



CHAPTER ONE INTRODUCTION

A. Background of Study

To face the establishment of ASEAN Community in 2015, learning to compete in terms of creativity to develop quality of products in Indonesia business becomes very important.¹ Although Indonesia could not fully liberalize its market, foreign market will easily come into Indonesia and give bigger threat to Indonesian marketers. Fortunately, Indonesian young entrepreneurs have been flourishing like grass in spring in recent years.

Business is identical to efforts to build assets and own assets. Those assets can produce passive income. Asset is the important thing that differs an

¹*RI Gets Ready For ASEAN Economic Zone*, <http://www.thejakartapost.com/news/2012/11/18/ri-gets-ready-asean-economic-zone.html>. accessed Nopember, 18th 2012.

entrepreneur and an employee. Assets can be obtained in various ways such as by building shops, factories, boarding houses, apartments, hotels, franchises, and networks.

In Network Marketing business, Network is an asset that is built up by persuading people to buy products and getting them into the business. The more networks built, the more assets can produce passive income. The passive income is mainly derived from those sales that were successfully performed by downlines generally termed as a bonus.

Herbalife is a Global Nutrition and Weight Management Company where the central office lies in Los Angeles USA. Until 2012, it operates in 83 states in the world including Indonesia. Herbalife uses network marketing or multi-level marketing in its marketing system that has been running since 1980 CE. Lionel Messi and David Beckham are two of many athletes who have been contracted to sponsor Herbalife.

For the distributors or marketers who are members of this company, there are several types of income that they can get. Those are:

- a. Direct Retailing Advantage.
- b. Wholesale Advantage.
- c. Overriding Royalty Revenue.
- d. Monthly Production Bonus.
- e. Annual Bonus.
- f. Bonus for free holidays and trainings.

g. Awards and recognition of presidential plus.²

Retail and wholesale transactions use *'aqd al bay'* as implemented in normal sale and other purchase transactions. Points number 3-7 are bonuses given by the company to the leaders who have succeeded in building network. These bonuses are assets that can provide the leaders a free income. This is because the bonuses are not included from direct selling products to consumers or other distributors.

In Islam, those bonuses are awarded by *'aqd al ju'alah'* as it is stated by *Dâr Al iftâ'* in a fatwa which responds a network marketing system Q-Net.³ *Ju'alah* is a certain agreement with benefits between the first party and the second party for the implementation of a task or a service performed by second party for the first party.⁴

In fact, awarding bonuses is the main system in network marketing company in its relationship among the distributors. Therefore, most people who come to this business terribly intend to get passive income (bonuses) as much as they can. The writer attempts to do research on the bonuses implemented by a network marketing company Herbalife by a descriptive analysis seen from the essence of *ju'alah* concept in Islamic Jurisprudence. A contract of announcing competition such as a system of promising bonuses by reaching certain achievements is called *ju'alah* in Islamic jurisprudence (*fiqh*).

² *Herbalife Handbook 4*, Sales And Marketing Plans And Business Rules, 9 and 12.

³ The opinions about contract between 2 parties in this system are divided into two opinions: first opinion said that the contract is *syira'* (sale) and *ju'alah*. The second opinion said that the contract is *syirâ'* (sale) and *samsarah* (broker). <http://www.dar-alifta.org/ViewFatwa.aspx?ID=3861>, accessed 4 Nopember 2012.

⁴ The Compilation of Islamic Finance Law (Kompilasi Hukum Ekonomi Syariah/KHES).

The additional discussion concerning *ju'alah* concept presents the perspectives of Madzhab Hanafi, Maliki, Syafi'y, and Hanbali basically on how schools of law in islamic jurisprudence (*fiqh*)⁵ stipulated the law about *ju'alah* contract in general as *fiqh muqâran*. Mostly, different methodology of *ijtihâd* will bear different legal product of law (*fiqh*). As a result, the presence of diversity of the methods of deriving Islamic jurisprudence among schools impacts on wide variety of implications inside the products of Islamic law itself.⁶

B. Statement of Problem

1. What are the bonuses and the rules concept in Herbalife Network Marketing Company?
2. How is the concept of giving bonus in the perspective of *ju'alah* in Islamic Jurisprudence?

C. Scope and Limitation

Generally, bonuses applied in network marketing companies use *ju'alah* contract as it was determined by Egyptian Fatwa Institute (*Dâr al Iftâ*).⁷ The discussion studies the concept of awarding bonus applied in the business of Network Marketing, especially, the concept of awarding bonuses applied by

⁵ Fiqh: معرفة الأحكام الشرعية التي طريقها الاجتهاد (Knowledge of legal jurisprudence extracted from detailed Islamic sources), ushul fiqh: العلم بالأحكام الشرعية العملية من أدلتها التفصيلية (the study of the origins, sources, and principles upon which Islamic jurisprudence (or Fiqh) is based), *qawâid fiqh* (principles): مجموعة الأحكام المتشبهات التي ترجع الى قياس واحد يجمعها (Principles derived from consolidated reading on various rules of fiqh regarding various themes).

⁶ Romli, *Muqâranah Madzahib Fil Ushul* (Jakarta: Gaya Media Pratama, 1999), 5.

⁷ <http://www.dar-alifta.org/ViewFatwa>.

Herbalife. The writer tests essences in the contract seen by Islamic jurisprudence study which the theory chosen is the *fiqh* of *ju'alah*.

D. Objective of Research

The main question in network marketing in many discussions about network marketing business by Islamic law insight is the point of relation. Relation between company and members, among the members itself, as law consequence of the contract. The relation between *jâ'il* and *maj'ûl lah* is the identical view found in network marketing business. By determining *ju'alah* contract as the object of the theory in this research, the writer attempts to present deeper materials about bonus concept applied in network marketing business. This will give wider information about how Islamic law see the concept of awarding bonuses applied in a network marketing businesses as *ju'alah*.

E. Research Method

Method is a framework to perform action, or a framework of thinking to formulate idea, the regular, directional and contextual one, which is relevant with the intent and the purpose. Simply, method is a system of doing. Because it is a form of system, then method is a set of elements that form as unity.⁸

Research is an activity of study that is done carefully and regularly in a field of science by certain rules. The rules is the method adopted. Study is an

⁸ Tejoyuwono Notohadiprawiro, *Metode Penelitian dan Penulisan Ilmiah*, Journal, 1.

attempt to obtain or increase knowledge. Thus, research is done to enrich and enhance understanding about something.⁹

Research conducted in this research is normative fiqh or Islamic jurisprudence research. This study conducts a research of the text of Islamic jurisprudence which covers the history of ideas, development of ideas, deviation among scholars, etc. The standard that a research includes a normative study is that the source of data or information is derived from the text or book.¹⁰

1. Type of Research

In terms of its analysis approach, research can be divided into two: quantitative research and qualitative research. Quantitative research emphasizes its analysis on numeric data which is processed with statistical methods. research by qualitative approach emphasizes its analysis on the process of deductive and inductive inference and analysis of the dynamics of the relationship among the observed phenomena using scientific logic. This does not mean that a qualitative approach does not use any quantitative data support, but the emphasis is on the attempt to answer research question through formal and argumentative ways of thinking. This research uses a qualitative approach, giving argumentations from the four madzhab literature discussing the Ju'alah contract used by network marketing system specially Herbalife Company in the bonus analysis.

In terms of the depth of the analysis, this type of research is divided into the study of inferential and descriptive research. Inferential research does analysis

⁹ Tejoyuwono Notohadiprawiro, *Metode Penelitian*, 1.

¹⁰ Tim Penyusun, *Pedoman Penulisan Karya Ilmiah Fakultas Syariah UIN Maliki Malang*, 15.

on the relationship among variables by testing the hypothesis. Descriptive study analyses the description and presents the facts in a systematic way so that it can be easier to be understood and inferred. This study aims to get a true image of the subject under the research.

Complementary analysis presented in the analysis will be fiqh Muqâran.

The steps will be done as below:

1. Defining a case to be studied
2. Collecting all fuqohâ opinions regarding the issue
3. Grouping the opinion
4. Collecting all the arguments and the way of *dilâlah*/derivation
5. Identifying all the arguments
6. Analysing the dalil dan discussing the way of *dilâlah*/derivation
7. Determining the argument elected
8. To evaluate the chosen argument, it is important to study the causes of the argument
9. Investigating the wisdoms contained behind the differences.

2. Data Sources

Data sources spilt into two main sources, primary sources and secondary sources.¹¹ Data sources the writer uses are from the literature in the form of modern books concerning network marketing and classic books under the four madzhab thoughts of islamic jurisprudence as the primary literature. Some of the

¹¹ Suharismi Arikunto, *Prosedur Penelitian Suatu Pendekatan dan Praktek* (Jakarta: Rineka Cipta, 2002), 107.

books as literature of doing research especially on *ju'alah* are *Badâi' ash Shâni' fî Tartîb asy Syarâi'* by a hanafite Alauddin al Kasani (d. 587 H), *Al Mudâwanah* by Imam Malik bin Anas (d. 179 H), *Al Umm* by Imam Muhammad bin Idris Asy Syafi'y (d. 204 H), and *Masâil al Imam Ahmad* by Abdullah bin Ahmad bin Hanbal. Besides, the writer also use other books, some articles and papers, etc. as supporting literature. if needed, the writer may conduct some interviews with certain related parties.

Futhermore, the writer also uses some tertiary sources to support the writing of research. Tertiary sources are encyclopedia, dictionaries, and other supporting sources that help manage primary sources and secondary sources.¹²

3. Data Processing

Data processing by qualitative approach describes the data in the form of regular, orderly, logical, non-overlapping, and effective sentences to get clear and easier understanding and interpretation of the data.¹³ Data processing is done by some stages as below:

- a. Editing (reexamining data): The first step in processing data after it has been collected is to 'clean' the data. This process of 'cleaning' is called editing and the focus to ensure that the data is free from inconsistencies and incompleteness. Editing refers to the process of checking and adjusting responses in the completed questionnaires for omissions, legibility and consistency.

¹² Bambang Sunggono, *Metodologi Penelitian Hukum* (Jakarta: PT Raja Grafindo Persada, 2003), 114.

¹³ Tim Penyusun, *Pedoman Penulisan Karya Ilmiah* (Fakultas Syariah Universitas Islam Negeri Maulana Malik Ibrahim Malang, 2011), 30.

- b. Classifying (grouping data): in this stage, the writer classify data into primary data to be analysed and supporting data to give additional explanation in the research.
- c. Verifying (confirming data): after the data are classified, then it will be verified to make sure that the problem issued is important to be analysed and has significant relationships each other.
- d. Analysing (analysing data by descriptive analysis): analysing is the main part of processing data. In this stage, the writer analyses the data descriptively and gives analytical connections between the data and the theories.
- e. Concluding (withdrawing conclusion): the last stage of the data processing is concluding. All analyses presented in analysing stage will be withdrawned in the conclusion simply and separatedly.

F. Previous Research

There are many researches on network marketing that have been done by scholars. That is because network marketing has become a worldwide business since the first formation in 1940s. One of the researches about network marketing has been done by Ayyudiana Niyati Mufidah with thesis “Bisnis Multi Level Marketing (Mlm) K-Link Menurut Hukum Islam”. This research aims to determine the mechanism of Multi Level Marketing (MLM) business and to investigate Multi Level Marketing (MLM) business according to Islamic Law.

The research method of the thesis is field research studying multi-level marketing of PT. K-Link, by mean, the type of this research uses empirical study. The analysis approach used in this study is a qualitative approach that presents descriptive data, from the script, expressions and behaviour.

The result of the study in K-Link stockist Kepanjen Malang shows that the mechanism of the MLM business in the K-Link branches into giving bonuses to distributors by two parts, they are Plan A and Plan B. Those who do Plan B automatically earn bonuses from Plan A. Bonus 74% on Plan A is given to the distributor while the remaining 26% is taken by the company. Besides bonuses Plan A and Plan B, the distributors will also get directly 20% profit of the products sold.

Research conducted by Ayudiana is the study of Islamic law in general about the Network Marketing business practiced by a K-Link Stockist. Whereas the writer does research in the study of bonus concept in Islam which is termed the *Ju'alah* contract in Network Marketing business.

Another research concerning network marketing system was done by Nurudin with the title “Analisa Bisnis Jaringan Multi Level Marketing (MLM) Syariah Terhadap Kebebasan Finansial Distributor pada PT. Ahad Net Internasional (Ahad-Net) Malang (Perspektif The Cashflow Quadrant Robert T. Kiyosaki)”. An analysis on *Syari'ah* Multi Level Marketing onto Distributor's Financial Freedom on PT. Ahad Net Internasional (Ahad-Net) Malang (in The Perspective of The Cashflow Quadrant Robert T. Kiyosaki).

The problem issued in the research is the question how far Syariah Network Marketing businesses which include, recruitment of new members (level or level) (X1), system of education and training (X2), the sale of products (X3), as well as commissions and bonuses (X4) can affect the financial freedom (Y) of distributor of Ahad-Net Network Marketing Company.

This research is included in survey research, which took samples from a population and used questionnaires as the main data collection tool. Based on the problems issued and the objectives to be achieved in this study, the research aimed to examine the relationship between syari'ah MLM networking business and perspective on financial freedom according to Robert T. Kiyosaki. The study is categorized explanation or explanatory research, which made an inquiry to relationship through hypothesis testing.

The analysis tools are validity and reliability tests to determine the accuracy and stability of a measuring instrument. Multiple linear regression used in the research aims to determine the relationship and influence between the independent variables and the dependent variable. F test and t test are used to determine the proposed hypothesis.

From the regression analysis, the study showed that there were influences between free variables: recruitment of new members (level or level) (X1), system of education and training (X2), the sale of products (X3), as well as commissions and bonuses (X4); towards banded variable financial freedom when it was tested simultaneously (test F). But when tested partially, there found only variable recruitment of new members (X1) and commissions and bonuses (X4) that gave

significancy into financial freedom. The relationship between test research done by Nuruddin and the writer's research is a conclusion that the recruitment as well as bonuses and commission is very important variable in the system of network marketing business. Besides, there is a significant relationship between financial freedom and bonuses.

G. The Structure of Writing

This thesis will be written into four main chapters detailing as: Chapter one contains introduction covers the background, problem formulation, objectives problems, limitations of the study, the benefits of research, research method. Research method contains explanations about the type of research that is used to analyse problems related, the data sources, and and the process of managing data

Chapter Two contains review of literature. It discusses the theory and the concept of basic legal of mu'amalah in Islam, network marketing in Islam, the contract and 'aqd , and some literature of the four madzhab thoughts concerning contract related to network marketing especially on bonus namely Ju'alah in islamic jurisprudence.

Chapter Three specially presents data analysis management specifically performed in the research. This chapter will presents some analysis about the concept of bonus applied in network marketing company of Herbalife particularly. The discussion about muqâranah of the four madzhab will also be complements of the analysis.

Chapter Four covers conclusions and suggestions. This part explains some conclusions from overall discussion and pull some important things into points to make the conclusions clear. Finally, suggestions will be showed after the conclusions. The suggestions explain some solutions and additional advices concerning the research. The values might be showed to give some important benefits caught in the discussion.

