

THE RELEVANCE OF JAMAL AL-BANNA ISLAMIC LEGAL THOUGHT IN RELIGIOUS MODERATION

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Abstract

*This research examines the principles of Islamic legal thought of Jamal al-Banna with the aim of knowing the relevance of the principles of Islamic legal thought to the principles of religious moderation in Indonesia. The purpose of this research is to analyze the Intellectual Biography of Jamal al-Banna and the Principles of Islamic Legal Thought of Jamal al-Banna Relevant to the Principles of Religious Moderation in Indonesia. This research is a doctrinal Islamic law research using historical (historical) content analysis approach. The primary data source for this research is the work of Jamal al-Banna himself namely *Nahwa Fiqh Jadid* and the book *Religious moderation* authored by Research and Development Team of the Ministry of Religion of the Republic of Indonesia. This research is also supported by secondary sources in the form of works related to the topic of study. Religious moderation is actually the essence and substance of religious teachings which are not exaggerated at all, either in perspective or attitude. This study concludes There are 2 (two) textually the principles of Islamic legal thought of Jamal al-Banna that are relevant to religious moderation in Indonesia, namely: justice and tolerance. As for substantially there are also 2 (two), namely: the value of the principle of "facilitating" is the same as *Tawassut* and compassion is the same as the principle of equality (*musawah/egalitarian*).*

Keywords: *Islamic; Law; Relevance; Religious; Moderation.*

A. INTRODUCTION

As it is known that Islamic law is one of the branches of Islamic knowledge which directly integrates with various sides of the activities of Muslims. Thus, there is only one way, namely to develop a mindset that is appropriate to the current context, namely a new fiqh. This fiqh when compared with classical fiqh is very different, especially in terms of the system. This is the main element in the reform of Islamic law. Jamal al-Banna has the assumption that if the current system continues to rely on

the former system, then there will be many major problems related to fiqh.¹ Apart from that, what cannot be ignored is that this fiqh model is bound by keeping the door of ijtihad open that is not exclusive, radical and extreme, and always promotes tolerance of pluralism, and respects gender freedom.²

Constitutionally, strengthening religious moderation also has a legal basis listed in the 1945 Constitution which explains that there is a state obligation to guarantee the freedom of each resident to embrace his religion and belief. In addition, protection related to freedom of religion is also stated in Law Number 39 of 1999 concerning Human Rights. The state's obligation to protect freedom of religion is specifically the duty of the Ministry of Religious Affairs. This is in accordance with Presidential Regulation No. 83/2015 on the Ministry of Religious Affairs which states that the Ministry of Religious Affairs has the task of carrying out government affairs in the field of religion to assist the president in organizing the government.³

According to Jamal al-Banna, among the classical Islamic legal concepts that need to be updated is related to the concept of a leader in a household run by a husband.⁴ In this case as if a husband is considered as a superior leader. The wife is considered as a person who is led by an inferior nature. The husband's superiority when viewed from classical Islamic law is very clear, especially the wife's obedience to her husband who is not allowed to leave the house and sunnah fasting without her husband's permission.⁵ In this case, it does not mean that Jamal al-Banna disagrees with making a husband the leader of his household. However, as a leader, the husband's obligation is not only to provide a sense of security and to please his wife, but also to complement and perfect each other.⁶

Besides that, as a contemporary thinker in the field of gender, Jamal al-Banna also highlighted the issue of divorce that a husband may not pronounce divorce without his wife's consent because the marriage bond is a bond between both parties (ijâb and qabul) that is legal, transparent, and mutually agreeable between both of them. Of course, if there is a divorce, the two must also agree with each other. This means that divorces that come from the husband alone are invalid or rejected.⁷

1 Ahmad Mas'ari, Reconstruction and Reformulation of Islamic Law Renewal from the Perspective of Jamâl Al-Banna, *Al-Risalah Legal and Social Studies Forum*, Vol. 16, No. 2, 2016, page. 218-219

2 Khairil Anwar, *Moderasi Beragama: Sebuah Diskursus Dinamika Keagamaan di Era Kontemporer*, Yogyakarta, K-Media, page. 19

3 Mukhibat, Pendidikan Moderasi Beragama di Indonesia (Wacana dan Kebijakan), *Southeast Asian Journal of Islamic Education Management*, Vol. 4, No. 1, 2023, page. 73-88

4 Misbahul Munir Munir, and Furziah Furziah, Eksistensi Perempuan Dalam Realitas Historis Islam, *Noura: Jurnal Kajian Gender*, Vol. 6, No. 2, 2022, page. 10-19.

5 Ali Munhanif, *Women in Classical Islamic Literature*, Jakarta, Gramedia Pustaka, 2002, page. 119.

6 Jamal al-Banna, *al-Mar'ah al-Muslimah bayna tahrîr al-Qur'ân wa taqyîd al-Fuqahâ'*: Cairo, Dâr al Fikr al-Islâmî, 1998, page. 51.

7 Jamal Al Banna, *Naḥwa Fiqh Jadîd 3*, Dâr al-Fikr al-Islâmî, al-Qâhirah, 1995, page. 267.

In research conducted by Syaiful Bahri with the title Jamal al-Banna's new fiqh paradigm and its relevance to the renewal of women's roles in Islamic family law (*Fiqh al-Munakahat*) that some issues of women's roles in Islamic family law do need to be updated. update. There are four crucial issues that are reviewed using Jamal alBanna's new fiqh paradigm, namely the minimum age of marriage, the right of *ijba'*guardian, polygamy, and divorce.⁸ In the research conducted by Ali Mutowif with the title "*Gugurnya Had Jarimah Pencurian Sebab Taubat Perspektif Jamal al-Banna*" that the criminal punishment that has been described can be said to be the best, not only to maintain authenticity, or justice to protect society. The term repentance is certainly relevant to those who make mistakes only once, perhaps because they forget or do not know, not many times.⁹

It seems clear that from each of Jamal al-Banna's Islamic legal thoughts above it can be seen that he emphasizes the principles of balance, independence, tolerance, smoothing, sympathy and empathy.

Therefore, the author wants to examine how far the principles are relevant to the principles of religious moderation which is being widely echoed throughout the country, from the level of high-ranking officials to people in villages throughout Indonesia. The purpose of this research is to analyze the Intellectual Biography of Jamal al-Banna and the Principles of Islamic Legal Thought of Jamal al-Banna Relevant to the Principles of Religious Moderation in Indonesia.

B. RESEARCH METHODS

The approach method used in this research is normative juridical. Normative juridical is a type of problem approach that is carried out based on the main law, which is carried out based on the main legal material, as well as reviewing several theoretical matters related to legal principles, legal doctrines, regulations and legal systems that are related to the problem being discussed by using secondary data including principles, rules, norms, and legal rules contained in laws and other regulations. The type of research conducted is a qualitative type with a descriptive approach. By using qualitative methodology the author will produce descriptive data or in the form of words both orally and in writing from the events under study the relevance of Jamal al-Banna's characterization to the principles of religious moderation in Indonesia.

C. RESULTS AND DISCUSSION

1. 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 Bukhayrah province, about 50 kilometers

8 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*, Vol. 19, No. 1, 2019, page. 1-25

9 Ali Mutowif, *Gugurnya Had Jarimah Pencurian Sebab Taubat Perspektif Jamal Al-Banna*, *al-Jinayah: Jurnal Hukum Pidana Islam*, Vol. 1, No. 2, 2015, page. 308-320

from the tourist town of Alexandria, Egypt and died on January 30, 2013. Of eight children, Jamal al-Banna was the fifth and last son of the Jamal al-Banna family.¹⁰ Jamal was born to a father named Ahmad bin Abdurrahman bin Muhammad as-Sa'ti and to a mother named Umm Sa'ad Shaqar. Jamal's father is an intellectual figure with a monumental work entitled, *al-Fathar-Rabbâni fî Tartîb al-Musnad al-Imâm Ahmad ibn Hanbal al-Shaibâni*, totaling 24 volumes.¹¹

Jamal al-Banna's intellectual journey formally started from Madrasah Ibtidaiyah and Madrasah Tsanawiyah Khadawiyah, one of the favorite schools in Cairo at that time. It can be said that Jamal al-Banna's formal education level did not go smoothly. Unfortunately, when Jamal al-Banna was in the first grade, only because he had an argument with his English teacher, where Jamal al-Banna refused to speak English with an appropriate British accent, he was finally not allowed to follow the teacher's lessons later. days, and finally, for the subject matter Jamal al-Banna was deemed a failure. Feeling annoyed, 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 his students. Because he only wanted to be a writer and not an engineer or lawyer, he didn't have to have formal education. Then, at the insistence of his family,¹² Jamal continued his education at a trade school for three years.

Jamal al-Banna's last formal education was completing his doctoral program (S3) at Cairo University, Egypt. Since childhood, Jamal al-Banna was educated in a household 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 was only natural that Jamal al-Banna had been interested in reading since he was 5 years old.¹³ His life is at stake to become a writer. His first work was published in 1945 entitled Social studies in Egypt and the effects of poverty, ignorance and disease.¹⁴

Jamal al-Banna grew to become a big thinker with new, controversial ideas. Generally, Jamal al-Banna's thoughts contain ideas that break down understandings that have become the status quo in society. With his belief and firmness in holding on to principles, Jamal al-

10 The order of Jamal al-Banna's brothers is Hasan (born 1906), 'Abd al-Rahman (born 1908), Fatimah (born 1911), Muhammad (born 1913), 'Abd al-Basit (born 1915), Zaynab (born 1919), Ahmad Jamal al-Din (born 1920), and Fawziyah (born 1923). See Jamal al-Banna, *Khiṭabât Ḥasan al-Bannâ al-Syâb ilâ Abih* (Cairo: Dâr al-Fikr al-Islâmî, 1990), page. 22.

11 Syaiful Bahri, Jamal al-Banna's New Jurisprudence Paradigm and Its Relevance to Renewing the Role of Women in Islamic Family Law (Fiqh} al-Munâkaḥât), *Ijtihad: Journal of Islamic Law and Humanitarian Discourse*, Vol. 19, No. 1, 2019, page. 4

12 Muhammad Fauzinuddin Faiz, Jamal al-Banna's thoughts on husband and wife relations in the book *Al-Mar'ah Al-Muslimah Baina Tahṛîr Al-Qurân wa Taqyîd Al-Fuqahâ'*, *Al-Mazahib*, Vol. 3, No. 1, June 2015, page. 59.

13 Jamal al-Banna, *Khiṭabât Ḥasan al-Banna*, page. 19.

14 Jamal al-Banna, *Plurality in Islamic Society*, Jakarta, Mata Air Publishing, 2006, page.91.

Banna seemed not to care if the ideas he developed would reap controversy and criticism from here and there.¹⁵

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

a. Definition of Religious Moderation

Moderate means prioritizing balance in terms of moral convictions, character, both when treating other people individually or dealing with state institutions. Whereas in Arabic, moderation is known as *wasat* or *wasat*, which has the equivalent of the word *tawassuṭ* (in the middle), *i'tidal* (fair) and *tawâzun* (balanced). Antonym of *wasat* is *taṣarruf* (excessive), which in English is called the words extreme, radical, and excessive. The word extreme can also mean "doing too much, going from end to end, turning around, taking the opposite action/path". In KBBI, the word extreme is defined as "the most extreme, the highest, and the hardest".¹⁶

Religious moderation is actually the essence and substance of religious teachings which are not exaggerated at all, either in perspective or attitude. The principle of religious moderation is an attitude and perspective full of values of balance (balance) and justice (justice).¹⁷ With such a concept, it can be understood that a person in religion should not be extreme in his views, but must always find common ground.

b. The Principles of Religious Moderation in Indonesia

Religious moderation has two basic principles, namely fairness and balance. These two basic principles will be more easily formed if a person has three main characters within him: wisdom, sincerity and courage. In other words, a moderate attitude in religion, always choosing the middle way, will be more easily realized if a person has adequate breadth of religious knowledge so that he can be wise, resist temptation so that he can be sincere without burden, and is not selfish with his own interpretation of truth so that he dares to admit interpretation of other people's truth, and dare to express their views based on knowledge.¹⁸

Moderation as an attitude of the middle way or an attitude of diversity has until now become an alternative terminology in religious discourse, both at the global and local levels. Moderation is still considered the most ideal attitude of diversity when religious

15 Syaiful Bahri, *New Fiqh Paradigm*, page. 5.

16 Indonesian Ministry of Religion Research and Development Team, *Religious Moderation*, Ministry of Religion Research and Development and Training Agency, Jakarta 2019, page. 16.

17 Mohammad Hasyim Kamali, *The Middle Path of Moderation in Islam: The Qur'anic Principle of Wasathiyah*, Oxford University Press, Oxford, 2015, page. 31.

18 Indonesian Ministry of Religion Research and Development Team, *Religious Moderation*, page. 20.

conflicts begin to heat up.¹⁹ Some of the principles of religious moderation include:

1) *Tawassuṭ* (Taking the Middle Way)

Tawassuṭ is the understanding and practice of religion that is not *ifrāṭh*, namely exaggeration in religion and *tafrīṭh*, namely reducing religious teachings.²⁰ *Tawassuṭ* is also an attitude in the middle or being between two attitudes, namely not too far to the right (fundamentalist) and too far to the left (liberalist). With an attitude of *tawassuṭ*, Islam will be easily accepted in all walks of life. *Tawassuṭ* character in Islam is the midpoint between the two ends and it is a goodness that has been placed from the beginning by Allah SWT. *Tawassuṭ* value which has become a principle in Islam needs to be applied in all fields so that the religion of Islam and the religious expressions of Muslims become a measuring witness for the truth of all human attitudes and behavior in general.²¹

Things to note in the application of *tawassuṭ* namely, first, not to be extreme in disseminating religious teachings. Second, it is not easy to castrate fellow Muslims because of differences in religious understanding. Third, position oneself in social life by always upholding the principles of brotherhood (*ukhuwwah*) and tolerance (*Tasāmuḥ*), living side by side with fellow Muslims and citizens who embrace other religions.²²

Knowledge of rewards and punishments, so that we may distinguish between those who follow you and obey you and face the same direction as you in whichever direction you face, and those who are weak in faith and turn away from Islam because of their doubts and hypocrisy. Verily, this event of shifting the direction from *Bayt al-Maqdis* towards the Ka'bah, is indeed hard and difficult, except for those whom Allah guides and grants faith and piety to. And Allah will indeed not waste your faith in Him and your *ittiba'* to His messenger, nor cancel the reward of your prayers facing the previous *qiblah*. Verily, Allah is the most merciful and the most compassionate to mankind with vast mercy in this world and the Hereafter.

2) *Tawazun* (balanced)

Tawazun is a balanced understanding and practice of religion which covers all aspects of life, both worldly and *ukhrowi*, firm in stating principles that can distinguish between *inḥirāf*

19 Aceng Abdul Aziz, et.al., *Implementation of Religious Moderation in Islamic Education*, cet. I Jakarta, Working Group on the Implementation of Religious Moderation, Directorate General of Islamic Education, Ministry of Religion of the Republic of Indonesia in Collaboration with Sovereignty Institutions, 2019, page. 10.

20 Dindin Solahudin, Moderate Da'wah and National Resilience: A Case Study at the Bandung Regency Religious Harmony Forum (FKUB), *Ilmu Dakwah Academic Journal for Homiletic Studies*, Vol. 17, No. 1, 2023, page. 177-202

21 Aceng Abdul Aziz, et.al., *Implementation of Religious Moderation*, page. 11.

22 *Ibid*

(deviation) and ikhtilāf (differences). *Tawāzun* also has the meaning of giving something of its rights without adding or subtracting. *Tawāzun*, because it is the ability of an individual's attitude to balance his life, he is very important in the life of an individual as a Muslim, as a human being and as a member of society. Through the attitude of *Tawāzun*, a Muslim will be able to achieve true inner happiness in the form of peace of mind and peace of mind in the form of stability and tranquility in life activities.²³

Surah Al-Hadid verse 25: Allah informs that He sent the Messenger with clear miracles, along with it (the Messenger) brought the *Shari'a* and clear laws. To make people understand what makes them good and save them from hell. And with the scales for them to follow for what they are commanded to do. And Allah created iron, in which there is great power and many benefits for mankind, (so that they may use it) and that Allah may know who helps Him and His messengers, and Allah does not see him. Indeed, Allah is the Strongest, the Mightiest.

This proves that the messengers were the same in the basic principle of *Shari'ah*, which is to uphold justice even though the form varies according to conditions and time. "And We sent down iron in which there is great power," as tools of war such as swords, armor, etc., "and various benefits for man," the benefits of which can be proven in various types of production, work, furniture, and farming tools so that almost everything requires iron. "(That they may use the iron) and that Allah may know who helps Him and His messengers and Allah is not seen by them." In order for Allah to test with something revealed from the Book and iron, so that it will be clearly seen who helps His messengers even though Allah is not seen, where believing first is more useful for him before witnessing directly, which if trust and faith are not there, it is certainly not useful, because at that time faith is very important.

3) *I'tidal* (Straight and Firm)

In language, *i'tidal* has a straight and firm meaning, the meaning is to put something in its place and carry out rights and fulfill obligations proportionally. *I'tidāl* is part of the application of justice and ethics for every Muslim. Justice commanded by Islam is explained by Allah to be carried out fairly, that is, to be mediocre and balanced in all aspects of life by showing ihsan behavior. Fair means realizing equality and balance between rights and obligations. Human rights cannot be reduced because of obligations. Without promoting justice, religious values feel dry

²³ *Ibid*, page. 12.

and meaningless, because justice touches the lives of many people.²⁴

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 space. Every leader has the responsibility to translate it in real life for the public interest.²⁵

4) *Tasamuh* (Tolerance)

Tasamuh means tolerance. In the Lisân al-'Arabic 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.²⁶ Etymologically, *Tasāmuh* is to tolerate or accept things lightly. Meanwhile, in terminology, *Tasāmuh* means to tolerate or accept differences with a light heart.²⁷

Tasamuh is a person's attitude or attitude that is manifested in a willingness to accept various views and opinions that vary, even if they do not agree with them. *Tasāmuh* or tolerance is closely related to the issue of freedom or independence of human rights and the order of social life, thus allowing for the existence of differences of opinion and beliefs of each individual. People who have the *Tasāmuh* trait will respect, allow, allow stances, opinions, views, beliefs, habits, behavior and so on that are different from their stances. *Tasāmuh* means like to hear and respect the opinions of others. When *Tasāmuh* means greatness of soul, breadth of mind, and broad chest, then *ta'āshub* means smallness of soul, narrowness of mind and narrowness of the chest.²⁸

5) *Musawah* (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 and worth regardless of gender, race or ethnicity.²⁹ The revelation of Q.S. Al-Hujurat (13) is to prohibit them from boasting of their offspring and wealth, and to warn them not to look down on those who are lowly and despised. Because the parameter is their piety.

The existence of human beings made into nations and tribes aims to realize these positive things, which depend on the

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- 24 Nurul Maarif, *Islam Loves Not Hate*, Mizan Pustaka, Bandung, 2017, page. 143.
25 Zuhairi Misrawi, *Hadratussyaikh Hasyim Asyari Moderation, Priority, and Nationality*, Jakarta, PT Kompas Media Nusantara, 2010, page. 13.
26 Siradj, Said Aqil, Sufism as the Basis of Tasammuh, From Social Capital Towards Moderate Society, *Al Tahrir*, Vol. 13, No. 1, 2013, page. 91.
27 Masduqi, Irwan. *Tolerant Islam; Religious Harmony Theology*, Bandung, PT Mizan Pustaka, 2011, page. 36.
28 Aceng Abdul Aziz, *Op. Cit*, page. 13.
29 Aceng Abdul Aziz, *Op. Cit*, page. 14,

process of getting to know each other and the fusion of lineage. However, the measure of honor among them is piety. The most honorable person among others is the one who fears Allah the most, does the most obedience and is best able to prevent himself from disobedience, not the most relatives and people, not the most prominent descendants (because of social level).

This verse emphasizes the unity of human origins by showing the equality of human degrees for both men and women. The point is between men and women are the same there is no difference between one and the other. Musāwah in Islam has a principle that every Muslim must know, namely equality is the fruit of justice in Islam. Everyone is equal, there is no privilege between one over the other, maintaining 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 is based on the original unity for humans.³⁰

6) *Exciting* (Discussion)

The word *Shurā* means explaining, declaring or proposing and taking something. *Shurā* or deliberation is mutually explaining and negotiating or asking each other and exchanging opinions regarding a matter.³¹ the explanation above it can be understood that deliberation has a high position in Islam. Besides being a form of Allah's order, deliberation is essentially also intended to create a democratic social order. On the other hand, holding deliberations is also a form of appreciation to community figures and leaders for participating in common affairs and interests.³²

People who carry out the principles of this can be called "referee".³³ In Arabic too, the word can be interpreted as "the best choice". Whatever type of word is used, all of them show the same meaning, namely fairness, which in this context means choosing a middle ground position between various extreme choices. was said it is a word that has been absorbed into Indonesian to become the word 'referee'. The word referee has three meanings, namely: 1) intermediary, intermediary (for example in trade, business); 2) arbitrator (separator, peacemaker) between the disputing parties; and 3) the leader in the match.³⁴ The word "referee" which refers to someone who leads a match,

30 Aceng Abdul Aziz, *Op. Cit*, Page. 14

31 Aceng Abdul Aziz, *Op. Cit*, Page. 15

32 Aceng Abdul Aziz, *Op. Cit*, Page. 15..

33 Muchlis Hanafi, et.al., *Tafsir Al-Thematic Qur'an: Islamic Moderation*, Jakarta, squeak I, Lajnah Pentashihan Mushaf Al-Qur'an, 2012, page. 5.

34 Indonesian Ministry of Religion Research and Development Team, *Religious Moderation*, page. 16.

can be interpreted in this sense, namely someone who is not one-sided, but rather on the side of the truth.³⁵

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

As previously explained, there are 7 (seven) principles used by Jamal including: justice, freedom, tolerance, the principle of "facilitating", compassion, repentance and generosity.³⁶ But among the seven values that are relevant to the principles of religious moderation above, there are 2 namely: justice and tolerance.

1) Justice (*al-'adl*)

Justice which is the "*gusti*" of universal values in the context of law, is different from piety which is the "*gusti*" of values in faith. But this doesn't mean that the two of them can't meet. Piety gives flavor and color to justice. Meanwhile, justice can elevate the position of piety to reach its perfection. However, the formulation of the law of piety does not mean it is completely closed. Because it must be admitted, piety is the deepest human feeling that can distinguish one individual from another.³⁷

When compared between the value of justice that is promoted by Jamal with the principle of *i'tidāl* (straight and firm) in the principle of moderation in religion in Indonesia is very relevant. Justice here is not only personal, but rather everything that is different from one another, so you have to be fair. Especially deep 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 useful value for managing information and minimizing hoaxes.³⁸

2) Tolerance (*al-samahâh*)

In this case, Jamal uses the term *al-samahâh*, whereas in the principle of religious moderation in Indonesia, the term *Tasâmuh* is used. For example, in the context of a husband-wife relationship starting from marriage to divorce. The Koran completely prohibits the intolerance of husbands towards wives, and vice versa. Even when it comes to divorce though.

It is incumbent on mothers to breastfeed their children for two full years for mothers who intend to complete breastfeeding, and it is incumbent on fathers to provide for the food and clothing of divorced breastfeeding women in an appropriate manner according to Shariah and local custom. Indeed, Allah does not burden anyone except according to his ability. It is not permissible for the parents to use the child born to them as a means of

35 *Ibid*, Page. 19.

36 Jamal al-Banna, *Nahwa Fiqh Jadid*, III, Erlangga, Jakarta, 2008, page. 264-275.

37 *Ibid*, 302

38 Indonesian Ministry of Religion Research and Development Team, *Religious Moderation*, page. 23.

harming each other, and the heirs are obliged after the father's death to do what the father was obliged to do before his death in terms of providing food and clothing. So if both parents wish to wean the baby before two years, there is no sin on them if they have mutually accepted and consulted each other about it, so that they can both achieve what is in the best interests of the baby. If the parents agree that the baby should be breastfed by a woman other than the mother, there is no sin on either of them, if the father gives the mother what she is entitled to and pays the breastfeeding woman what is customary among the people. And fear Allah in all your affairs, and know that Allah knows best what you do and will reward you for it.

Besides that, it is said that every Prophet was faced with one choice, he always took the easiest of the available choices. As long as it's the easiest, it's not illegal. On the other hand, the Prophet strongly condemned actions that made things difficult in the field of religion, either in carrying out orders or avoiding prohibitions.³⁹

Religious moderation is actually the essence and substance of religious teachings which are not exaggerated at all, either in perspective or attitude. Religious moderation has two basic principles, namely fairness and balance. These two basic principles will be more easily formed if a person has three main characters within him: wisdom, sincerity and courage. Moderation as an attitude of the middle way or an attitude of diversity has until now become an alternative terminology in religious discourse.

D. CONCLUSION

Jamal al-Banna is a big thinker with new, controversial ideas. Generally, Jamal al-Banna's thoughts contain ideas that break down understandings that have become the status quo in society. With his belief and firmness in holding on to principles, Jamal al-Banna seemed not to care if the ideas he developed would reap controversy and criticism from here and there. The value of tolerance according to Jamal by "stringing" tolerance with the principle of forgiveness. As for the tolerance (*Tasāmuḥ*) that is promoted by religious moderation, it tends to be a person's stance or attitude which is manifested in a willingness to accept various views and stances that vary, even if they do not agree with them. *Tasāmuḥ* or tolerance is closely related to the issue of freedom or independence of human rights and the order of social life, thus allowing for the existence of differences of opinion and beliefs of each individual. People who have the *Tasāmuḥ* trait will respect, allow, allow stances, opinions, views, beliefs, habits, behavior and so on that are different from their stances.

39 *Ibid*, Page. 311-312.

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