States and China. This number potentially increases after year. In 2012, Thomson Reuters data and Dinar Standard said that the contribution of the tourism market in the world came from the Muslim community, which is spending

in the range of USD137 billion, or approximately 12.5% of total world tourism. The demand of Muslim travellers increase in a global level. Currently, Muslim population in Europe is estimated 44 million. According to population projections from the Pew Research Centre which based in the US, that in 2030 this figure will be increased by almost a third to over 58 million. The population of Muslims will grow rapidly and especially to those who have the wealth from the oil counties. They will spend more money for tourism. According to the Pew Research Centre, the Muslim population today is 1.8 billion from 7 billion of population. Therefore every year the Muslims spend their funds for this travel sector has been increased (Md. Aminul Islam and Laura Kärkkäinen, 2013).

Tabel 2: Top Halal Tourism Destination 2017

OIC (Organization Islamic Cooperation) States			Non OIC States		
No	State	Score	No	State	Score
1	Malaysia	82,5	1	Singapore	67,3
2	UEA	76,9	2	Thailand	61,8
3	Indonesia	72,6	3	Britain	60,0
4	Turki	72,4	4	South Africa	53,6
5	KSA	71,4	5	Hong Kong	53,2
6	Qatar	70,5	6	Japan	52,8
7	Maroco	68,1	7	Taipei	52,4
8	Oman	67,9	8	France	52,1
9	Bahrain	67,9	9	Spain	48,8
10	Iran	66,8	10	USA	48,6

Source: Global Muslim Travel Index 2016 By MasterCard andCrescentRating

According to Crescent Rating The World's Leading Authority on Halal Travel Year 2017, Indonesia ranks third in the world for the provision of halal tourism (score 72,6). After the previous year ranked 6th (score 70,6 in 2015) and 4th (score 67,5 in 2016). This proves that there is a planned effort

made by the Indonesian government to improve the quality of halal tourism. Halal tourism is a part of tour activities in Indonesia. Halal tours will grow even more if involving more stakeholders. Among the stakeholders that need to be embraced is the Muslim community and Muslim community organizations.

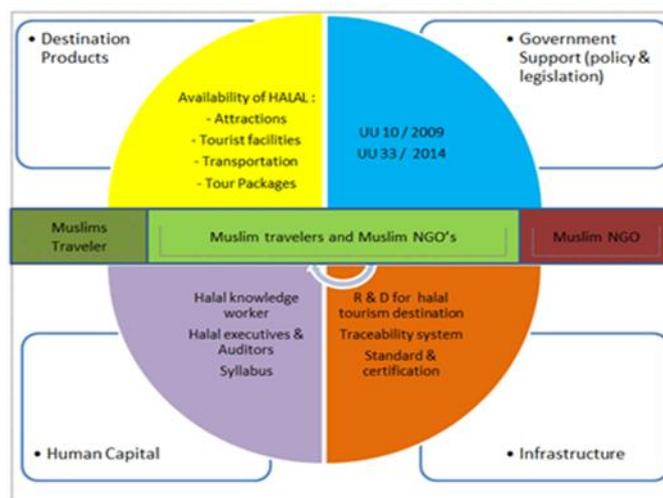


Figure 1: Halal Destination ecosystem.

The figure above is the component and the ecosystem of tourism development. The figure is a modification of the scheme developed by Wisnu Rahtomo and Sumaryadi (2016), who are members of the acceleration of halal tour in indonesia. So far, indonesia's economic strength still relies on the consumption sector. The population is quite significant. According to Pew research Center of religion and Public Life, the number of Muslim population in Indonesia 205 million of 237.641.326 of the total population in Indonesia. It means that 88% of population is Muslims (Pew, 2010; BPS, 2010). The massive involvement of the muslim community in the development of halal tourism will be a significant driver for the development of halal tourism in indonesia. Muslims will be subjects and object oh halal tourism. Muslims are encouraged to travel more frequently to national tourist destinations. Muslims are also encouraged to convince, foreign tourists, both muslim and non-muslim, to visit tourist destinations in indonesia. The double role of muslims will be stronger if muslims are not only involved individually but institutionally. Organizations of Islamic societies, as non-government organization, that need to be involved in the development of halal tourism. Few of them, Majelis Ulama Indonesia (MUI), Muhammadiyah, NU, Al-Wasliyah, PERSIS, Nahdhatul Wathan, etc.. If muslims and all stakeholders collaborate in harmony to develop halal tourism, Indonesia will soon follow malaysia to become the top country that provides halal tourism.

5 CONCLUSION

Halal tourism is part of *muamalah* activity. The origin law of *muamalah* is permissible. So, the origin law of halal tourism is permissible. Halal tours are travel activities undertaken by a person or group of persons by visiting a certain place for recreational purposes, personal development, or studying the unique attractions visited during the temporary period within the framework of sharia provisions. Subject of halal tour is not limited to Muslims, but also non-Muslims who feel safe and comfortable following the provisions of sharia. The concept of halal tourism is highly dependent on individual intentions. If a tourist destination mixed between halal and haram, as long as a Muslim is not involved in activities and objects haram, the tour conducted over the subject is included in the category of halal tourism.

Tourism is a wide range of tourism activities and supported by various facilities and services provided by tourism stakeholders. To accelerate the development of halal tourism in Indonesia, it needs a model of halal tourism development. The model should involve as many Muslim societies and Muslim community organizations as possible. As a majority population in Indonesia, Muslims are encouraged to be a driver of halal tourism.

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