

Changing Money Viewed From Positive Law and Islamic Law

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Abstract: Money can be interpreted through several views and generally money can be encountered through two views, the first definition of money in terms of legal views and the sense of money in terms of the view function. In view of the law, money is an object that has a legitimate and used in accordance with the law. To determine whether something is legitimate or valid, or not in a country, it would be determined by the government or local state authorities. The act of counterfeiting is a violation of law or the law of which the perpetrator can be punished with legal sanctions and these actions are also classified as a criminal offense. According to Positive Law, counterfeiting is an act of changing the currency, the state paper money or bank notes of the original becomes false or can also be done by imitating currency,

Keywords: Positive Law; Islamic Law; Bank; Money; legitimate

I. Introduction

A. The Meaning of Money

Money is something familiar to the name of human beings, because wherever there is a group of people, there will be found the money. They use it as a medium of exchange with goods they need to live in this world. It is not too much when it is said, that for most people, money as if a portion of human life due to the eager for money, people will more easily obtain it needs, in the form of goods, services, labor, etc. All of which can be exchanged with money corresponding to the value or price and size. Money does not just mean something rectangular made of paper, or something that is shaped flat, round made of gold, silver, copper and so forth. According, WJS Poerwadarminta in Kamus Besar Bahasa Indonesia, "money is a payment instrument or tool exchange rightful used as a measure of the value or price of the goods."

Money can be interpreted through several views and generally money can be encountered through two views, the first definition of money in terms of legal views and the sense of money in terms of the view function. In view of the law, money is an object that has a legitimate and used in accordance with the law. To determine whether something is legitimate or valid, or not in a country, it would be determined by the government or local state authorities. Similarly with money, it can be applied whether or not a currency is used as a tool exchanger, can be determined or set by the government contained in the legislation in a country. Because of differences in legislation used, the formulation of the legality of the money used leads to different forms of a country with other countries. This is because each country has the right set several provisions to load different types and forms of money used. For that, same legislation may also play a role to make something generally accepted by declaring it as money. In view of the functions, money is defined as something that has a function as money.

B. Function of Money

The function of money is divided into two kinds, namely the original function and derivative function.

B.1 Original Function/ Primary Function

The original function of money is a function that originally attached to money or function that refers to the original purpose of the creation of money, namely:

- 1) As a general medium of exchange (medium of exchange), that money serves as a tool for exchange (barter).
- 2) As a unit of account (unit of account), that money is used to determine the value of a good or service, as well as to determine the price.

B.2. Derivative Function / Secondary Function

Money has a function derived as follows:

- As a mean of payment, money serves to perform payment transactions, such as payment of taxes, fees, and so on.

- As debt payments (standard of deferred payment), money serves to conduct and determine the payment obligation or standard used for debt repayment.
- hoarders of wealth means that money can be saved, which will facilitate the exchange in the future.
- As a means of capital formation and capital redeployment (transfers of value), the money serves to add or increase capital, either used alone or lent to others in need of capital.
- As a measure of the price or measure of value (standard of value), that money serves as a tool to determine the price of goods or services produced by a company.

II. Theoretical Review

2.1 History of Money before Prophet Muhammad Era

We can see the development of money through economic growth levels experienced by humans from time to time. Hildebrand divides economic progress based on human sequences in using money in his life, and levels include:

1. The Stages of Economic Natural.
2. Stages Economy by Using Money.
3. Stages Economy by Using Credit.

In the era of human natural, money is just only used as a barter system. This happens because of the knowledge and human capabilities is limited at that time. Then it develops in stages of the economy with money. At this stage, humans have used the money in buying or selling, but the system is the development of money at the time happens step by step. The value of money is not on the object alone but lies in the value itself. A person can have a lot of money without having to carry it everywhere, but enough to bring certain evidence such as checks, demand deposits, bonds, stocks and so on. Evidence has been guaranteed by the agency authorized and trusted enough to ensure the accuracy of the evidence such as governments, banks and others. There are several stages of the economic process from ancient times to the present we need to know:

a. Before Barter

At this stage, people are familiar with exchange system of goods. Many things affect the state of this, example, the number of people who are still little. Then the natural conditions are not friendly, because in fulfill their needs, they should struggle with tame nature to meet their needs.

b. Barter

A shift something commodity to commodity or commodity exchanged for money. Each bargaining in commerce that divert one object to another is called an exchange. According to the Islamic law, the exchange is defined as the transfer of the objects as a replacement on other objects with the consent of both parties. In antiquity exchange exists only in the form of barter in which the exchange of goods with merchandise as well. At this time, humans have been able to carry out farming activities with very simple way and this time humans have been able to create equipment that is made of metal. In Southeast Asia, people have discovered the metal at 30-3000 century BC.

2.2 History of Money In The Era of Muhammad

During the life of Prophet Muhammad, the Arabs conduct exchange with gold in the form of currency *dinar* and *dirham*. Both the currency they earn from neighboring kingdoms. Dinar is used in the majority of the population of the Roman empire, Byzantine, while the dirham in the Persian empire.

Resident of Mecca in the days of ignorance does not use the money as a whole. They uses it in some sort of balance or fused pieces of silver. They have scales that have special names include: *rithil* which is equal with *iz uqaidah*, that is r forty dirhams. At the time of the Prophet, the money is also used as a mean of payment or mean of exchange trade. Apart from being a means of payment and exchange, money is also used to measure the price of an item, as we can see in the hadith narrated by Annasa meaning: From Said ibn Jubayr from Ibn Umar said; I never sold a camel at the market. I sell it with the dinar, but I accept the dirham. After that, I came to the Prophet Muhammad at his home, Hafsah, I asked; O Allah's Rasullullah! I sell my camey with dinars, but I accept dirhams. Rasullullah said "why not, if you accept it with the same value".

2.3 History of Money After The Era of Prophet Muhammad

In this era, money is still used as an exchange tool, as well as unit value. However, the changes is only on the material alone. In the early years of the caliphate of Umar and Ustman ra, the currency is printed by following the Persian style, with changes to the article listed in the currency. Although the reign of Umar ra, they thought of making money from the skin, but it is canceled because it is not approved by friends of the other. Currency Islamic caliphate has special features newly minted during the reign of Ali, but unfortunately the circulation is very limited because of the political situation at the time. Currency with Persian style printed at

the time of Mu'awiya also includes pictures and swords. Governors in the reign of Muawiyah and Ziad, also issued a coin with the name of caliph.

The value of money is determined by weighing. Currency dinar contains 22 carat of gold and consists of fragments 1/2 and 1/3 dinar dinars. Smaller fragments obtained by cutting currencies. Imam Ali for example, never buy meat by cutting 2 carats of dinars, (Abu Dawud) consists of fractional gold coin (20 dirhams) and naurat (5 dirhams) and sha'ira (1/6 dirham).

2.4 Definition of the Crime and Counterfeiting Money

Understanding Crime

Crime is the act by the rules of criminal law are prohibited and may be punishable. Crime is an act that violates the rules established law in a law remains, and legal certainty is to impose sanctions that incriminate the perpetrator. For example, the crime of counterfeiting money. It is one of the punishable acts of criminal law because the consequences can be harmful to others. Criminal law in question is the law governing violations and crimes against the public interest, which is punishable by a deed which is suffering and torment.

Between offense and crime there is a difference, namely: a violation of some of the things small and light, which is punishable by a fine example, drivers who do not have a car driving license (SIM), driving at night without lights or lighting equipment and so on. While crimes involving acts that encompass a great thing, such as murder, assault, theft, forgery and others.

From the descriptions above, it can be concluded that such criminal acts punishable with criminal sanctions if those things include in one of the categories below, which are:

- a. Against the law
- b. Harmful to society
- c. Prohibited by the rules of criminal
- d. The culprit shall be sentenced.

Points a and b show the nature of the action, while ensuring that action becomes an offense is a point c and d. If the act has been no legislation before the occurrence of the act, or without rule of legislation is legitimate, then the penalty sanctions applied is not applicable. In this connection, the appropriate article 1 paragraph 11 Paragraph 1 of the Law of Criminal Law (KUHP) as follows: "There's nothing like an act be punished, but on the strength of the criminal provisions in the Act that is earlier than the act". The provisions of the legislation that threatens such action with legal sanction, a requirement that the act be prosecuted and sentenced in accordance with the criminal offense committed. Similarly, the criminal act of counterfeiting or imitation of a currency, the perpetrator can be sentenced regulated by the provisions of the legislation that is in KUHP.

So forgery is a criminal offense contained in Book II is about crime, which in this case is certainly a crime regulations that may be imposed penalty. As it is contained in Article 244 of the Criminal Act which reads as follows: 'He who imitate or falsify money or banknotes country or bank notes with the intention of distributing or ordering circulate currencies, banknotes country or bank notes is similar to the original and are not falsified, sentenced to jail forever fifteen years. At the end of the contents of Article 244 KUHP is sentenced to prison for fifteen years is a punishment that can be threatened against those who commit acts that falsify money, banknotes country or bank notes, which circulation is intended to distribute or send money which imitated or forged it.

Definition of Counterfeit Money

Counterfeiting money is a phrase that consists of two , namely; "Forgery" and "money". The word "forgery" can also be interpreted in two ways, namely the meaning etymologically and understanding the terminology that stuck with legal norms,

a. Forgery

Counterfeiting is a word composed piece of a particle beginning with "pe" and ending in "an", while the word is essentially false, with the inclusion of the additive on the basis of false. Then the meaning of the word is an act. In Kamus Besar Bahasa Indonesia, it has explained that the "false" is false, not genuine, unauthorized, fraudulent, deceitful, dishonest. Further the meaning of the word forgery is a forgery; it (the act and so on) falsify, falsity; fake; false thing; cheating and so on. When considered understanding of forgery according to the terms which are found in the discussion of legal norms, the forgery is defined as follows: The act of changing an object, sign, brand, currency, text / font or express something other than the original. Objects, marks, brands, currency, text / font expressly or materially been falsified then it becomes false or incorrect.

b. Understanding Money

Definition of money according to WJS Poerwadarminta in Kamus Besar Bahasa Indonesia has been described, namely: "money is a payment instrument or tool exchange rightful used as a measure of the value or price of the goods". To determine whether or not something is valid and applicable in a local state, determined only by the government or local authorities.

Thus something set by the government to be a means of exchange, which is called the tool buyer, or the so-called money, in shaped paper or metal or copper plate or the other.

When considered in explanation of the Book of Criminal Law, there are some forms that can be used as objects of forgery, among which are:

- 1). State money is metal made by the state.
- 2). Banknotes State ie paper money issued by the state.
- 3). Banknotes ie paper money issued by the bank.

Called the state money which is a kind of currency arrives made of metal which is then formed with a rate of currency. Whereas paper money is the currency of the country made of sheets of paper which is then shaped currency exchange. Both the currency issued by the state, and imposed formally or legally permitted as a means of exchange in the native community of a country.

While the bank is a kind of paper money in the form of paper money issued by banks who have been appointed by the government to print. So that the paper money is the official paper which is also valid as a means of exchange.

The above description shows that the elements of the criminal acts that are the things that are external, because the actions and consequences happened in the real world. Similarly, the crime falsifying money, to him there real elements, in this connection can be divided in to two basic elements, namely:

1. Subjective Element

In this part, the person who do the crime, namely the intent and purpose of the perpetrator. In a discussion of the criminal, stated that the subjective element is "with the intent to distribute, or get someone else to deliver the currency or paper money or bank notes, as original and not false".

Clearly, the act of counterfeiting currency or banknotes can be classified in a criminal act, if the act is intended to circulate money .

2. Objective Element

Stated element acts committed against currencies of banknotes. In a similar literature, explained also that the objective element that is "imitating or falsifying paper currency or currency or bank notes".

On these elements, there are two forms of action included in the category of the crime of counterfeiting, which is the act of imitating or falsified. Imitate means to form or create a currency, bank notes or bank notes with new raw materials, which are then made such that the form of currency or paper money which are original and officially issued or distributed. While falsified means changing money or money original paper be not genuine or fake. This can occur by changing the colors, signs, numbers, letters and others in a form that is not much different from the original.

2.5 Punishment for Counterfeiting Money

The law is the law applicable to humans which is the object of the law. Much can be an incentive for people to comply with the draft implementing that law. Similarly, on the contrary that many facts cause the human being against the law and ignore it.

Among the main factors that laws are adhered to and implemented, is the availability of the threat of legal sanctions for those who break them. Therefore, the punishment will be imposed against any violators. With the existence of legal sanctions against anyone who violates the law, are a law enforcement as well as the enactment of a law. So that every person and society is compelled to obey the law and implement the punishment of law, in accordance with its provisions. Similarly, the Code of Criminal Law (Criminal Code) officially enforced in the territory of the Republic of Indonesia, in which already arranged neatly as a set of legal sanctions against anyone who doesnot obey it. No exception to the criminal counterfeiting, he has been available to a sentence if it is really have committed the crime of counterfeiting. In the Code of Criminal Law Article 244 states that: whoever imitate or falsify money or banknotes country with the intention of distributing or ordering circulate currency or paper money state or bank notes is similar to the original and are not falsified, is sentenced to prison for fifteen years. Article 244 of the Criminal Code in the above stated explicitly to anyone who violated the law by imitating or falsifying paper currency or money can be charged for the perpetrators of a prison sentence. Implementation of the law such as the above can be applied to anyone who has been a legal community, without exception and differentiate status, skin, color and others.

If impersonation and forgery against the currencies, banknotes country and then passed around or tell others to circulate, and functioned as the original that is not false, then the act is included in the provisions

stipulated in Article 244 of the Criminal Code, in which the perpetrators can be charged sanctions imprisonment for fifteen years. With the above description R. Susilo commented as follows:

"In order to be subject to Article 244 KUHP is the imitation and counterfeiting of money, it should be done with the intention of distributing or ordering distribute as if it is genuine".

If the currency, paper money or banknotes is imitated by printing of other raw materials that are similar in such a way with a view to mess alone are not subject to Article 244 of the Criminal Code, as quoted earlier. "Mimicking by falsifying money through playful actions alone are not subject of this article but may be subject to Article 519 of the Criminal Code".

With attention on the article 519 of the Criminal Code would have been the punishment of people imitating and falsifying currencies, banknotes State that are intended to be circulated or get someone else who circulate, the punishment is not the same as impersonation or forgery done with the intent to be sold as playthings solely. Article 519 of the Criminal Code confirms the following:

1. Anyone who makes, sells or broadcast or available for sale or distributed or published or brought into the Indonesian state of printed material, scrap metal or other objects, which seems like a banknote or banknotes State Bank, or currency or stamps, punished fines.
2. Objects that become due to it can be seized.

In this article the alleged unlawful does not imitate or falsify money as set out in Article 244 of the Criminal Code, but merely to make, sell, broadcast, providing goods for sale or broadcast or carry printed materials to enter the territory of the Republic of Indonesia, or scrap metal and the like what form or shape it resembles or is similar to the currency of the State, the State paper money or banknotes Bank.

Each of these actions above, a criminal offense punishable by a fine of up to Rp. 4500, - and all goods or objects that become due in the act of infringement, can be seized or confiscated, and as stated in article 519 paragraph 2 of the Criminal Code.

In contrast to actions that reduce the value or price of the currency, banknote State or banknotes Bank, act in such a manner stipulated in article 246 of the Criminal Code which reads as follows: "Whoever reduce the price of the currency with the intention of distributing the money already reduced the price it, convicted of damaging money with imprisonment for ever 12 years.

Regarding acts as a reduction in the value or price of money is to reduce the material for that currency. For more details can be found on the following information: Reducing the price of money equal to the filing, scraping or chemically taking up most of the metallic material. This act can only be punished if it is done with the intention of distributing the money already reduced the price. So it is clear that against the perpetrators of violations of the law that imitate or falsify the state money is sentenced to imprisonment in the form of a criminal offense who reach 15 years old. It also includes in the Qur'an and hadith relating to deeds *mukallaf*. The offense is also an act that is contrary to law. Basically all of the goods or the act is permissible, so before the texts that forbid something then there is no legal requirement to do it. We see what is meant by *jarimah*. Jarimah is prohibitions Personality 'followed by the threat of God through penalty or *ta'zir* for violating the criminal. In other words, the texts of the new Islamic law effect after it is issued and is recognized as a rule of law society, and does not apply to events which occurred prior to release and know the texts.

In Islamic law, it is divided into two kinds: the first is the *fiqh* of worship which includes about prayer, fasting, charity, pilgrimage and so on, which aims to regulate the relationship between man and God. This is an absolute law contained in the Qur'an and Hadith, can be accepted by the Muslims and implemented wholeheartedly.

III. Discussion

General Review of The Crime in Infringement of Money Viewed from Islamic Law is The Meaning of Crime and Counterfeiting Money

3. a. The Meaning of Crime

In Islamic law, a criminal offense called *jarimah*, which can be penalized. Imam al-Mawardi informs the definition of *jarimah* (criminal act) as follows;

Meaning: every prohibition Personality '(doing things that are prohibited and leave the things that are required), which carries a penalty / *ta'zir*.

Basically, all of the goods and the action is permissible, so long as there are no texts prohibiting something works, then there is no legal requirement to do it. In other words, *nash of* new Shari'ah penal in effect after it is issued and recognized by the public. And does not apply to events which occurred prior to release and known to the texts, while *syar'i law* in question is a permanence *syai ^ i*. The second law, is the law that governs the relationship between human and others, such as family law, civil law, criminal law, procedural law, constitutional law, international law, economy law and so on.

Which includes both the above categories of law is criminal law, the law that threatens all acts that violate the rules in it, and can disrupt human soul or society in general, such as murder, fraud, abortion and so forth. Particularly in the implementation of the criminal law in Islam, there are two kinds, the first is that criminal law which is the right of God and the second is that the criminal law of human rights. Criminal law is the right of Allah such as the punishment for rogues, thieves, forgery, adultery and others. The authorities must uphold and implement the legal rights of God as outlined in Qur'an, whereas criminal law is human rights, such as murder, assault, forgery and others. Although religion has determined the settlement, but the injured party to sue. Then Islamic states in order to forgive the act that happened to families or individuals who are victims. In the Islamic legal system, especially in the field of criminal acts, there are three legal systems set up there, namely: *hudud*, *qishas* and *ta'zir*. *Hudud* is a criminal who has been assigned by Allah as contained in the Quran, whose shape can be seen in four parts:

- Cut hand.
- A whip for the accuser of adultery against innocent women.
- *Cemeti* and imprisonment for those who commit adultery.
- Prison or the death penalty for those who commit robberies on public roads.

The second system of Islamic law that is *qishas*. *Qishas* is a punishment given to offenders (*jarimah*) with punishment (response) commensurate with his actions, in other words if the killer really kill or injure the deserving also the obtainment, as the word of God describes in Surat Al-Maidah verse; 45:

وَكَتَبْنَا عَلَيْهِمْ فِيهَا أَنَّ النَّفْسَ بِالنَّفْسِ وَالْعَيْنَ بِالْعَيْنِ وَالْأَنْفَ بِالْأَنْفِ وَالْأُذُنَ بِالْأُذُنِ وَالسِّنَّ بِالسِّنِّ وَالْجُرُوحَ قِصَاصًا
فَمَن تَصَدَّقَ بِهِ فَهُوَ كَفَّارَةٌ لَّهُ وَمَن لَّمْ يَحْكَمْ بِمَا أَنزَلَ اللَّهُ فَأُولَئِكَ هُمُ الظَّالِمُونَ

Meaning: And we have set for them in it (at-law) that the soul (rewarded) for life, eye for eye, nose for nose, ear for ear, tooth for tooth, and wounds there is any *qishasnya*. Whoever is releasing judge by what Allah hath revealed, they are the ones who dhalim.

3.b The Meaning of Counterfeit Money

Definition of counterfeiting money in Islamic law is not much different from counterfeiting in the positive law. Words derived from the basic forgery false in Arabic called after given the prefix "pe" and the suffix "an" it becomes forgery in Arabic.

The word can be interpreted not genuine fake, artificial, false and others. While counterfeiting is unlawful for anyone to replicate something like the discussion of this particular money. According to a common dictionary (in particular fields of law and politics), forge money means imitating money, paper money or bank notes state with the intention of passing it may be liable (Criminal Code Article: 242 yo, 174, 244). In Islamic law, it is analogous to the act of counterfeiting fraud, because such actions can harm people. The act of counterfeiting is a mess and ruin the tranquility of the state, therefore, the act is a crime that violates God's law and statute called *jinayah*.

Thus the act of forgery as described, an act which alter or mimic, something original or true into something that is not genuine or is not right, so that it becomes something false and although similar to the original In Islam, money is part of the *mal* or property. The term of *mal* is widely mentioned in Qur'an. *Mal* which means leaning, people gravitate to money because money is very interesting and can buy and get anything. Money and other objects that are classified to *mal* is regarded as jewelry. Money replaces business in the world because money can buy any kind of property. It is once stated by Al-Ghazali that anyone who has money means he has everything, but if someone has the goods like cloth meant he only had the cloth. Making the money management and supervision in the community is the main task of the state, because the state that only the most competent to handle such tasks. It aims to prevent the misuse of money, as stated by Monzer Kahf that in Islam everything into the public interest should not be left only to the number of people alone but must be handled by the state. Therefore the monopoly of the ownership of money by some people or groups are prohibited in Islam because Islam is the state that has the authority to regulate the circulation of money. Islam also regulates the provisions that should be reflected in the activity of usability money, for example, terms of use of money based on the value of confidence, which in the context of doing the commands of Allah and leave the ban. If it is implemented, it can be called a man of faith, as it has been put forward by Abdallah as follows:

Faith inspires people to be constant in obedience in his religion and continuously in practice. This is because the relationship between faith and practice is very strong, People without faith has no real source of inspiration, and consequently do not have valuable goals to achieve or aspired. The life of such a person has no meaning, and he lives from day to day without life. On the other hand, people who claims to have faith but do

not practice it are those who deceive themselves, and it does not have faith. He is no more as bum bobbing without help. "

Many forms of application value has been set in the belief that Islam as a fair value, brotherhood, compassion and other virtues. The values are a true not only aimed at the activity of the use of money alone but basically all human activities that are *muamalah* also must contain the value is, the rules need to be implanted so that people avoid all forms of destruction, then this is the emphasis for humans in the move. As a caliph on earth, humans have to realize everything is nil and the will of God. And no none of which can exceed the will of God.

3.c. Crime Penalties Against Counterfeit Money

Allah through His verses in the Qur'an has defined a set of legal sanctions against some forms of violations of the law committed by *mukallaf*. Not all crime or offense against the laws of God that it determines directly the legal kind. But many more acts that violate the law are left to the discretion of its legal authority or judges to deal justly in accordance with the word of God in Surat an-Nahl verse 105:

إِنَّمَا يَفْتَرِي الْكَذِبَ الَّذِينَ لَا يُؤْمِنُونَ بِغَايَةِ اللَّهِ وَأُولَئِكَ هُمُ الْكَذِبُونَ ﴿١٠٥﴾

Meaning: actual forges a lie, only those who do not believe in the verses of Allah, and they are the liars. (Surah An-Nahl, 105) In this case can be categorized to ta'zir sentence, which sentence handed over to the authorities. In the book Ar-Rahmah there are some differences of opinion among jurists of the penalty *ta'zir* among others:

3.d Wisdom of Prohibition Counterfeit Money

Talking about the wisdom of all Islamic teachings of God shown in Qur'an is nothing wasted. In other words, all contain benefits and objectives for the benefit and good of man. It can be seen in Surah Al-Imran verse 191:

الَّذِينَ يَذْكُرُونَ اللَّهَ قِيَمًا وَقُعُودًا وَعَلَىٰ جُنُوبِهِمْ وَيَتَفَكَّرُونَ فِي خَلْقِ السَّمَوَاتِ وَالْأَرْضِ رَبَّنَا مَا خَلَقْتَ هَذَا بَطْلًا تُسَبِّحُكَ فَقِنَا عَذَابَ النَّارِ ﴿١٩١﴾

On the basis of the above verse means, servant of God who remembers him will never lose because everything is created by Allah, and everything that is created must contain benefits for human life in this world. Likewise, the existence of a provision regarding the prohibition to do *dzalim* and damage, as well as the prevention of eating human beings property with roads that are not *kosher*, such as getting money by falsifying the state money, banknotes. Then exchange it or spend it for everyday needed, surely that act is forbidden by Islam. The provisions concerning prohibitions falsify the money is clearly contains own wisdom both for individuals and society at large, even for a country to maintain national economy stabilization, because the circulation of counterfeit money will certainly damage the country's foreign exchange.

For more details about the wisdom of the prohibitions against counterfeiting actions of state or bank notes is prohibition does falsify money by providing direct punitive sanctions that are worldly, and replies that are *ukhrawi*, at least be able to narrow the space of possibilities of counterfeiting money, so the value and circulation of money can be maintained without destroying and disrupting the stability of the economy and foreign exchange.

3. e Relationship Between Conception of Positive Law and Islamic Law

The existence of an act that is damaging peace or statehood, there is also legal sanctions against its perpetrators. Reward or punishment of the perpetrators of criminal acts is as a result of the law of the offenses referred to a criminal act. Positive law and Islamic law in determining the punishment of those who violate or commit forgery of money, of course, are same, because in principle equally condemned, because the same legal basis. Positive conception of law and Islamic law is closely connected because of what is contained in the positive law is also present in Islamic law, such as criminal counterfeiting penalized prison sentence of 15 years. The Islamic law also punishes according to the deeds. Both these legal norms ie Code of Criminal Law as positive law in Indonesia and legislation *syari'at* as a source of Islamic law, each has held the provisions concerning the legal status and act falsifying money. In reviewing these provisions are also found to hold both views comparative study to be able to draw the line between legal equality Positive and Islamic law. Positive law and Islamic law in Indonesia have in common a view that is against counterfeiting as a crime or a criminal offense, and unlawful acts both in the provisions of criminal law in Indonesia and in the provision of Shari'ah that is an act that is punishable.

IV. Conclusion

According to Positive Law, counterfeiting is an act of changing the currency, the state paper money or bank notes of the original becomes false or can also be done by imitating currency, bank notes or bank notes state from the original by using other raw materials. Money serves as a means of exchange of goods needed by the people, whose price and value is determined by the government and adjusted to high or low value of the currency.

The act of counterfeiting is a violation of law or the law of which the perpetrator can be punished with legal sanctions and these actions are also classified as a criminal offense. In the provisions of Code of Criminal Law in Indonesia, indicated in article 224 of the Criminal Code, penalties may be imposed on the perpetrators of counterfeiting is the length of a prison sentence of fifteen years.

Islamic shariah is brutality falsifying money classify as a criminal act in the field of jinayat discussed, and penalties are penalties ta'zir actions, where the weight and severity of the punishment is up to the authorities.

The occurrence of counterfeiting in a country, would be able to disrupt the stability of the economy and society can affect the existence of the country's economy globally, due to the circulation of counterfeit money will also result in loss of control of the government (through the relevant agencies) to the value and price of original currency that can resulting in inflation. When compared to the Islamic shariah, it appears that the Criminal Code has not been able to keep up in terms of content and systematics, because the positive law only regulates all the reality of this world, while Islamic law governs all matters relating to the good life in this world and in the hereafter.

References

- [1]. Anwar, Moch. Hukum Pidana Bagian Khusus, Jilid-1. Bandung: Alumni, 1986
- [2]. Alghozali, Imam. Iha'ulumuddin, Jilid VII. Diterjemahkan oleh Zuhri, Muliammad, dkk. Semarang: Assyifa'1994
- [3]. Annasa'i. Sunan Anmsa'i. Semarang As-syifa, 1993
- [4]. Al-Juzjawy, Ahmad Syeh Ali. Terjemahan Falsafah dan Hikmah Hukum Islam. Semarang: CV. As-syifa, 1992
- [5]. Ash-Shiddiqy, Hasby, TM. Hukum-hukum Fiqh Islam. Jakarta: Bulan Bintang, 1986.
- [6]. Bahry, Zainal, Kamus Umum (Khusus Bidang Hukum dan Politik). Bandung: Angkasa, 1996.
- [7]. Depaq RI. Alqur'an dan Terjemahannya. Jakarta: Depaq RI., 1983.
- [8]. Goldfeld, Stephen. M dan Chandler, Lester. The economic Of Money and Baking (Ekonomi, Uang dan Bank). Jakaita: Erlangga,
- [9]. ianaft, Ahmad. Asas-asas Hukum Pidana. Jakarta: Bulan Bintang, 1967.
- [10]. Jatta, Muhammad. Pengantar ke Jalan Ekonomi Sosiologi. Jakarta: Inti Idayu Press, 1983.
- [11]. Wahim, Ahmad. Ilmu Ushul Al-jiqh. Mesir: darul Anshor, tt rahim. Almu 'zam Alwasith. Jakarta: Aksara, tt
- [12]. Kansil, C.S.t. Pengantar Ilmu Hukum Dan Tata Hukum Indonesia. Jakarta: Balai Pustaka, 1986.
- [13]. Lubis, Ibrahim, Ekonomi Islam. Jakarta: Kalam Mulia, 1995
- [14]. Moeljadno. Asas-asas hukum Pidana, Cetakan II. Jakarta: Bina Aksara, 1984
- [15]. M. Alkalali. Asad. Kamus Indonesia Arab. Jakarta: Bulan Bintang, 1987.
- [16]. Nurddin, Amiur. Syariat Islam di Indonesia. Medan: CV. Misaka Galiza, 2004.
- [17]. Poerwadarminta, W.J.S. Kamus Umum Bahasa Indonesia. Jakarta Balai Pustaka, 1975.
- [18]. Qardhawi, Yusuf. Fiqih Al-Zakat, Juz 1. Suria: Muassasa Al-Risalah, 1988.
- [19]. Ratnamaningsih, Neiny. Sejarah 1. Bandung: Ganeca Exact. 1994
- [20]. Rafiq, Ahmad. Hukum Islam di Indonesia. Jakarta: PT. Raja Granndo Persada, 1995.
- [21]. Soenarto Soerudibroto, R. KUHAP dan KUHP. Jakarta: Rajawali Press, 1991.
- [22]. Syaltiqut, Muhammad. Al-Islam, Aqidah Wassyari'ah, Mesir: darul al-Qalam, 1996
- [23]. Sembiring, Nirwan dan Badjuri, Muhammad. Ekonomi Koperasi. Jakarta: Erlangga, **1991**
- [24]. Soesilo, R. Kitab Undang-undang Hukum Pidana, Cetakan VII. Bogor: Politea, 1985.
- [25]. Sjadzali, Munawir. Islam dan Tata Negara. Jakarta: UI Press, 1990.
- [26]. Triono, Iwan. Organisasi da'ri Akutansi Syariah. Yogyakarta; Likis, 2000
- [27]. Warman A. Karim, Adi. Ekonomi Islam. Jakarta: Gema Insani, 2001.
- [28]. Wahidin, Syamsul. Perkembangan Ringkas Hukum Islam di Indonesia. Jakarta: Akademi Persindo, 1984.