

The Relevance of Jamal Al-Banna's Islamic Legal Thoughts with Religious Moderation in Indonesia

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Abstract

This research aims to find out the relevance of Jamal Al-Banna's Islamic Legal Thought with Religious Moderation in Indonesia. This research is a doctrinal Islamic legal research using historical approach method (content analysis). The primary data source of this research is Jamal al-Banna's own work, namely *Nahwa Fiqh Jadid* and the book Religious Moderation written by the Balitbang Team of the Indonesian Ministry of Religion. This research is also supported by secondary sources in the form of works related to the topic of study. The result of this research is that the Relevance of Jamal Al-Banna's Islamic Legal Thought with Religious Moderation in Indonesia. textually there are 2 (two), namely: justice and tolerance. As for substantially there are also 2 (two), namely: the value of the principle of "convenience" is the same as *tawassuṭ* and compassion is the same as the principle of equality (*musawah/egalitarian*).

Keywords: Islamic Law; Jamal al-Banna; Religious Moderation

Introduction

As it is known that Islamic law is among the branches of Islamic knowledge that are directly integrated with various aspects of Muslim activities.¹ Thus, there is only one way, namely to develop a mindset that is in accordance with the current context, namely the new fiqh.² This fiqh when compared to classical fiqh is very different, especially in terms of its system. This is the main element in the renewal of Islamic law.³ Jamal al-Banna has the assumption that if the current system continues to rely on the old system, the result will be many major problems related to the fiqh. In addition, what cannot be ignored is that this fiqh model is bound to keep the door of *ijtihad* open which is not exclusive, radical and extreme, and always prioritizes tolerance of pluralism, and respects gender freedom.⁴

Among the concepts of classical Islamic law that need to be updated according to Jamal al-Banna is related to the concept of a leader in a household run by a husband. In this case, it seems as if a husband is considered a superior leader. The wife is considered as a person who is led inferior. The superiority of the husband when viewed from classical Islamic law is very clear, especially the wife's obedience to her husband who cannot leave the house and fast *sunnah* without her husband's permission. In this case, it does not mean that Jamal al-Banna does not agree to make a husband a leader in his household. However, as a leader, the husband's obligation is not only to provide security and please his wife, but also to complement and perfect each other.⁵ In addition, as a contemporary thinker in the field of gender, Jamal al-Banna also highlighted related to divorce that the husband may not pronounce divorce without his wife's consent because the marriage bond is a bond of both parties (*ijâb and qabûl*) that is valid, transparent, and mutually agreed between the two. Of course, if there is a divorce, the two of them must also agree with each other. This means that divorce that comes from the husband alone is not valid or rejected.⁶

¹ Deri Wanto, Rahmad Hidayat, and R. Repelita, "Maqasid Shariah's Change as Theory: From Classical to Cotemporary Maqasid Shariah," *Al-Istinbath: Jurnal Hukum Islam* 6, no. 2 November (November 11, 2021): 427–454.

² JM. Muslimin, Rizky Fauzi Iskandar, and Yulia Fatma, "Islam and Medicine: A Study on The Fatwa of Indonesian Ulama Council on Vaccines," *Al-Istinbath: Jurnal Hukum Islam* 6, no. 1 May (May 25, 2021): 85–106.

³ Ahmad Mas'ari, "Rekonstruksi Dan Reformulasi Pembaruan Hukum Islam Perspektif Jamâl Al-Banna," *Al-Risalah* 16, no. 02 (December 1, 2016): 217–233.

⁴ Danil Putra Arisandy, Asmuni Asmuni, and Muhammad Syukri Albani Nasution, "The Majelis Ulama's Fatwa on Freedom of Expression On Social Media: The Perspective of Maqashid Shariah," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 2 November (December 1, 2022): 467–486.

⁵ Ali Munhanif, *Perempuan Dalam Literatur Islam Klasik* (Jakarta: Gramedia Pustaka, 2002).

⁶ Jamal Al Banna, *Naḥwa Fiqh Jadîd 3* (al-Qâhirah: Dâr al-Fikr al-Islâm, 1995).

It is clear from each of Jamal al-Banna's Islamic legal thoughts above that he emphasizes the principles of balance (justice), independence (freedom), tolerance (tolerance), ease (ease), sympathy, and empathy (compassion).

Some previous research Syaiful Bahri "Jamal al-Banna's.⁷ New Jurisprudence Paradigm and its Relevance to the Renewal of Women's Role in Islamic Family Law (*Fiqh al-Munâkahât*)" This study examines the concept of fiqh jadîd Jamal al-Banna as a system or solution step in dealing with classical and contemporary problems by reconstructing fiqh. Based on the existing system, Jamal al-Banna's new fiqh begins with an understanding of the interpretation that is still open and can be done. The interpretation is the main device for reviewing the basic benefits, namely as the main reaction to the problems that should get a step to solve it.⁸ By using the new fiqh he initiated, he then changed the various provisions that appeared in various previous fiqh books, especially themes related to women in Islamic family law (fiqh al-Munâkahât) could be reconstructed. The position of women in the previous fiqh books was often ruled out. But after reconstruction, her position is the same as men's. The researcher in this case uses four important ideas based on his new fiqh reconstruction: the lowest age in marriage, the ijbâr authority of a guardian, and marrying more than one woman and divorce.⁹

Ahmad Mas'ari¹⁰ entitled "Reconstruction and Reformulation of Islamic Law Reform in the Perspective of Jamâl Al-Banna" explores the concept offered by Jamal al-Banna in the framework of Islamic law reform is to 'operate' the source of Islamic law by reconstructing and reformulating conventional and traditional understanding so far in understanding the material source of Islamic law itself and replacing it with a new formulation. According to him, the sources of Islamic law are the reason, universal values of the Qur'an, sunnah, and custom ('urf). To realize this idea, Jamal al-Banna is not based on ratio alone but makes the values or spirit (not text) of the Koran itself a standardization. Jamal al-Banna made reason at the highest level precisely because of the affirmation of the Koran itself. Jamal al-Banna's jargon is al-Judâh ilâ al-Qur'ân (return to the Alqur'an) Jamal al-Banna's reform makes benefit (*maşlahah*) the main goal, not just one of the goals. Texts that contradict the benefit, can be reviewed in

⁷ Syaiful Bahri, "Paradigma Fikih Baru Jamal Al-Banna Dan Relevansinya Terhadap Pembaruan Peran Perempuan Dalam Hukum Keluarga Islam (Fiqh Al-Munakahat)," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 19, no. 1 (June 1, 2019): 1–26.

⁸ H. Hendrianto and Lutfi Elfalahy, "Ayat-Ayat Hukum Dalam Alquran Mengatur Hubungan Sesama Manusia," *Al-Istinbath: Jurnal Hukum Islam* 6, no. 1 May (May 31, 2021): 165–178.

⁹ Yan Fajri, "Kewarisan Beda Agama Di Nagari Persiapan Bancah Kariang Kecamatan Kinali Kabupaten Pasaman Barat," *Al-Istinbath: Jurnal Hukum Islam* 6, no. 2 November (November 11, 2021): 341–366.

¹⁰ Mas'ari, "Rekonstruksi Dan Reformulasi Pembaruan Hukum Islam Perspektif Jamâl Al-Banna."

interpretation, because the purpose of the sharia is for the benefit itself, not just having fun. From previous research, it is very different from this study to explain Jamal al-Banna's Islamic legal thought which is relevant to religious moderation in Indonesia textually.

Therefore, the author wants to examine the extent to which its principles are relevant to the principles of *wasatīyah* (religious moderation) which are being echoed all over the country from high-ranking officials to people in villages throughout Indonesia.

Discussion

The Intellectual Biography of Jamal al-Banna

Jamal al-Banna's full name is Ahmad Jamaluddin Ahmad Abdurrahman al-Banna. Born on December 15, 1920 in al-Mahmudiyah, an area included in the territory of Bukhayrah province, about 50 kilometers from the tourist city of Alexandria, Egypt and died on January 30, 2013. Of eight siblings, Jamal al-Banna was the fifth and last son of Jamal al-Banna's family.¹¹ Jamal was born to a father named Ahmad bin Abdurrahman bin Muhammad as-Sa'ti and a mother named Umm Sa'ad Shaqar.¹² Jamal's father was an intellectual figure with a monumental work entitled, *al-Faḥḥ ar-Rabbâni fî Tartîb al-Musnad al-Imâm Aḥmad ibn Hanbal al-Shibânî*, totaling 24 volumes.¹³

According to the information obtained, his parents once gave Jamal al-Banna the name Ahmad Jamal al-Din, so that when he grew up his son would become a revolutionary figure in Islamic renewal efforts like Jamal al-Din al-Afghani. In fact, it was not uncommon for his father to call Jamal by the name "al-Afghani". This also inspired Jamal to be able to carry out religious reform as Jamal al-Din al-Afghani had done.¹⁴

Jamal al-Banna's intellectual odyssey formally started from Madrasah Ibtidaiyah and Madrasah Tsanawiyah Khadawiyah, one of the favorite schools in Cairo at that time. The level of formal education pursued by Jamal al-Banna can be said to have not gone smoothly. Unfortunately, when Jamal al-Banna was in the first grade, just because he had an argument with his English teacher, where Jamal al-Banna refused to pronounce English with an adjustment of the English accent, he was finally not allowed to follow the teacher's lessons later,

¹¹ Jamal Al-Banna, *Kḥiṭābāt Ḥasan Al-Bannâ Al-Syâb Ilâ Abib* (Kairo: Dâr al-Fikr al-Islâmî, 1990).

¹² Ibid.

¹³ Bahri, "Paradigma Fikih Baru Jamal Al-Banna Dan Relevansinya Terhadap Pembaruan Peran Perempuan Dalam Hukum Keluarga Islam (Fiqh Al-Munakahat)."

¹⁴ Mukhammad Zamzami, "Teologi Humanis Jamâl Al-Bannâ: Sebuah Rekonstruksi Epistemologis Studi Keislaman," *Teosofi: Jurnal Tasawuf dan Pemikiran Islam* 2, no. 1 (June 4, 2012): 174–200.

and finally, for the subject matter Jamal al-Banna was considered a failure. With a feeling of annoyance, little Jamal al-Banna decided to end his formal education, because, according to him, the formal education provided by the government at that time did not provide much constructive value for its students. Because he only wanted to be a writer and not an engineer or lawyer, then, according to him, there was no need for formal education. Then, at the insistence of his family.¹⁵ Jamal went to trade school for three years.¹⁶

The last formal education of Jamal al-Banna was to complete the doctoral program (S3) at Cairo University, Egypt. Since childhood, Jamal al-Banna was educated in a household environment that has a strong intellectual tradition and has a complete library. His father directly guided him in memorizing the Koran and always encouraged him to read in his library, so it is very natural that Jamal al-Banna has been interested in reading since the age of 5 years.¹⁷ He risked his life to become a writer. His first work was published in 1945 titled Social studies in Egypt and the effects of poverty, ignorance and disease.¹⁸

Jamal al-Banna grew into a great thinker with controversial new ideas. Generally, Jamal al-Banna's thoughts contain ideas that break down the understanding that has become the status quo in society. With his belief and firmness in holding principles, Jamal al-Banna seemed not to care if the ideas he developed would reap controversy and criticism from here and there.¹⁹

Written Works

As an intellectual who had a hobby of reading and writing, Jamal al-Banna left many works, including:

1. Politics entitled *Dimaqrâtiyyah Jadîdah* (Neo-Democracy) in 1946.
2. The field of hadith entitled *Al-Aşlâni al-'Azîmâni: al-Kitâb wa al-Sunnah Ra'yu Jadîdah* (The Two Great Foundations; The Qur'an and the Sunnah, A New View) in 1982.
3. *Al-Islâm huwa al-Ĥâl* in 1988.
4. *Kallâ Şumma Kallâ: Kallâ li Fuqahâ' al-Taqlîd Kallâ li Du'âti al-Tanwîr* (No! Against the Conservative Fiqh Experts. No!, to the Enlightenment) in 1995.

¹⁵ Muhammad Fauzinuddin Faiz, "Pemikiran Jamal Al-Banna Tentang Relasi Suami Isteri Dalam Kitab Al-Mar'ah Al-Muslimah Baina Tahrîr Al-Qur'ân Wa Taqyîd Al-Fuqahâ," *Al-Ma'âhib: Jurnal Perbandingan Hukum* 3, no. 1 (June 1, 2015): 55.

¹⁶ Zamzami, "Teologi Humanis Jamâl Al-Bannâ: Sebuah Rekonstruksi Epistemologis Studi Keislaman."

¹⁷ Al-Banna, *Khiṭabât Hasan Al-Bannâ Al-Syâb Ilâ Abih*.

¹⁸ Jamal Al-Banna, *Pluralitas Dalam Masyarakat Islam* (Jakarta: Mata Air Publishing, 2006).

¹⁹ Bahri, "Paradigma Fikih Baru Jamal Al-Banna Dan Relevansinya Terhadap Pembaruan Peran Perempuan Dalam Hukum Keluarga Islam (Fiqh Al-Munakahat)."

5. In the field of fiqh, he wrote *Naḥwa Fiqh Jadīd* (Towards a New Fiqh) in 1995-1999 in three volumes. The Indonesian edition is entitled *Manifesto Fiqh Baru 1, Manifesto Fiqh Baru 2, Manifesto Fiqh Baru 3* translated by Hasibullah Satrawi and Zuhairi Misrawi.
6. In the field of gender entitled *Al-Mar'ah al-Muslimah bayna Tahrīr al-Qur'ān wa Taqyīd al-Fuqahā'* (Muslim Women between the Liberation of the Qur'an and the Restrictions of the Fuqaha) in 1998.
7. Politics entitled *Ma Ba'da al-Ikhwān al-Muslimīn?* 1995.
8. *Istrāṭijyah al-Da'wah al-Islām fī al-Qur'ān fī al-Qarn 21* in 2000.
9. The field of the Koran entitled *Taṭwīr al-Qur'ān* (Revolution of the Koran) in 2001.
10. The field of women entitled *Al-Hijāb* in 2002.
11. The field of Islam and power entitled *Al-Islām Dīn wa al-Ummah wa Laisa Dīnan wa Daulatan* (Islam is a religion and a nation, not a religion and a state) in 2003, *Al-Uṣūl al-Fikrīyah li al-Daulah al-Islāmīyah* (Principles of Islamic state thought) in 1979,
12. The political field is entitled *Hurriyah Al I'tiqād fī Al-Islām* (Freedom of Religion in Islam) in 1972.

Besides writing, he was also active in translating foreign books into Arabic, including:

1. *An-Niqābāt fī al-Wilāyāt al-Muttaḥidah* (1962)
2. *An-Niqābāt fī al-Mamlakah al-Muttaḥidah* (1962)
3. *An-Niqābāt fī al-Ittiāḥād as-Sūfiyī* (1962)
4. *An-Niqābāt fī as-Sumaydī* (1962)
5. *An-Niqābāt fī al-Burmā* (1962)
6. *An-Niqābāt fī al-Malāyū* (1963)
7. *Al-'Aẓmah al-Muqbilah* (1963)
8. *Ad-Dīmuqrāṭīyyah an-Niqābiyyah* (1969)
9. *Tauṣīyāt al-'Amal ad-Dawliyyah* (1971)
10. *Al-Barnāmij al-'Ālamī li al-'Umālah* (1971).²⁰

Principles of Islamic Legal Thought of Jamal al-Banna Relevant to the Principles of Religious Moderation in Indonesia

Religious Moderation

The word "moderation" comes from the Latin word "moderatio" which means moderation (neither excessive nor deficient). In the Big Indonesian Dictionary (KBBI), the word "moderation" is taken from the word "moderate" which is interpreted in two senses, namely the reduction of violence and the avoidance of extremes. The word "moderation" is also taken from the English

²⁰ Jamal Al-Banna, *Kallā Ṣumma Kallā: Kallā Li Fuqahā' Al-Taqlīd Wa Kallā Li Du'āt Al-Tanwīr* (Kairo: Dar al-Fikr al-Islāmy, n.d.).

word moderation.²¹ which means moderate, not excessive. It is also often used in the sense of average, core, standard, or non-aligned. Moderator means an arbiter, or mediator.²²

From some of the words mentioned, moderate means prioritizing balance in terms of moral beliefs, character, both when treating others individually or dealing with state institutions. In Arabic, moderation is known as *wasat* or *wasatīyah*, which is equivalent to *tawassuṭ* (middle), *i'tidal* (fair) and *tawâzun* (balanced).²³ The antonym of *wasat* is *taṣarruf* (exaggeration), which in English is called extreme, radical, and excessive. The word extreme can also mean "to go too far, to go from end to end, to turn around, to take the opposite course of action". the word extreme is defined as "the most extreme, the highest, and the harshest".²⁴

Religious moderation is actually the essence and substance of religious teachings that are not at all excessive, either in perspective or attitude. The principle of religious moderation (*wasatīyah*) is an attitude and perspective that is full of values of balance and justice.²⁵ With this concept, it can be understood that a person in religion should not be extreme in his views, but must always look for common ground.

Principles of Religious Moderation in Indonesia

Religious moderation has two basic principles: justice and balance. These two basic principles will be more easily formed if a person has three main characters in him: wisdom, purity, and courage. In other words, a moderate attitude in religion, always choosing the middle way, will be more easily realized if a person has sufficient breadth of religious knowledge so that he can be wise, resistant to temptation so that he can be sincere without burden, and not selfish with his own interpretation of truth so that he dares to recognize the interpretation of the truth of others, and dares to convey his views based on science.²⁶

Moderation as a middle way attitude or diversity attitude has become an alternative terminology in religious discourse, both at the global and local levels.

²¹ Hornby A S, *Oxford Advanced Learner's Dictionary, Sixth Edition*, Edited by Sally Wehmeier (New York: Oxford University Press, 2000).

²² John M. Echols and Hasan Shadily, *An English-Indonesian Dictionary* (Jakarta: PT. Gramedia Pustaka Utama, 2005).

²³ Athoillah Islamy, "Eksistensi Hukum Keluarga Islam Di Indonesia Dalam Kontestasi Politik Hukum Dan Liberalisme Pemikiran Islam," *Al-Istinbath: Jurnal Hukum Islam* 4, no. 2 November (November 30, 2019): 161–176.

²⁴ Tim Balitbang Kemenag RI, *Moderasi Beragama*, (Jakarta: Badan Litbang dan Diklat Kementerian Agama RI, 2019).

²⁵ Mohammad Hasyim Kamali, *The Middle Path of Moderation in Islam: The Qur'anic Principle of Wasathiyah* (Oxford: Oxford University Press, 2015).

²⁶ RI, *Moderasi Beragama*,.

Moderation is still considered the most ideal attitude of diversity when religious conflicts begin to heat up.²⁷

Table 1: Table Prinsip-prinsip dalam moderasi beragama di Indonesia

No	Religious Moderation	Description
1	<i>Tawassuṭ</i>	Tawassuṭ is also a middle or moderate attitude between two attitudes, which are not too far to the right (fundamentalist) and too far to the left (liberalist).
2	<i>Tawāzun</i>	Tawāzun is the ability of an individual to balance his life, so it is very important in the life of an individual as a Muslim, as a human being, and as a member of society.
3	<i>I'tidāl</i>	I'tidāl is part of the application of justice and ethics for every Muslim. Justice that is commanded by Islam is explained by Allah to be done fairly, which is middle and balanced in all aspects of life by showing Ihsan behavior.
4	<i>Tasāmuh</i>	Tasāmuh is a person's stance or attitude manifested in the willingness to accept diverse views and stances, even if they disagree with them.
5	<i>Musāwah</i>	Musāwah is equality and respect for fellow human beings as creatures of Allah swt. All humans have the same dignity regardless of gender, race, or ethnicity.
6	<i>Syurā</i>	Shurā or deliberation means explaining and deliberating or asking and exchanging opinions on a matter.

Some of the principles in religious moderation include:

1. *Tawassuṭ* (Taking the Middle Way)

Tawassuṭ is an understanding and practice of religion that is not *ifrāṭh*, which is exaggeration in religion and *tafrīṭh*, which is reducing religious teachings. *Tawassuṭ* is also a middle or moderate attitude between two attitudes, namely not too far to the right (fundamentalist) and too far to the left (liberalist). With this *tawassuṭ* attitude, Islam will be easily accepted in all walks

²⁷ Aceng Abdul Aziz et al., *Implementasi Moderasi Beragama Dalam Pendidikan Islam* (Jakarta: Kelompok Kerja Implementasi Moderasi Beragama Direktorat Jenderal Pendidikan Islam Kementerian Agama Republik Indonesia Bekerjasama dengan Lembaga Daulat Bangsa, 2019).

of life. The character of *tawassuṭ* in Islam is the middle point between the two ends and it is a good thing that Allah swt has put in place from the beginning. The value of *tawassuṭ*, which has become a principle in Islam, needs to be applied in all fields so that Islam and the religious expression of Muslims become a witness to measure the truth for all human attitudes and behavior in general.²⁸

The things that need to be considered in the application of *tawassuṭ* are, first, not being extreme in spreading religious teachings. Second, it is not easy to disbelieve fellow Muslims because of differences in religious understanding. Third, positioning oneself in social life by always upholding the principles of brotherhood (*ukhuwwah*) and tolerance (*tasāmuḥ*), living side by side with fellow Muslims and citizens of other religions.²⁹

In Islam, this principle of *tawassuṭ* is clearly mentioned in the Quran:

وَكَذَلِكَ جَعَلْنَاكُمْ أُمَّةً وَسَطًا لِتَكُونُوا شُهَدَاءَ عَلَى النَّاسِ وَيَكُونَ الرَّسُولُ عَلَيْكُمْ شَهِيدًا ۗ

And thus we have made you a just community that you will be witnesses over the people and the Messenger will be a witness over you. And We did not make the qiblah which you used to face except that We might make evident who would follow the Messenger from who would turn back on his heels. And indeed, it is difficult except for those whom Allah has guided. And never would Allah have caused you to lose your faith. Indeed Allah is, to the people, Kind and Merciful. (Q.S. al-Baqarah [2]: 143).

2. *Tawāzun* (Balance)

Tawāzun is a balanced understanding and practice of religion that covers all aspects of life, both worldly and ukhrowi, firm in stating principles that can distinguish between *inbiraḥ* (deviation), and *ikhtilāf* (difference). *Tawāzun* also means giving something its due without any addition or subtraction. *Tawāzun*, because it is the ability of an individual to balance his life, is very important in the life of an individual as a Muslim, as a human being and as a member of society. Through *tawāzun*, a Muslim will be able to achieve true inner happiness in the form of peace of mind and outer peace in the form of stability and tranquility in life activities.³⁰ This concept of *tawāzun* is explained in the following words of Allah swt:

لَقَدْ أَرْسَلْنَا رُسُلَنَا بِالْبَيِّنَاتِ وَأَنْزَلْنَا مَعَهُمُ الْكِتَابَ وَالْمِيزَانَ لِيَقُومَ النَّاسُ بِالْقِسْطِ وَأَنْزَلْنَا الْحَدِيدَ فِيهِ بَأْسٌ شَدِيدٌ وَمَنَافِعُ لِلنَّاسِ وَلِيَعْلَمَ اللَّهُ مَن يَنْصُرُهُ وَرُسُلَهُ بِالْغَيْبِ إِنَّ اللَّهَ قَوِيٌّ عَزِيزٌ

We have already sent Our messengers with clear evidences and sent down with them the Scripture and the balance that the people may maintain

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ *Ibid.*

[their affairs] in justice. And We sent down iron, wherein is great military might and benefits for the people, and so that Allah may make evident those who support Him and His messengers unseen. Indeed, Allah is Powerful and Exalted in Might. (Q.S. al-Hadid [57]: 25).

3. *I'tidāl* (Straight and Firm)

In language, *i'tidāl* means straight and firm, which means putting things in their place and exercising rights and fulfilling obligations proportionally. *I'tidāl* is part of the application of justice and ethics for every Muslim. Justice that is commanded by Islam is explained by Allah to be carried out fairly, which is the middle and balanced in all aspects of life by showing *ihsan* behavior. Fairness means realizing equality and balance between rights and obligations. Human rights should not be reduced because of obligations. Without promoting justice, religious values feel dry and meaningless, because justice touches the lives of many people.³¹

Moderation must always encourage efforts to realize social justice, which in religion is known as *al-mashlahah al-'āmmah*. Based on *al-mashlahah al-'āmmah*, the foundation of public policy will bring the essence of religion in the public sphere. Every leader has the responsibility to translate it into real life for the benefit of the public.³²

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As explained earlier that the principles used by Jamal are 7 (seven) principles including: justice, freedom, tolerance, the principle of "ease", compassion, repentance and generosity.

4. *Tasāmuh* (Tolerance)

Tasāmuh means tolerance. In the *Lisân al-'Arab* dictionary, the word *tasāmuh* is taken from the original form of the word *samah*, *samahah* which is close to the meaning of generosity, forgiveness, ease, and peace. Etymologically, *tasāmuh* means to tolerate or accept things lightly. While in terminology, *tasāmuh* means tolerating or accepting differences lightly.³³

Tasāmuh is a person's stance or attitude that is manifested in the willingness to accept various views and stances, even though they disagree with him. *Tasāmuh* or tolerance is closely related to the issue of freedom or independence of human rights and the way of life in society, thus allowing tolerance for differences in opinions and beliefs of each individual. People who

³¹ Nurul H. Maarif, *Islam Mengasibi Bukan Membenci* (Bandung: Mizan Pustaka, 2017).

³² Zuhairi Misrawi, *Hadratusyaikh Hasyim Asyari Moderasi, Kentamaan, Dan Kebangsaan* (Jakarta: PT Kompas Media Nusantara, 2010).

³³ Islamy, "Eksistensi Hukum Keluarga Islam Di Indonesia Dalam Kontestasi Politik Hukum Dan Liberalisme Pemikiran Islam."

have the nature of tasāmuh will appreciate, allow, allow the establishment, opinions, views, beliefs habits, behaviors and so on that are different from their stance. Tasāmuh means listening to and respecting the opinions of others. While tasāmuh means greatness of soul, breadth of mind, and spaciousness of chest, ta'āshub means smallness of soul, narrowness of mind, and narrowness of chest.³⁴

5. *Musāwah* (Egalitarian)

In language, musāwah means equality. In terms, musāwah is equality and respect for fellow human beings as creatures of Allah SWT. All humans have the same dignity regardless of gender, race or ethnicity.³⁵ The concept of musāwah is explained in the word of Allah swt:

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا ۗ إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتَقْوَمُ ۗ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ

O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Acquainted. (Q.S. al-Hujurat [49]: 13).

This verse emphasizes the unity of human origins by showing the equality of humanity of both men and women. The point is that men and women are equal and there is no difference between one and the other. Musāwah in Islam has a principle that every Muslim should know, which is that equality is the fruit of justice in Islam. Every person is equal, there is no privilege between one over another, preserving the rights of non-Muslims, equality of men and women in religious and other obligations, differences between humans in society, equality before the law, and equality in holding public office, and equality based on the unity of origin for humans.³⁶

6. *Shurā* (deliberation)

The word Shurā means to explain, state or propose and take something. Shurā or deliberation is explaining and deliberating or asking and exchanging opinions on a matter. In the Quran, there are two verses that clearly mention deliberation as stated below:

فَبِمَا رَحْمَةٍ مِنَ اللَّهِ لِنْتَ لَهُمْ ۖ وَلَوْ كُنْتَ فَظًّا غَلِيظَ الْقَلْبِ لَأَنفَضُوا مِنْ حَوْلِكَ فَاعْفُ عَنْهُمْ وَاسْتَغْفِرْ لَهُمْ وَشَاوِرْهُمْ فِي الْأَمْرِ فَإِذَا عَزَمْتَ فَتَوَكَّلْ عَلَى اللَّهِ ۗ إِنَّ اللَّهَ يُحِبُّ الْمُتَوَكِّلِينَ

So by mercy from Allah, [O Muhammad], you were lenient with them. And if you had been rude [in speech] and harsh in heart, they would have disbanded from about you. So

³⁴ Misrawi, *Hadratusyaikh Hasyim Asyari Moderasi, Keutamaan, Dan Kebangsaan*.

³⁵ Ibid.

³⁶ Aziz et al., *Implementasi Moderasi Beragama Dalam Pendidikan Islam*.

pardon them and ask forgiveness for them and consult them in the matter. And when you have decided, then rely upon Allah. Indeed, Allah loves those who rely [upon Him]. (Q.S. Ali Imran 3]: 159)

From the above explanation, it can be understood that deliberation has a high position in Islam. Besides being a form of Allah's command, deliberation is also intended to realize a democratic society. On the other hand, the implementation of deliberation is also a form of respect for community leaders and leaders to participate in the affairs and interests of the community.³⁷ People who practice this *wasathiyah* principle can be called *wasîf*.³⁸

In Arabic too, the word *wasathiyah* can be interpreted as "the best choice". Whichever word is used, they all indicate the same meaning: fairness, which in this context means choosing a middle ground position between extremes. The word *wasîf* is a word that has been absorbed into the Indonesian language as the word 'referee'. This word umpire has three meanings, namely: 1) an intermediary (e.g. in trade, business); 2) a mediator (separator, peacemaker) between disputing parties; and 3) a leader in a match. The word "referee", which refers to someone who presides over a match, can be interpreted in this sense, namely someone who is not one-sided, but rather favors the truth.³⁹

Principles of Islamic Legal Thought of Jamal al-Banna Relevant to the Principles of Religious Moderation in Indonesia

As explained earlier that the principles used by Jamal are 7 (seven) principles including: justice, freedom, tolerance, the principle of "ease", compassion, repentance and generosity.⁴⁰

Table 1: Relevant Principles of Jamal al-Banna's Islamic Legal Thought

No	Jamal al-Banna's Principles of Islamic Law
1	Justice
2	Freedom
3	Tolerance
4	The Principle Of "Ease"
5	Compassion
6	Repentance
7	Generosity

But among the seven values that are relevant to the principles of religious moderation above are two: justice and tolerance.

³⁷ *Ibid.*

³⁸ Muchlis Hanafi, *Tafsir Al-Qur'an Tematik: Moderasi Islam*, ed. Lajnah Pentashihan Mushaf Al-Qur'an, Jakarta., 2012.

³⁹ RI, *Moderasi Beragama*.

⁴⁰ Al Banna, *Nahwa Fiqh Jadid 3*.

1. Justice (*al-'adl*)

Justice, which is the "gusti" of universal value in the context of law, is different from piety, which is the "gusti" of value in faith. But this does not mean that the two cannot meet. Piety gives flavor and color to justice. Meanwhile, justice can elevate the position of piety to its perfection. However, the formulation of law from piety does not mean that it is completely closed. Because it must be recognized, piety is the deepest human feeling that can distinguish between one individual and another.⁴¹

When compared between the value of justice promoted by Jamal with the principle of *i'tidāl* (straight and firm) in the principle of religious moderation in Indonesia, it is very relevant. Justice here is not only about the person, but rather everything that is different from one another, so it must remain fair. Especially in this era of technological and information disruption, when every individual experiences a flood of information, the principle of fairness can be used as a value that is useful for managing information and minimizing hoaxes.⁴²

2. Tolerance (*al-samâh*)

In this case, Jamal uses the term *al-samâhâh*, while the principle of religious moderation in Indonesia uses the term *Tasâmub*. For example, in the context of husband-wife relationships starting from marriage to divorce. The Qur'an absolutely prohibits intolerant actions of husbands towards wives, and vice versa. Even when it comes to divorce. As the word of Allah swt.

وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُنِيمَ الرِّضَاعَةَ وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا لَا تُضَارَّ وَالِدَةٌ بِوَلَدِهَا وَلَا مَوْلُودٌ لَهُ بِوَالِدِهِ وَعَلَى الْوَارِثِ مِثْلُ ذَلِكَ فَإِنْ أَرَادَا فِصَالًا عَنْ تَرَاضٍ مَبْنِيَّاتٍ فَلَا جُنَاحَ عَلَيْهِمَا وَإِنْ أَرَدْتُمْ أَنْ تَسْرِضِعُوا أَوْلَادَكُمْ فَلَا جُنَاحَ عَلَيْكُمْ إِذَا سَلَّمْتُمْ مَا آتَيْتُمْ بِالْمَعْرُوفِ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ

Mothers may breastfeed their children two complete years for whoever wishes to complete the nursing [period]. Upon the father is the mothers' provision and their clothing according to what is acceptable. No person is charged with more than his capacity. No mother should be harmed through her child, and no father through his child. And upon the [father's] heir is [a duty] like that [of the father]. And if they both desire weaning through mutual consent from both of them and consultation, there is no blame upon either of them. And if you wish to have your children nursed by a substitute, there is no blame upon you as long as you give payment according to what is acceptable. And fear Allah and know that Allah is Seeing of what you do. (Q.S. Al-Baqarah 2]: 233).

In addition, we are told that whenever the Prophet was faced with a choice, he always took the easiest of the options. As long as the easiest is not

⁴¹ Ibid.

⁴² RI, *Moderasi Beragama*,.

something that is forbidden. On the contrary, the Prophet strongly criticized the act of making things difficult in the field of religion, whether in carrying out the commandments or avoiding the prohibitions.

In the context of buying and selling and muamalat in general, the Quran makes tolerance and the principle of forgiveness a standard of virtue, as Allah swt says:

وَدَّ كَثِيرٌ مِّنْ أَهْلِ الْكِتَابِ لَوْ يَرُدُّوكُمْ مِّنْ بَعْدِ إِيمَانِكُمْ كُفَّارًا حَسَدًا مِّنْ عِنْدِ أَنْفُسِهِمْ مِّنْ بَعْدِ مَا تَبَيَّنَ لَهُمُ الْحَقُّ ۖ فَاعْتَصُوا
وَاصْفَحُوا حَتَّىٰ يَأْتِيَ اللَّهُ بِأَمْرٍ إِنَّ اللَّهَ عَلَىٰ كُلِّ شَيْءٍ قَدِيرٌ

Many of the People of the Scripture wish they could turn you back to disbelief after you have believed, out of envy from themselves [even] after the truth has become clear to them. So pardon and overlook until Allah delivers His command. Indeed, Allah is over all things competent. (Q.S. Al-Baqarah [2]: 109).

However, it is slightly different from the value of tolerance initiated by Jamal above because it "combines" tolerance with the principle of forgiveness. The tolerance (*tasāmuḥ*) promoted by religious moderation tends to be a person's stance or attitude manifested in the willingness to accept various views and diverse stances, even though they disagree with him. *Tasāmuḥ* or tolerance is closely related to the issue of freedom or independence of human rights and social life, thus allowing tolerance for differences in opinions and beliefs of each individual. People who have the nature of *tasāmuḥ* will respect, allow, allow the establishment, opinions, views, beliefs habits, behaviors and so on that are different from their stance. *Tasāmuḥ* means listening to and respecting the opinions of others. While *tasāmuḥ* means greatness of soul, breadth of mind, and spaciousness of chest, *ta'āshub* means smallness of soul, narrowness of mind, and narrowness of chest.⁴³

Conclusion

From this description it can be concluded; The principles of Jamal al-Banna's Islamic legal thought that are relevant to religious moderation in Indonesia are: a) Textual there are two, namely: justice and tolerance. b) Substantially there are also two, namely: the value of the principle of "ease" is the same as tawassuṭ and compassion is the same as the principle of equality (musawah/egalitarian).

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⁴³ Aziz et al., *Implementasi Moderasi Beragama Dalam Pendidikan Islam*.

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