



FINANCIAL TECHNOLOGY (FINTECH) REVIEWED ACCORDING TO THE PERSPECTIVE OF FOUR ULEMA OF FIQH (HANAFI, MALIKI, SYAFI'I AND HAMBALI)

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Abstract

Financial Technology (Fintech) is a digital transaction tool that is developing in today's society. Many companies are developing fintech and using it for practical and easy transactions. Sellers and buyers do not need to meet face to face and can do this at their respective homes. With this convenience, there is a need for sharia rules that regulate fintech law. The aim of this research is to provide an overview of fintech law from a fiqh perspective, so that people can analyze whether to use fintech or use traditional finance. As a result of this research, researchers found elements that exist in fintech in the form of offline or online buying and selling, saving or top-up systems, MLM and borrowing and borrowing. Of all the opinions of the four Ulema of Fiqh, differences were found between the schools of jurisprudence according to their reasons. However, basically fintech is allowed as long as the transactions do not contain gharar and usury.

Keywords: Economics, Islamic Religion, Financial Technology, Buying and Selling Online

Abstrak

Financial Teknologi (Fintech) adalah alat transaksi digital yang berkembang dimasyarakat saat ini. Banyak perusahaan yang mengembangkan fintech dan menggunakannya sebagai transaksi yang praktis dan mudah. Penjual dan pembeli tidak perlu berhadapan langsung dan bisa dilakukan dirumah masing-masing. Dengan kemudahan inilah perlu adanya aturan syariat yang mengatur hukum fintech. Tujuan penelitian ini memberikan gambaran terhadap bagaimana hukum fintech dari sudut pandang fiqh, sehingga masyarakat bisa menganalisa apakah akan menggunakan fintech atau menggunakan keuangan tradisional. Hasil dari penelitian ini peneliti menemukan unsur yang ada pada fintech berupa jual beli offline atau online, sistem menabung atau isi saldo, MLM dan pinjam meminjam. Dari semua pendapat empat mazhab ditemukan perbedaan antara mazhab fiqh sesuai dengan alasan-alsannya. Namun pada dasarnya fintech diperbolehkan selama transaksinya tidak mengandung gharar dan riba.

Kata kunci: Ekonomi, Agama Islam, Financial Technology, Jual Beli Online

Introduction

Humans are creatures created by God who are given reason and passion. Reason was given by God to distinguish between right and wrong, reason is also the difference between humans and other creatures (Nugraha & Hasan, 2022), while lust is used to believe in Islam from the



unseen. The relationship between reason and heart must be balanced, if humans believe that only reason is used, then humans will find a point where the unseen realm cannot be reached by the five senses. Reason will only tend to use the five senses as the legal basis for truth or error when understanding the Shari'a, so that if there is a law that cannot be accepted by the five senses, the legal basis will be rejected. The negative effect of using reason alone in understanding the Shari'a will result in apostasy. If humans only believe from the heart, then humans will tend to immediately follow whatever is explained by the ustad, teacher or kiyayi around them without re-analyzing whether what is explained is in accordance with Islamic rules or not. For example, when a person with the title of ustad gives an explanation about the saint of Allah by referring to so and so as the guardian of Allah, even though the so and so who is mentioned has the characteristics of being like a madman but then many people believe him. This is the negative effect of believing only in the heart. The positive effect of believing using the heart is that a person will have more faith in the unseen world and will feel more afraid of Allah. If humans use both in balance, they will become believers with perfect faith.

The period of Islamic glory was realized when the government was held by the Abbasid government. During the reign of the Abbasids, reason was used as the standard of truth, even though there were positive and negative impacts when someone used reason as the basis of their faith, during the time of the Abbasids, many thinkers produced knowledge and even new works for the common good (Nurfazillah, 2020);(Amri & Gultom, 2022). During the time of the Abbasids, the government freed the ulama to express opinions and then make sciences and discoveries that were useful for the country. The reason used by humans makes each era experience progress, one of which is progress in the field of technology. Technological progress results from a long process of thinking and experimentation so that technology can be used in society. One of the modern technologies is finance technology or known as fintech. Fintech has been widely used by the public since 2016 (Purwanto et al., 2022), and there are already many fintech products in Indonesia. Fintech is used because it makes transactions easier between sellers and buyers. Fintech is also used as a tool for borrowing and borrowing money, paying installments and even electronic savings.

As the number of fintech users increases, Islamic law must continue to be a benchmark for law, especially how fintech law is based on the basis of Islamic law, namely the Koran, Hadith, Atsar and Ijtihad of the ulama. The Koran is the holy book of Muslims which contains the words of Allah which



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contain messages from Allah, while the hadith are all the words, agreements, actions and silences of the prophet Muhammad. Atsar is the words of friends and the practices carried out by friends. The next legal basis is Ijtihad, ijtihad is the opinions of scholars, especially fiqh scholars in explaining the procedures for worship, muamalah in accordance with the Shari'a (Amri et al., 2022).

Research conducted by Nurul and Indra on Factors that Influence the Decisions of Feb UIN Syarif Hidayatullah, Jakarta Employees in Paying Professional Zakat shows that the variables of religiosity, altruism, motivation, knowledge and fintech have a significant effect on the decision to pay zakat. (Rahmat, 2023). Apart from that, research conducted by Afiful and Rusman on the Influence of the Technology Acceptance Model on Muzakki's Decision to Pay Zakat Through Fintech Gopay (Study on Muzakki Baznas Dki Jakarta) resulted in research results namely that the Technology Acceptance Model (perception of benefits and perception of convenience) had a partial and simultaneous effect on Muzakki's decision to pay Zakat via Fintech Gopay (Ichwan & Abdul Ghofur, 2021).

The research above shows that Fintech has a positive effect on transactions. However, research conducted by Erin Dewi Safitri regarding the use of Pay Later in Shopee E-commerce according to Islamic law found that the use of one of the Fintechs, namely Pay Later, is haram, because it contains interest (Savitri, 2023); (Said et al., 2022). However, research conducted by Mitra Sami, Melda Putri, Fatma Yeni, the concept of Islamic business ethics towards online buying and selling in the perspective of DSN-MUI Fiqh and Fatwa No.05/DSN-MUI/IV/2000 which is applied to Pt Hijup.Com. found that Islamic business ethics towards online buying and selling are in accordance with Fiqh and Fatwa DSN-MUI NO.05/DSN-MUI/IV/2000 (Mitra Sami, Melda Putri, 2019), which means there are regulations that regulate the halal issue of Fintech in Indonesia.

Research conducted by Andri, Dede and Agi, namely Financial technology (fintech) in the financial inclusion of MSMEs in the city of Banjar during the Covid-19 pandemic, found that MSMEs in Banjar using Fintech save more time, do not need to look for change and are more (Andri Helmi Munawar. Agi Rosyadi dan Dede Arif, 2022). Research conducted by Rizal, Erna and Nenden, namely Fintech as a Financing Solution for SMEs, found that SMEs can increase capital from Fintech loans (Rizal. Erna Maulina dan Nenden Kostini, 2018). Research conducted by Evan and Zubairin, namely Sharia Fintech in the Perspective of Islamic Law, found that in the MUI Fatwa there are Fintechs whose laws are halal and also haram (Mughtar &



Zubairin, 2022). Research conducted by Tira Nur Fitria, namely Online Buying and Selling Business (Online Shop) in Islamic Law and State Law. The research results show that online buying and selling is permitted as long as it complies with Islamic corridors (Nur fitria, 2017). Research conducted by Jaidil Kamal on Multilevel Marketing in Islamic Perspective. In his research, he found that multi-level marketing is allowed as long as there is no usury and gharar (Kamal, 2023). Research conducted by Yusriadi Ibrahim on the Sale and Purchase of Foreign Currency in the Muamalah Fiqh Perspective found that the law of buying and selling as-sarf varies according to certain circumstances (Ibrahim, 2021). The research above examines Fintech, but does not explain in more detail about Fintech law according to four ulema of fiqh. This research explains Fintech from the perspective of four ulema of Fiqh.

The aim of this research is to provide an overview of fintech law from a fiqh perspective so that people can analyze whether to use fintech or use traditional finance. This research can also be used as a benchmark for the advantages and disadvantages of fintech from a Sharia perspective, because the Islamic religion must be able to identify a law so that it does not fall into prohibition.

Literature Review

Financial technology or Fintech is a new product that was introduced in 2015, then made standard regulations by the OJK in 2016, and recognized by Bank Indonesia in 2017 (Narasati, 2020). The development of fintech is very rapid, it can be seen from the emergence of various fintech products. Almost every shop and even institutions in Indonesia have started using fintech. Several consumers who used fintech that researchers interviewed said that transactions using fintech were easy. By using fintech, consumers no longer need to carry cash when making transactions, just by using a cellphone we can use it for transactions. Not only applications provide fintech, but banks that have been around for a long time are starting to launch innovations by collaborating with fintech application companies. However, currently banks are starting to use applications for every transaction such as fintech to make it easier for customers with M-Banking (Ramdani et al., 2021).

As the number of fintech users increases, many scholars are analyzing the laws regarding the use of fintech in everyday life. In matters of halal and haram, the law that is the main basis is the science of Fiqh. The science of jurisprudence is a science related to all aspects, especially the procedures for worship and charity towards fellow humans (Shaifudin, 2019). The



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science of jurisprudence has always been used as an instrument in understanding halal and haram, a phenomenon that occurs in society. The instrument that is used as the basis for the science of jurisprudence is Qiyas, Qiyas is an instrument to analyze whether a phenomenon is similar between phenomena that occur in society and laws that have been previously established. For example, drugs are qiyased with khamr because they remove the consciousness of those who consume them.

The ulema explain the fintech phenomenon to the buying and selling that has occurred before, the reason is that fintech is often used in buying and selling transactions or what is called bai'u. In buying and selling, of course you have to look at the harmonious aspects, conditions and things that prohibit a sale and purchase, including gharar, namely the lack of clarity in a sale and purchase transaction, whether the goods are good or not, khiyar, namely the agreement made between the seller and the buyer, whether they still want to continue. whether or not a buying and selling transaction is done or not, usury is the addition of the value of money when borrowing and borrowing transactions or is often called interest, and salam buying and selling, namely buying and selling with goods that are not there at the time of the transaction, but the seller gives the characteristics to the buyer and then if the buyer agrees to buy, then the seller gives the goods that have been purchased, in this case it is like buying and selling online. Meanwhile, purchasing credit or topping up your balance in fiqh is done by purchasing foreign currency or what is called sarf. Fintech transactions fall into all categories because in fintech there are online buying and selling transactions, using money with applications and lending and borrowing.

Scholars whose ijthihad have been used throughout the world have become one of the standards of jurisprudence, namely Imam Hanafi, Maliki, Syafi'i and Hambali. In explaining fiqh issues, the four Imams differed in opinion according to the knowledge they received from hadith teachers, especially regarding Islamic law. However, basically these four Imams studied and became students of each other, but their differences of opinion did not mean that they blamed each other.

Methods

Researchers used qualitative literature studies in this research. Because with a literature study, the research is more based on the fintech phenomenon used by society according to the perspective of the fiqh imams of the four Ulema of Fiqh. This research uses references in the form of 10



books on fiqh, and 19 scientific journals explaining fiqh and fintech law. The researchers obtained primary data from the fintech phenomenon in society, while secondary data was obtained from literary sources in journals, websites or fiqh books. According to researchers, literature study is the most appropriate method to answer this problem (Wahyudin, 2017).

Results and Discussion

Fintech services usually use electronic money or balances in applications to carry out transactions either in stalls or supermarkets. This fintech service is the same as buying and selling in general. The law on buying and selling is taken in Surah al-Baqarah: 275 which confirms that buying and selling is halal and permissible, so when someone uses fintech as a means of buying and selling, the law is permissible (Fauzan, 1997). The opinion that strengthens the opinion of these four schools is Law No. 28 of 2008 on sharia banking regulations based on the principle of muamalah as long as it brings benefits, both buying and selling, renting, cooperation, pawning and others as long as there is no usury, gambling and fraud (Hukum & Syariah, 2018).

The mandatory conditions for buying and selling include a seller, buyer, contract, goods purchased and the exchange rate used to purchase the goods (Haroen, 2000). According to Imam Hanafi, there are four categories of buying and selling, namely sensible, meaning that both of them can distinguish between right and wrong, consent is accepted in a place, goods and prices are clear. Imam Maliki is of the opinion that buying and selling becomes legal when the seller and buyer understand the legal issues regarding halal and haram, are sensible and own the goods, then the *ijab qobul* is carried out clearly and the goods being bought and sold are pure, clean, useful and halal (Hasbi Ash-Shiddieq, 1952). The Syafi'i School believes that buying and selling must be done by a person with a rational mind, with his own will, the goods being bought and sold can be handed over, the rights are his own, and the form or characteristics are clear, while the *ijab qobul* must be clear and unbroken. Imam Hambali (Muslich & Muamalat, 2010) explains the issue of buying and selling, the person making the contract must be of sound mind, there is willingness, the agreement takes place at one time, the goods must be proprietary, the price and goods must be clear (Wicaksana, 2016).

Buying and selling can be done face to face or online. Someone who carries out online transactions in the Shari'a calls it *as-Salam*, that is, the goods being bought and sold are not visible (Desi Asmaret, 2021). The online buying and selling laws of Hanafi, Maliki and Syafi'i imams allow and



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are halal, while Hambali imams prohibit buying and selling using samples or photos in catalogues. According to Imam Hambali's opinion, buying and selling where the item to be purchased is not visible means there is no clarity regarding the goods so there is a fear of gharar, which is why Imam Hambali is of the opinion that buying and selling like this is not valid (Holilur Rohman, 2020). In contrast to Imam Syafi'i, he said that as long as the goods provided match the samples shown either directly or through catalog photos, then this buying and selling is still permissible, but if the goods received do not match the samples or are different from those received, usually in online buying and selling in the application there is a feature for returning goods because they are not suitable, so this type of buying and selling is permitted.

The two opinions above that make the difference between online buying and selling lie in whether or not the goods being bought and sold are clear. So the researchers summarize the differences between gharar or not in online buying and selling below.

Table 2
Differences between Online Buying and Selling and Gharar

Online Buying and Selling	Buying and selling Gharar
The goods being bought and sold are clear, in terms of shape, characteristics, type and price variations as well as advantages and disadvantages	The goods being bought and sold are not clear, the shape, characteristics, type and price variations and also the advantages and disadvantages are not explained in detail
The arrival time of the goods is determined depending on the distance and time of purchase of the goods when the transaction occurs.	It is unclear when the goods will arrive at the consumer's location.
If the goods do not match the photos or catalog, the buyer has the right to return them and the money that has been transferred or given can be returned again.	If the goods do not match the photos or catalog, the buyer has no right to return them and the money that has been transferred or given cannot be returned.

Source: Researcher's summary

From the table above, it is clear the difference between the two, when someone wants to make an online buying and selling transaction, the buyer must look carefully at the goods to be purchased, lest the buyer immediately



order, transfer or press the buy button before knowing everything about the goods. will be purchased. If the item is purchased due to the buyer's mistake of not understanding the item to be purchased, then the error lies with the buyer who pressed the buy button or immediately ordered the item to be purchased. If the item purchased does not match the photo in the catalog or the sample brought, it means that the fault lies with the seller who is not trustworthy, but basically buying and selling in the form of greetings is still permitted.

Gharar buying and selling, or what is known as unclear, is usually a buying and selling system involving buying trees or fields. The meaning of buying and selling trees is that the buyer will survey trees that bear fruit anywhere, then the buyer will come to the tree owner with speculation that he is willing to buy the fruit on the tree. Buying and selling like this is prohibited in Islam because it is not clear how much and what goods are being purchased, but this kind of practice is very often carried out by sellers and buyers. This prohibition is because there are parties who will suffer losses, whether the buyer experiences losses if the goods purchased are not worth the money given, or whether the goods purchased are fully cooked or not. Meanwhile, the loss experienced by the seller if the goods sold turns out to be more than the money received by the seller. This kind of buying and selling of gharar is what is meant by the prohibition, whereas online buying and selling does not lie in the unclear nature of the goods to be purchased. Meanwhile, if the fraud lies in the individual carrying out the transaction, not in the buying and selling transaction, then using fintech for online buying and selling is still permitted as long as it complies with the terms (Muhammad Fadhlan, 2021).

Before making cash and online purchases, consumers usually have to top up their balance before using the application, because when making a transaction the consumer will be deducted from the balance in the application, therefore they will not be able to make transactions if the balance in the application is empty. The law on filling the balance of the ulama incorporates the legal origins of the four schools of jurisprudence with urf, namely the cultural customs that exist in each region. Buying and selling transactions usually use currency according to each region, some use exchange of goods, gold, silver, others use currencies such as rupiah, dollars, rupees and others. Using foreign currency, either gold or dollars, is usually used when in another country. Foreign currency exchange is called money changer or sarf. This buying and selling law is permissible as long as both parties are willing and no one feels disadvantaged, including buying and selling objects in foreign currency (Suryani, 2013). Topping up a

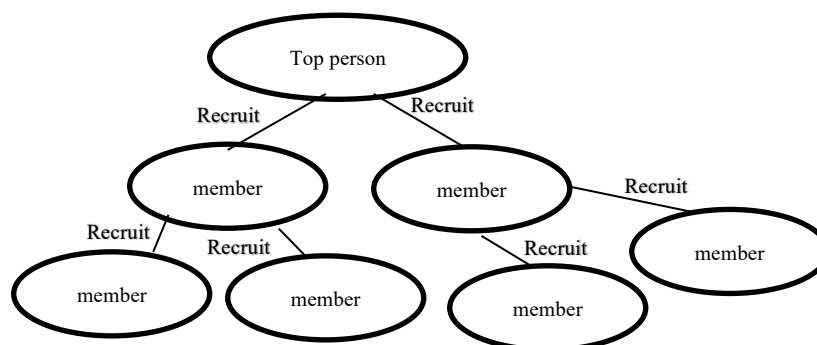


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balance is analogous to purchasing foreign currency because for transactions you have to use the balance in the application, so using fintech to top up your balance is permitted as long as there is no excess value in the exchange price.

The next feature is fintech which uses a Multi Level Marketing (MLM) system. This system is usually offered through products for sale, including herbal medicines, food, cosmetics and so on. Many people join this program because the bonuses are tempting, there is even an MLM system that recruits from among religious teachers, thus adding to the attraction so that people will increasingly trust this MLM product. The MLM system is generally a buying and selling system with a triangular system, usually the bottom point is who someone recruits so that the more people recruited, the more income the person at the top will earn. Apart from the triangle system, MLM also uses a points system, there are points targets that must be achieved, then if the targets are not achieved, these points will be forfeited, there are also points systems that have no targets, that is, points can still be enjoyed at any time when needed. Below is an example of an MLM system business.

Figure 1
Example of an MLM system



The MLM business is a business that is detrimental to many parties, especially MLM activists who are at the bottom. From the picture above, we can see that the members at the bottom will be disadvantaged, because any profits they make still go to the members at the top. Islam prohibits a system like this, even though some MLM business people say it is halal based on fatwa number 75/DSN/MUI/VII/2009. However, the researcher did not use the halal basis of the MUI as a legal basis for the halal law of MLM being haram, the author instead took the argument from the Al-Quran, Surah An-Nisa, verse 29 which explains that it is prohibited to consume



other people's wealth at the expense of other people. In this verse it is explained to carry out transactions in accordance with applicable Islamic rules, not by profiting from the hard work of other members (Taufiq, 2018). It is on this basis that according to researchers, MLM is haram even though there are benefits to members as stated in the journal (Aini & Susilowati, 2022) who stated that the MLM business was halal in their research, but this benefit was not based on simply citing verses from the Koran, but not including relevant interpretations.

The prohibition of MLM also lies in the point system which does not clearly define where the awards are calculated from, and where the prizes are obtained from because the valuable points definitely take advantage of the buying and selling of goods sold. This lack of clarity makes the MLM business gharar, and gharar has been explained previously by researchers. So if fintech contains an MLM system, the opinion of the imams of the four schools of jurisprudence is that it is haram because it is unclear about the profits, where the profits come from, and the system is detrimental to the lowest members.

Apart from buying and selling services using fintech applications, there are also lending and borrowing services. Basically, lending and borrowing in Islam is permitted provided that it does not contain usury or added value to the value of the money borrowed. All the imams of the four Ulema of Fiqh are of the opinion that usury in any form is still haram, as explained in the Al-Quran surah al-Baqarah: 275 which means usury, namely the addition of loans from the previous principal value of the money borrowed, while the punishment for people who use usurious assets is as follows: a person possessed by a demon or a madman. This verse also explains the responses of people who think that buying and selling is the same as a ribawi transaction where the value of the object of sale and purchase is higher than the initial capital. However, in this verse it is emphasized that usury is different from buying and selling, so for those who deny this verse, they are in error which Allah has explained, while those who then adhere to the verse which Allah has conveyed and those who If you repent after hearing this verse, Allah will reward you according to your repentance (Wicaksana, 2016).

The explanation above is the basis of fintech law on the lending and borrowing system. Even though there are many people who allow interest either in banks or in fintech applications, under the pretext of employee welfare, the interest is meant to be a small addition, unlike loan sharks, then under the pretext of economic development, this does not change the prohibition of usury. According to the literature results that researchers



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obtained, the excuses used by people who justify usury are irrelevant because they contradict all four Ulema of Fiqh that say usury is riba (Ipandang & Askar, 2020). Research conducted by Ramli on the Role of the Anti-Usury Association Movement in Reducing Dependence on Ribawi Transactions (Case Study in Pagari NTB), the results of his research show that the Riba Crisis Center (RCC) association provides education to the public about the dangers of usury and provides understanding that there are other ways In managing finances to avoid usury, one of them is by changing the way of transactions (RAMLI, 2023). Apart from that, research conducted by Yuli, namely Review of Sharia Economic Law on the Practice of Wadi'ah Yad Dhamanah Contracts (Case Study at KSPPS BTM Bimu Ambarawa), in her research shows that to protect members from carrying out riba transactions, the contract and the transaction system can be changed so that it becomes halal (RAMLI, 2023). These two studies are the author's proof that transactions can be halal when the contract and system comply with Sharia. Therefore, every financial institution should be able to use a sharia system.

Fintech is included in lending and borrowing, so it is better to avoid it so as not to fall into usury (Wicaksana, 2016). The sins that enter this system are very serious, so as much as possible we don't use the lending and borrowing feature and can still use other features to be free from Dosa. From all the research findings, the researcher summarizes the explanation above in the table below.

Table 1
Summary of Fintech According to the Imams of the Four Mahzabs

Mahdzab	Fintech Services				
	Cash buying and selling (<i>Bai'u</i>)	Online Buying and Selling (<i>Salam</i>)	E-Wallet (<i>Sarf</i>)	MLM	Lending and Borrowing
Hanafi	Allowed	Allowed	Allowed	Haram	Haram
Maliki	Allowed	Allowed	Allowed	Haram	Haram
Syafii	Allowed	Allowed	Allowed	Haram	Haram
Hambali	Allowed	Haram	Allowed	Haram	Haram

Source: Researcher's summary



Conclusion

Fintech has features in the form of offline or online buying and selling, systems for saving or topping up balances, MLM and lending and borrowing. Of all the opinions of the four Ulema of Fiqh, differences were found between the ulema of jurisprudence according to their reasons. The law on buying and selling in cash, all four ulama say it is permissible, in online buying and selling only the Hambali imam says it is Haram, Fintech is intended for electronic money, all the ulama allow it, but for fintech in MLM transactions and lending and borrowing money, all ulama say it is haram. However, basically fintech is allowed as long as the transactions do not contain gharar and riba.

This research still has several shortcomings, one of which is that it does not explain fintech law in detail, because this research only summarizes several fintech laws so that readers can easily understand fintech law. Suggestions from researchers for future researchers are to explain fintech law in more detail, so that readers can understand fintech law based on the arguments in the Koran, Hadith and the opinions of scholars.

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