

Fiqh of Indonesian Tourism (FIT) as A Shari'a Tourism Policy System

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**Abstract**

*Shari'a tourism is a trend in Indonesia and the international world because currently Muslim and non-Muslim countries are competing to offer the concept of shari'a tourism. The shari'a tourism discourse still attracts controversy amid society in terms of its legal aspects, concept, and application. The term shari'a tourism is also still being debated because people cannot distinguish between conventional tourism and shari'a tourism and there are differences in narratives such as halal tourism and religious tourism. In addition, the development of shari'a tourism policies in Indonesia also has governance problems. This happens because there is no strong ontological, epistemological, and axiological foundation based on Pancasila values, culture, and local wisdom. The problem that will be answered in this article is how is the Fiqh of Indonesian Tourism (FIT) used as a policy system and strategy for developing shari'a tourism.*

*This research is a literature review using a qualitative method that is descriptive-analytic, through Habermas' critical theory approach. This critical theory paradigm is used as a way of looking at and critiquing previous thoughts such as conventional tourism and shari'a tourism.*

*The findings of this study are the Fiqh of Indonesian Tourism (FIT) which is constructed based on Pancasila values and has an ontological, epistemological, and axiological bases, as well as the results of ijtihad through the maslahah mursalah approach as the basis for legal istimbath, 'urf as a study of law and Islamic legal (fiqbiyyah) rules as a reinforcement of the law. The Fiqh of Indonesian Tourism (FIT) is offered as a consideration in the formulation of government policies and praxis for tourist actors without having to be contaminated by non-Muslim tourists, but Muslim and non-Muslim tourists remain in harmony in carrying out tourism activities and maintaining the existence of local culture and wisdom based on Pancasila values. The Fiqh of Indonesian Tourism (FIT) is also a way of traveling without having to be trapped by the symbol of shari'a tourism, in which tourists, both Muslim and non-Muslim, can still enjoy travel and tourism amenities according to their respective beliefs.*

**Keywords:** *Shari'a tourism, Fiqh, Policy, Indonesia*

**A. Introduction**

Tourism has become a basic need for humans, not merely a complementary one. Tourism is currently growing into a need for everyone to

seek tranquility, experience, strengthen culture, and seek knowledge so that everyone needs to travel or tourism because in essence humans are creatures of tourism.<sup>1</sup> However, people's views on tourism still tend to be hedonistic, that is, tourism is widely considered as just for having fun, seeking entertainment, and squandering money. Therefore, a strong tourism concept is needed for tourism development.

Various countries including Indonesia offer shari'a tourism as a concept of tourism development. As a results, the concept of shari'a tourism has now become an academic discourse in various countries, including in Indonesia. Muslim tourists and tourists in general are important sectors that influence the development of the tourism industry, so it is important to pay attention to their primary needs, including meeting halal food and drinks, as well as the provision of places of worship such as prayer and fasting. In general, conventional tourism and shari'a tourism have fundamental differences. Conventional tourism is a tourism business that sells tourism services and products that do not use the principles of shari'a. Meanwhile, shari'a tourism is a tourism business in selling tourism services and products using the shari'a principles that have been determined by the National Syari'a Board of Council of Indonesian Ulama (Dewan Syari'ah Nasional Majelis Ulama' Indonesia MUI).<sup>2</sup>

In addition, in the rapid development of shari'a and the shari'a economy, the tourism sector also plays a role. Tourism business based on shari'ah has now developed rapidly, so it does not rule out the possibility of shari'a tourism becoming a great business opportunity. As reported in the *Global Muslim Travel Index* in 2021, it is recorded that as many as 108 million Muslims have traveled for tourism and spent U\$ 145 M in 2013. This number represents about 10% of the total global tourism economy and continues to increase by 7.5% every year and in 2019 Muslim tourists reached 160 million. In the future, Muslim tourists is predicted to increase and even become one of the promising

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<sup>1</sup>(Ben, 2018) p. 38.

<sup>2</sup>(Pemerintah Provinsi Nusa Tenggara Barat, 2016)

sectors because tourism will continue to grow rapidly in the world. This rapid development occurs because tourism is part of basic human needs.<sup>34</sup> It is predicted that the Muslim population by 2030 will represent about 26.5% of the world's population. This Muslim population is increasing because it comes from countries whose economies are developing such as Indonesia, Malaysia, Turkey, Saudi Arabia, and the Gulf states. Therefore, the Muslim population can become an important consumer in the world's business, including tourism.

The description above illustrates that shari'a tourism business has great potential and therefore many countries are currently competing to offer the concept of tourism. For example, Japan, Korea, Singapore, Thailand, Malaysia, as well as European countries are ready to provide facilities related to shari'a tourism. Indonesia also does not want to be left behind to take a role in this shari'a tourism competition.<sup>5</sup> This can be seen from the existence of the DSN MUI in 2016 concerning Guidelines for the Implementation of Tourism based on Sharia Principles. In the West Nusa Tenggara, there is also Regional Regulation No. 2 of 2016 concerning Halal Tourism.

This shari'a tourism narrative still attracts controversy amid society in terms of its legal aspects, concepts, and application. The term shari'a tourism is also still being debated because people cannot distinguish between conventional tourism and shari'a tourism and there are differences in understanding and narratives such as 'sharia tourism', 'halal tourism' and 'religious tourism'. In addition, there are also problems regarding tourism actors who do not provide halal tour packages, adequate human resources, and the lack of hotel providers who apply for MUI halal certification, with only 20 percent of hotel restaurants have currently received MUI halal certification. This is certainly a big problem in the development of shari'a tourism in the future.

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<sup>3</sup> The World's Leading Authority on Halal Travel, (*Global Muslim Travel Index 2021*, 2021)

<sup>4</sup> Abdul Rasyid., "Shari'a Tourism" quoted from <http://business-law.binus.ac.id/2015/10/08/parwisata-shari'ah/>, on Monday, January 4, 2021, at 14.16 WITA.

<sup>5</sup> Ministry of Tourism, *Shari'a Tourism Development Study*, (Jakarta: Ministry of Tourism, 2015), p. 5.

This development might be due to the fact that the current tourism concept and policy have no strong ontological, epistemological, and axiological foundations based on Pancasila values, culture, and local wisdom. Furthermore, the governance of shari'a tourism policy development also has problems. So, to overcome the problem, the researcher offered the concept of the Fiqh of Indonesian Tourism (FIT) which is constructed based on the values of Pancasila. So, Fiqh of Indonesian Tourism (FIT) can be used as a sharia tourism policy system in Indonesia.

## B. Method

The principle of stunning follows the process by which an animal is to be stunned to remain unconscious to feel any pain, and the condition should end up with the absolute death of that animal.

This research is a literature review through which the process of research is carried out to collect several works such as books, research results, and journals, which are relevant to the research problem. The purpose of collecting some of this literature is to be used as a reference in dismantling and revealing various paradigms and theories relevant to tourism, jurisprudence (*fiqh*), and Pancasila. The method used is a qualitative method that is descriptive-analytic, through Habermas' critical theory approach. This critical theory paradigm is used as a way of looking critically at previous thoughts such as conventional tourism and shari'a tourism. The source of data in this study is the book of *Fiqh As-Siyahab wa Safar*, written by Assayyid Sodik Al-Husaini As-Syrozi. This book is about the ethics (*adab*) of tourism, the law of mixing between men and women, and the law of prayer (*shalat*) on trip. The second source is the book titled *Abkam As-Siyahab wa Atsaruba*, written by Hashim bin Muhammad bin Husain. This book is developed from his dissertation, which contains the meaning of tourism, the law of *qasr* and *jama'* prayer, the law of *tayammum*, the law of canceling fasting, and the law of prayer in airplanes. The third source is the book titled *Halal Tourism: Multidimensional Perspective*, written by Prof. Dr. Muhammad

Djakfar, M.Ag. This book contains theoretical studies of normative halal tourism, multidimensional normative studies, halal tourism and local wisdom.

The researcher selected these three books as the main source in this study because they are very relevant to the research carried out. The data analysis technique used is the model of Miles and Huberman which has four stages: data collection, data reduction, data presentation, and verification and conclusion drawing.

### C. Result and Discussion

Looking at the Fiqh of Indonesian Tourism (FIT), the researcher seeks to describe two developing tourism paradigms, namely the conventional tourism paradigm and shari'a tourism paradigm. The conventional tourism paradigm looks elitist and causes human beings to be alienated. This is because the conventional tourism can be seen from the following paradigms:

*First*, conventional tourism is usually more about standardization as a universal reference. This means that conventional tourism has rules that must be accepted without being critically questioned. So, in the development of tourism anywhere, by anyone, and anytime everything has rules and codes of ethics that must be lived. The rules in conventional tourism include regulations, codes of ethics, governance, and scientific research studies. *Second*, the goal of conventional tourism is growing. The paradigm of healing is an understanding that is used as an ideal model for all countries in the post-colonial world. After the colonialization carried out by the first-world countries ended, a new system of relations between the countries involved, namely the former colonials and the colonized ones, was needed. *Developmentalism* is closely related to capitalism because in its history capitalism was a metamorphosis of three stages, namely: *first*, colonialism, *second*, developmentalism, and *third*, globalization.<sup>6</sup> *Third*, the paradigm of conventional tourism has always been on the binary opposition attached to it. This means that it always supposes the need for the other for one

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<sup>6</sup> Mansour Fakh, *Runtuhnya Teori Pembangunan dan Globalisasi* (Yogyakarta: Insist Press, 2002), p. 90.

party to exist. Meanwhile, in the capitalistic economic fight, tourism development is operated and controlled by a powerful financier. From this, therefore, a symbiosis of mutualism emerged between capitalists and other elites. In this context, human beings who do not have the power of capital tend to be spectators and exploited.<sup>7</sup> Simply put, the conventional tourism paradigm is more inclined to aspects of profit, hedonism, and exploitation of the human self, so it is a mere consumerist society and an object of tourism.

Shari'a tourism, on the other hand, can be seen from several paradigms. *First*, shari'a tourism still revolves around facilities that are so strict and tend to be scary for tourist connoisseurs. *Second*, the shari'a tourism paradigm does not yet have a clear legal basis so people understand that shari'ah tourism is only limited to the pilgrimage of tombs and mosques. *Third*, some Indonesian people appear to be still very minimal and taboo in their knowledge related to shari'a tourism. *Fourth*, the standardization is too strict and frightening with the words "hypocrisy, intoxication, omnipresence, *tabzir* or *israf*, pornography, and impossibility".<sup>8</sup>

Departing from this paradigm, many regions reject the application of shari'a tourism including South Sulawesi, North Sumatra, East Nusa Tenggara Labuhan Bajo, Bali, Gili Trawangan West Nusa Tenggara. The Governor of East Nusa Tenggara, for example, revealed "that re-branding halal tourism in East Nusa Tenggara is tantamount to presenting conflicts in the tourism business and can even spread social conflicts; if there is halal tourism, it means that other tourism is illegitimate tourism".<sup>9</sup>

The Governor of Bali, Wayan Konster, similarly rejects the existence of halal tourism. He revealed that "Bali is a different area from other regions in

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<sup>7</sup> Neil Leiper, *Tourism System an Interdisciplinary Perspective*, (Department of Management Systems Business Studies Faculty, 1990), p. 100.

<sup>8</sup> Kurnia Maulidi Noviantoro, "Prospects for Shari'a Tourism (*Halal Tourism*): A Challenge in the Era of the Industrial Revolution 4.0", *EQUILIBRIUM: Journal of Shari'a Economics*, Volume 8, Number 2, (2020), pp. 275-296.

<sup>9</sup> Ole Keda, "NTT Governor rejects halal tourism in Labuhan Bajo", quoted from <https://www.liputan6.com/regional/read/3959632/gubernur-ntt-tolak-label-wisata-halal-labuhan-bajo> on January 4, 2021, at 14.30 WITA.

Indonesia and different from tourist destinations in the world. In the case of Bali, the concept of tourism is related to cultural tourism, so this culture is the object of attraction that is not just a mere attraction but is celebrated and becomes an inherent part of Balinese society. If it is to be shari'atized, we categorically reject it".<sup>10</sup> The people of Gili Trawangan Lombok, West Nusa Tenggara, responded to the concept of halal tourism in a tone that did not agree, and some did not agree at all and did not respond at all to the implementation of tourism. The reason is that basically for them halal tourism is not suitable to be applied on the beach.<sup>11</sup>

The paradigms of conventional and shari'a tourism thus clearly have fundamental differences. Therefore, from these differences in paradigms, the researcher offers the Fiqh of Indonesian Tourism (FIT) paradigm as an alternative. According to the researcher, shari'a tourism or halal tourism should be a mercy for all humans (*rahmatan lil alamin*) because basically, humans are tourism creatures. The reason why tourism <sup>12</sup> should be a mercy for all human beings is because tourism can increase (1) economic welfare; the number of dependents, age, expenditure, consumption, income, residence, and residential facilities, and there is an ease in getting access to health services; (2) worship; faith and piety, rigorous study of religion (*tafaqqub fid-din*), charity, gratitude, purification of soul (*taẓkiyatun al-nafsi*), commanding the good and prohibiting the evil (*amar ma'ruf nahi munkar*), seeking and obtaining the ridha of Allah, jihad through wealth and life, and *islah* or self-improvement; (3) tranquility and pleasure; coziness, security, contentment, leisure, excitement; (4) unifying culture of ummah; gratefulness and understanding of the various forms of plurality, nation, ethnic, social, and *culture*. So, to give birth to policies, the researcher offers the concept of Indonesian Tourism Fiqh (ITF) policies based on Pancasila values.

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<sup>10</sup> Arnoldus dhae, "Polemik of Bali so Shari'ah Tourism", quoted from Source: <https://mediaindonesia.com/nusantara/219665/polemik-bali-jadi-wisata-syari'ah-terus-rolling>, on Monday, January 4, 2021, at 15.00 WITA.

<sup>11</sup>(Baihaqi, 2019a)...., p. 51.

<sup>12</sup> Sarbini Mbah Ben, *Filsafat ...*, p. 38.

## 1. Variations of Tourism Legal Certainty

The fiqh of tourism is the rules and procedures for tourism according to Islamic law. Ulama' agreed that the law of tourism is *mubah* (may) as in the *fikhiyyah* rule says الأصل في المعاملة الإباحة: the law of origin of the muamalah is *mubah* or permissible.<sup>13</sup> Based on this rule, it is the soul of the principle of human relations (*muamalah*), which refers to the great rule, namely “الأصل بقاء ما كان على ما كان” a case is judged by its original law. This proves that Islam provides a very wide space for the development of *muamalah*, such as buying and selling, tourism, and other muamalahs that are following the development and needs of social life. This rule is derived from the concept of *al istisbab*, namely the awareness and inclusion of the law of origin.

استصحاب الإباحة الأصلية، فالأصل في الأفعال أنها مباحة

That is to say: "the submission to the *mubah* on the law of origin, then the origin in all the acts of the law is *mubah*."<sup>14</sup>

With the development of Islamic law, the law of entrepreneurship can change depending on the purpose and the benefit, as stipulated in the rule: “العبرة بالمقاصد والمسميات، لا بالظواهر والتسميات”: in carrying out transactions what is considered is the purpose and substance, not the mere redaction or symbol.<sup>15</sup> This is a manifestation of the rule “الأمر بمقاصدها” (all deeds depend on their intention or purpose). Based on this, the researcher divides the law of tourism into five categories:<sup>16</sup>

- a. Tourism becomes mandatory if it is a command of Allah Swt and as a medium in getting closer to Allah Swt, or as a means of worship to Allah Swt, such as carrying out hajj, umrah, studying, or curing diseases. Hajj,

<sup>13</sup>Yusuf AL Qardawi, *7 Main Rules of Muamalat Jurisprudence...*, p. 7

<sup>14</sup> Abdul Kairm Zaidan, *Al-Wajis fi Usul ...*, p. 47.

<sup>15</sup> Yusuf AL Qardawi, *7 Main Rules of Muamalat Jurisprudence...*, p. 7

<sup>16</sup> Abdullah Al Lahajji, *Idab al Qawid Al Fiqhiyah...*, p.7



umrah, and other worship services are <sup>17</sup>*Maslahah al-Dharuriyah Hifz ad-din* (keeping religion). The obligation of hajj is mentioned in Sura Al-Imron verse 97:

وَلِلَّهِ عَلَى النَّاسِ حِجُّ الْبَيْتِ مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلًا

which means: "doing the hajj is the servant's duty to Allah, that is, for those who can travel to the Baitullah."<sup>18</sup>

Tourism for study is also mandatory because it is part of *hifz al-aql* (maintaining reason), that is, to deepen religious knowledge such as visiting historical places is mandatory as Rasulullah Saw mentioned:

طَلَبُ الْعِلْمِ فَرِيضَةٌ عَلَى كُلِّ مُسْلِمٍ

which means: "Studying is an obligation for every individual Muslim."<sup>19</sup>

Allah Swt also commands in the letter An-nahl verse 36 which reads:

وَلَقَدْ بَعَثْنَا فِي كُلِّ أُمَّةٍ رَّسُولًا أَنْ اعْبُدُوا اللَّهَ وَاجْتَنِبُوا الطُّغُوتَ ۗ فَمِنْهُمْ مَن هَدَى اللَّهُ وَمِنْهُمْ مَن حَفَّتْ عَلَيْهِ الضَّلَالَةُ ۗ فَسِيرُوا فِي الْأَرْضِ فَانظُرُوا كَيْفَ كَانَ عَاقِبَةُ الْمُكذِّبِينَ

which means: "And indeed We have sent an apostle to each of the people (to say): "Worship Allah (only), and stay away from the Tbaghut", so among the people there are those who are instructed by Allah and there are also those who have certainly been misguided for him. Then walk ye upfront of the earth and notice how the end of those who lie (the apostles)."<sup>20</sup>

Allah Swt also commands to travel for the ummah of prophet Muhammad saw to all corners of the earth, to be able to witness how Allah Swt destroyed the previous ummat who disobeyed Him so that it could be a lesson for the people to come.

Tourism can also be mandatory if it is intended to heal from diseases, such as stress, anxiety disorders, liver disorders, psychotic disorders, trauma, and other diseases. Doctors will usually advise people to increase their visit

<sup>17</sup> The Compulsory Law is an act that when done gets rewarded and when left behind gets sinned.

<sup>18</sup> Qur'an Translation Improvement Team, *Qur'an and...*, p. 92.

<sup>19</sup> Jalaluddin Abdurrahman As-Suyuti, *Jami' Al Abadis*, (Baerut: Dar Al-Fikri, 1994), p. 136.

<sup>20</sup> Qur'an Translation Improvement Team, *Qur'an and...*, p. 407.

to entertainment places, or tourist attractions, such as beaches, mountains, etc. to control the mind and recover enthusiasm.

Health in Islam is an important thing because maintaining health includes *al-Dharuriyah*, *Hifz al-nafs* (taking care of the soul), and health is also part of the great favors that every human being must be grateful for. Imam Ibn Katsir revealed that the most important and first favor is the favor of health, so health becomes a very important thing in Islam as Rasulallah Saw said:

نعمتان مغبون فيهما كثير من الناس الصحة والفراغ

which means: "Two pleasures that are often forgotten by most human beings are health and leisure."<sup>21</sup>

- b. Tourism becomes recommended (sunnah) if it is done to follow in the footsteps of Rasulallah Saw in relieving sadness, and fatigue, or to obscure oneself, by seeing and reflecting on the creation of Allah SWT. As Rasulallah Saw traveled to Aqsa from the Grand Mosque, Allah Swt showed his majesty on every journey to relieve the sadness of Rasulallah Saw after being left behind by his beloved wife Siti Khadijah, and his Uncle Abdul Muttalib.<sup>22</sup>

Tourism also becomes sunnah if it is intended for the economic sector, including for business purposes or to run a work office because it can open business opportunities and greater job opportunities, so it can grow the economy of the community and countries that become tourist destinations.

As Allah says in Sura Al-Jumua verse 10:

فَإِذَا قُضِيَتِ الصَّلَاةُ فَانْتَشِرُوا فِي الْأَرْضِ وَابْتَغُوا مِنْ فَضْلِ اللَّهِ وَاذْكُرُوا اللَّهَ كَثِيرًا لَعَلَّكُمْ تُفْلِحُونَ

which means: "When prayers have been performed, then scatter ye on the earth; seek the gift of God and remember God many so that you may be fortunate."<sup>23</sup>

<sup>21</sup> ibn Hajar Al Asqalani, *Fathul ...*, p. 234.

<sup>22</sup> The law of Sunah is to get rewarded when done, and if left out sinless.

<sup>23</sup> *Ibid.*, p. 817

- c. Tourism becomes permissible (*mubah*) if it is without the purpose of worshipping to Allah Swt, there is no benefit only to have fun, and during its implementation there is nothing done that is prohibited by Allah Swt.<sup>24</sup>
- d. Tourism becomes discouraged (*makruh*) if it is intended to go to a place of worship of non-muslims, and to a place that is worshipped by Allah Swt. Imam Hanafi argues that traveling to a place of worship of non-Muslims is legally makruh, even imam Shafi'i forbids it. It is feared that *makruh* travels in tourism will leave the obligations in the Islamic religion, and tourism only get tired and tired.<sup>25</sup>

Imam Al-Bukhari narrated a hadith from Abdullah bin Umar that Rasulullah Saw said:

لَا تَدْخُلُوا عَلَى هَؤُلَاءِ الْمَعْدِيَّينَ، إِلَّا أَنْ تَكُونُوا بَاكِيْنَ فَإِنْ لَمْ تَكُونُوا بَاكِيْنَ، فَلَا تَدْخُلُوا عَلَيْهِمْ  
لَا يُصِيبُكُمْ مَا أَصَابَهُمْ

which means: "Don't go into (the place of) the people who are being bullied unless you cry! If you don't cry, don't go into their place so that their calamity will not befall you."<sup>26</sup>

- e. Tourism is legally prohibited (*haram*) if it contains illegitimate work or accompanied by work prohibited by Allah Swt, such as drinking khamar, adultery, and other ma'shiyat. *Ulama' Al Lajnah Ad-Daimah* agreed that if tourism contains elements that can be easy to do evil and toxicity then the law is haram, no Muslim should do tourism and it is recommended to deny it, as Allah promises whoever leaves the ma'shiya then Allah will replace it with a better one.<sup>2728</sup>

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<sup>24</sup> Mubah is an act that when it is done it does not get a reward and does not get sin and if abandoned it is also sinless and the doer will not get a reward.

<sup>25</sup> Makruh is an act that when it is done it is not sinful and when abandoned the doer will get a reward.

<sup>26</sup> Imam Bukhari, *Fathul Bari Sharah Sabab Al-Bukhari*, (Riyad: Maktabah Malik Fahd, 2001). p 87.

<sup>27</sup> Haram is an act that if it is abandoned, the doer will get a reward and if carried out he/she will get sin.

<sup>28</sup> Marina Ramdhani, "The Dilemma of Halal Tourism Regulation in Indonesia", *ArRehla, Journal of Islamic Tourism*, Volume 1 No 1 of 2021, (May 2021), p 94.

In Sura Al-Isra' verse 32 Allah expressly forbids the human ummah to approach or commit adultery because it is a very heinous work:

وَلَا تَقْرَبُوا الزَّيْنَىٰ إِنَّهُ كَانَ فَحِشَةً وَسَاءَ سَبِيلًا

*It means: "And you shall not approach adultery, indeed adultery is a heinous act. And a bad road." 29*

## 2. The Fiqh of Indonesian Tourism Policy

The Fiqh of Indonesian Tourism (FIT) policy must follow the values of Pancasila values as well as Indonesian local culture and wisdom. *First*, the value of the One Godhead. In Soekarno's view, this precept can be described in four meanings: (a) it suggests that not only the Indonesian state has God, but every Indonesian citizen should believe in God; (b) the Indonesian state is a country where each individual can worship his God freely; (c) all Indonesians are culturally Godly and eliminate selfishness in religion; and (d) the basic principle of a civilized godhead has noble ethics and respect for all fellow human beings and adherents of other faiths.<sup>30</sup> In the context of tourism, this means that tourism must follow religious values to dismantle the views of the community that it is contrary to religious values. Hence, the concept of FIT constructed here must follow religious values.

*Second*, the value of just and civilized humanity. This precept was elaborated by Soekarno into four principles: (a) first, the Indonesian state must stand up and be independent to lead to the kinship of the nations; (b) second, internationalism does not mean the negation of nationality, nor is there Indonesianness, there is no Burma, there is no NIPPON, there is no America, there is no Britain and others; (c) third, internationalism must be based on nationalism; nationalism lives in its soul of internationalism; (d) fourth, the Indonesian nation is part of universal humanity that always prioritizes and upholds human rights with a sense of brotherhood and civilized values.<sup>31</sup> In this

<sup>29</sup>Ministry (RI, 2019).., p. 397

<sup>30</sup>Ahmad Basarah, *Bung Karno, Islam dan Pancasila*, 1<sup>st</sup> edition, (Jakarta: Constitution Press, 2017), p. 144.

<sup>31</sup>*Ibid.*, pp. 146-147.

second precept, the development of tourism fiqh must be in favor of human values because the current concept of the FIT must be able to help transform humans to be more civilized.

*Third*, the unity of Indonesia. This precept was elaborated by Sukarno into four principles: (a) first, the establishment of the Indonesian nation is unanimous; Indonesia is not a nation of Sumatra, Borneo, Java, and Sulawesi, but an Indonesian nationality. Therefore, the Indonesian nation is not only for individuals, or certain groups, but the Indonesian nation is a state for all people; (b) second, the unity of Indonesia is based on the values and spirit of nationality in providing protection for the entire nation; (c) third, the unity of the Indonesian nation is a value of mutual respect for all differences in society and the diversity of the Indonesian nation; (d) fourth, our nationality is not a narrow, aloof, chauvinistic, but a nation that leads to the kinship of nations.<sup>32</sup> Based on the third precept, tourism must be able to become a medium of communication and integration between cultures, nations, and countries that are not limited to certain nationalities and ethnicities, so that tourism can be a unifier of the nation.

*Fourth*, people's values led by wisdom in representative consultancy. In this precept, Soekarno elaborated on four principles, namely: (a) first, the Indonesian state has basic and absolute requirements for the sake of the strength of the nation, namely consultancy and representation. This value leads society in striving with the utmost, for no country in the world can survive if there is no representation and struggle in it; (b) second, the existence of a consensus in terms of reconstructing the safety of the state, in this case, is consensus in the form of the people's representatives; (c) third, in the Indonesian nation emphasizes the absence of a dictatorial system in the majority and tyranny in the minority; (d) fourth, the Indonesian nation makes decisions based on upholding the values of Godliness, unity, humanity, and justice in

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<sup>32</sup>*Ibid.*, p. 150.

realizing the common ideals of social justice for all Indonesian people.<sup>33</sup> Meanwhile, in this fourth precept, tourism development must follow the constitution and government, so that its policies do not damage religious and humanitarian values and that policies must become the foundation for tourism fiqh.

*Fifth*, the value of social Justice for all Indonesians. In this precept, Soekarno also divided into four explanations, namely: (a) first, there should be no poverty on the face of the Indonesian earth that is devastating; (b) second, Indonesian democracy has always been on the value of freedom of political and economic freedom directly. Democracy is not just democracy in politics, but also democracy in the aspect of an economy that is socially just; (c) third, Indonesia must always prioritize welfare for its people, the adequacy of food, the adequacy of clothing, and housing; (d) fourth, in the Indonesian state, every citizen has the same and free right to get a decent, dignified and just job for humanity.<sup>34</sup> In this last precept, tourism must be able to provide welfare for the Indonesian people without exception who favor small and medium enterprises by providing equal opportunities with regard to tourist attractions.<sup>35</sup>

The following is the concept of the Indonesian Tourism Jurisprudence Policy System:

No.	Indicators/Aspects	Fiqh of Indonesia Tourism
1.	Variations in Islamic legal certainty based on the value of Pancasila	<ol style="list-style-type: none"> <li>1. Tourism becomes mandatory if it is a command of Allah Swt and also as a means of getting closer to Allah Swt. For example: carrying out hajj, umrah, and tourism to study and nourish the body.</li> <li>2. Tourism becomes sunnah if it is to follow in the footsteps of Rasulullah Saw in relieving sadness, and fatigue by seeing and reflecting on the creation of Allah Swt.</li> <li>3. Tourism becomes mubah if it is done with no purpose of worship to Allah Swt, just</li> </ol>

<sup>33</sup> *Ibid.*, pp. 154-155.

<sup>34</sup>*Ibid.*, p. 158.

<sup>35</sup>Sarbini Mbah Ben, (Ben, 2018).., p. 260.

		<p>for fun, and in its implementation, there are no actions prohibited by Allah.</p> <p>4. Tourism becomes makruh if there is no purpose of worship to Allah Swt; it is also makruh to go to places of worship of non-muslims, and places that are worshipped by Allah Swt,</p> <p>5. Tourism becomes haram if it contains in it illegitimate work or accompanied by illegitimate work such as drinking alcohol (khamar), adultery, and other ma'shiyat.</p>
2.	Pancasila-based tourism objective	The objective of tourism is that they must be able to provide welfare for the people of Indonesia without exception. For example, in the aspects of beauty, safety, and comfort
3.	Pancasila-based tourism destinations	The purpose of tourism must follow religious values to challenge the views of the community that the concept of tourism is contradictory to religious values
4.	Pancasila-based tourism targets	Tourism targets aspects of development that must be in favor of human values because the current concept of the fiqh of Indonesian tourism must be able to transform humans to be more civilized.
5.	Pancasila-based guide	Tourism guides must be able to become a medium of communication and integration between cultures, nations, and countries that are not limited to certain nationalities and ethnicities so that tourism can be a unifier of the nation.
6.	Pancasila-based facilities	Tourism facilities must follow the constitution and government so that the policies do not damage religious and humanitarian values; they must become the foundation for the fiqh of Indonesian tourism as a manifestation of facilities.

### 3. FIT's View on Shari'a and Halal Tourism

Shari'a tourism and halal tourism are two terms used in the development of tourism in Indonesia, with each region uses different terms. The MUI ruling uses shari'a tourism while the West Nusa Tenggara Regional Regulation uses

halal tourism. This is the starting point for problems or debates of terms used in the development of tourism in Indonesia.

Shari'ah tourism seems scary but tends to succeed in becoming a strategy in the development of shari'a tourism. In practice, however, it is not in line with shari'ah tourism, so West Nusa Tenggara uses halal tourism derived from the DSN-MUI about shari'ah tourism. The term halal tourism has very large prospects in Indonesia in tourism development, as evidenced by the success of Indonesia's halal tourism ranked first in 2019.<sup>36</sup>

The Fiqh of Indonesian Tourism (FIT) regards shari'a and halal tourism as a concept of management systems and halal products. The word shari'ah is the management that regulates the existence of halal tourism, while the word halal is a product of shari'a tourism. So, the Fiqh of Indonesian Tourism (FIT) sees the two as two sides of the same coin that cannot be separated; both are part of the Fiqh of Indonesian Tourism (FIT). In addition, the existence of this FPI paradigm does not mean damaging the existing tourism system. Instead, it offers and strengthens the paradigm of shari'a and halal tourism. The existence of the Fiqh of Indonesian Tourism (FIT) is a booster of the tourism paradigm system because it prioritizes the values of Pancasila, culture, and local wisdom. The Fiqh of Indonesian Tourism (FIT) is a management system concept that regulates shari'ah and halal tourism because these two terms have several different parts from each other and form a unity, carrying out functional relationships that realize parts that are interdependent with each other.

Furthermore, the Fiqh of Indonesian Tourism (FIT) also views halal tourism as more friendly, namely the provision of halal goods and services following the principles of shari'ah. Therefore, the Fiqh of Indonesian Tourism (FIT) offers the term shari'ah. The term shari'ah is used in tourism management systems, or services, for example, shari'a services, shari'a hotels, shari'ah banks, and shari'a spas or other shari'a-based services. While the term or concept of

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<sup>36</sup> The World's Leading Authority on Halal Travel, (*Global Muslim Travel Index 2021*, 2021)



halal is more relevant to be used in the provision of halal products such as halal food, halal souvenirs, and other halal products.

#### **D. Conclusions**

Since prehistoric times, by the beginning of animal domestication, the slaughtering of animals has been practiced through various methods most prominently including the stunning method, kosher ritual, jhatka slaughtering, and the Islamic method “*Zabiha*”.

In general, tourism is divided into two parts: conventional tourism and shari'a tourism. Conventional tourism is tourism that is not based on shari'a and cultural values, so it is more inclined to aspects of profit, hedonism, and human exploitation, and hence considered a consumerist society and even has an impact on moral decadence. Meanwhile, shari'a tourism is a tourism concept based on Islamic law, but the paradigm tends to be scary, with words of hypocrisy, toxicity, omnipresence, tabzir or israf, pornography, pornography, and impossibility.

The Fiqh of Indonesian Tourism (FIT) is used as the basis for policies and strategies for the development of shari'a tourism because it has procedures for tourism according to Islamic shari'a that follow the values of Pancasila. The FIT has ontological, epistemological, and axiological bases in the Quran and hadith as well as results of *ijtihad* by using the approach of *maslahah mursalah* as the basis for *istinbath* law, *'urf* as the study of law and *the rule of fiqhiyyah* as a reinforcement of law.

The application of the Fiqh of Indonesian Tourism (FIT) in the development of tourism culture in Indonesia has a strong ontological, epistemological, and axiological foundation. The FIT is offered as a consideration in the formulation of government policies and praxis for tourist actors without having to be contaminated by non-Muslim tourists; Muslim and non-Muslim tourists remain in harmony in carrying out tourism activities and maintaining the existence of local culture and wisdom based on Pancasila values. The FIT is also a way of traveling without having to be trapped by the symbol

of shari'a tourism; tourists, both Muslim and non-Muslim, can still enjoy travel and tourism amenities according to their respective beliefs.

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