

Is Sharia Banking Working on Maqashid Bases? An Evidence from Indonesia

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Abstract

This study aims to assess Islamic banking activities in Indonesia using the maqashid al shariah theory. Evaluation is done by analyzing the data obtained through interviews and observations. The data is then assessed using the five fundamental essences in maqashid al shariah. This research finds that Indonesian Islamic banking has properly accommodated the protection of religion, life, property, intellect, and lineage.

Keywords: Islamic Banking, Sharia Banking, maqashid al sharia, Islamic Law.

I INTRODUCTION

In the view of Islam, economics is not the ultimate goal of this life but is a complement to life and a means to achieve a higher purpose. Islam is a religion that perfectly regulates the order of life of individuals and communities, both material and spiritual aspects accompanied by economic, social, and political aspects (Sofian Al Hakim, 2019). The logic of thinking that underlies one's financial behavior is to create *maṣlaḥah*. As explained earlier, consumers consume goods and services to get *maṣlaḥah*, and producers produce goods and services to provide *maṣlaḥah*. *Maṣlaḥah* here means *jalbul manfa'ah wa daf'ul mafsadah* (Karim & Sahroni, 2015).

The ultimate goal of Islamic economics is as the goal of Islamic sharia (*maqāṣid ash-syarī'ah*), which is to achieve happiness in the world and the hereafter (*ḥayāt*) through a good and honorable life order (*ḥayāt ṭayyibah*). It is the true happiness that every human being desires, not pseudo happiness, which often causes suffering and misery (Fauzia, 2014).

Islamic economic composing cannot be separated from *Maqāṣid* theory. Shaykh Muhammad Thahir ibn 'Asyur once said that forgetting the importance of the *maqāṣid* side in Islamic sharia is the main factor causing stagnation in *fiqh* (Asyur, 1999). Reviving the Islamic economy, which has been buried for so long and has become a fossil, is a field for *ijtihād*. It means that it requires hard work (*ijtihād*) from Muslim economists to look for the values contained in the Qur'an and as-Sunnah related to the economy. Henceforth, these ideal values are derived into economic theories, which can then be used as formulations/rules in the realm of praxis. In addition, the offer of *Maqāṣid Fiqh* seems to be one of the worthy stimulants developed by Muslim economists to develop Islamic economics (Muhlisuddin, 2019).

In this regard, *Maqāṣid Syar'ah* is a relevant corridor as the basis for developing systems, practices, and even products of Islamic financial institutions in this multidimensional era. Most scholars consider the *maqāṣid syarī'ah* order as a brilliant way for the journey

of Islamic financial institutions in responding to dynamic contemporary problems because it is based on benefit and welfare. The concept of *maṣlahah* is the goal of *syara'* (*maqāṣid syarī'ah*) of the enactment of Islamic law (Bedir, 2004).

Like other aspects of the Islamic worldview, the Islamic financial system supports realizing the goals of the Islamic social and economic system. Sharia financial and business institutions are financial institutions and business institutions that carry out business activities based on sharia principles. In the last ten years, the development of Islamic business and financial institutions has been increasingly widespread and mushrooming. Currently, the reality shows that the rapid growth of sharia banking is also followed by some other non-bank financial institutions, such as sharia insurance, sharia pawnshops, BMTs, BPRS, and sharia financing institutions consulting offices. (Kasdi, 2019)

Islamic banks, or referred to as Islamic banks, are banks that operate without relying on interest. An Islamic bank or commonly referred to as an interest-free bank, is a financial/banking institution whose operations and products are developed based on the Qur'an and Hadith. In other words, an Islamic bank is a financial institution whose primary business is to provide financing and other services in payment traffic and money circulation whose operations are adjusted to the principles of Islamic law (Zulkhibri & Sukmana, 2017).

The Islamic banking industry in Indonesia has also experienced rapid development. With the issuance of Law No. 21 of 2008 concerning Islamic Banking on July 16, 2008, the development of the national Islamic banking industry has an adequate legal basis and will encourage even faster growth. Alamsyah Describes Islamic banking in Indonesia as having bright developments and prospects. As a country with the largest Muslim population, Indonesia should be the pioneer and center for developing Islamic finance globally. In the Global Islamic Financial Report (GIFR) assessment in 2011, Indonesia ranks the fourth country with the potential. It is conducive to the

development of the Islamic finance industry after Iran, Malaysia, and Saudi. Indonesia is projected to be ranked first in the next few years. This optimism is in line with the very high rate of institutional expansion and accelerated growth of Islamic banking assets, coupled with the increasing volume of Sukuk issuance (Musleh Al-Sartawi, 2018).

In West Sulawesi, several Islamic financial institutions, including Bank Muamalat Indonesia, Bank Syariah Mandiri, and Bank BNI Syariah. With the rapid growth and development of Islamic banking, this study will examine the application of *Maqāṣid Syari'ah* values in Islamic Financial Institutions, especially Islamic banks in West Sulawesi

2 Research Methodology

This research is field research. The research method used is descriptive, a research method carried out to make a description or description of a situation objectively which will later describe the research to be carried out, namely the application of *maqashid sharia* in Islamic banks. This study only describes the object's condition or problem and is not intended to draw generally accepted conclusions. This study is Islamic banks in West Sulawesi, namely Bank Syariah Mandiri, Bank Muamalat and Bank BNI Syariah. The time used in this study was approximately two months.

The population in this study is the leadership of Islamic banks in West Sulawesi. The sample that will become informants is ten people. Sampling in this study uses a non-random sampling technique. Namely, the selection is not random or random but is solely based on practical aspects.

3 Results and Discussions

3.1 The Maqashid Al Shariah Basis on Indonesia Islamic Banking

Amendment to the 1945 Constitution Article 33 In this case, the implementation of *maqāṣid al-syarī'ah* in Islamic financial institutions in West Sulawesi is devoted to Islamic Banking,

considering that no financial institutions in West Sulawesi have established sharia-based ones. Maqāshid al-syarī'ah used in measuring Islamic banking is the theory of maqāshid al-syarī'ah in the field of Islamic economics (Laldin, 2014).

This maqāshid al-syarī'ah theory is an effort to simplify the sharia indicators of a transaction in the field of Islamic economics, especially by sticking out and strengthening the maqāshid al-sharī'ah position as a parameter of an Islamic scientific study if it contains values. There is a need for a unique formulation of maqāshid al-syarī'ah in the economic field by fixing the macro and micro maqashid al-Syariah concept. Macro maqashid al-Syariah is the core of maqashid al-Syariah in Islam. It is universal and can be studied from any scientific point of view, which consists of 5 things that must be maintained (Kasdi, 2019).

a. Hifz al-Din

al-Din implies that every Muslim is obliged to carry out His commands and stay away from His prohibitions. Thus, it means that the bearer of God's mandate has maintained the existence of his religion. al-Dainun contains the understanding. If the adherents of the faith have been obedient, he has paid his debt to his Lord. If not, he will be prosecuted at Yaumul Mahsyar later. (Naro et al., 2020)

Religion, in the view of Islam, has a vital role in human life. However, because religion is a matter of faith, and faith is a matter of God's guidance, entering a religion must be based on voluntary and conscious awareness. Even religion can be said to be the essence of human existence. A man without religion is like a man who walks at night without a lamp. A philosopher once said many communities could live without science, art, and philosophy but never found a group of people who live without religion (Sofian Al Hakim, 2019).

Sharia banking is obligated to comply with religious provisions in carrying out transactions and CSR products and funds oriented towards maintaining religion. It was stated by the Head of the Sub-Branch Office of Bank Muamalat Polman when asked regarding the necessity of

conformity between practice and theories of regulations. Sharia:

"Actually, if we talk about products that are in direct contact with the religious side, of course, sir, because the forerunner to the opening or operation of Islamic banks in this case is Muamalat as the pioneer party. , the initiator too, well that is inseparable from the wishes of the Indonesian people who incidentally are the largest Muslim population in the world. We want banking that is indeed based on the Qur'an and al-Hadith, so if we say earlier, does it touch the religious side, sir, because the benchmark is Our Islamic banking is based on the Qur'an and Hadith. then also to check the product is raised, you have to go through a review. If possible, in conventional banking, it might be from the product team, the research team, it might be the issuing product, what to submit to, the authority, in this case, Bank Indonesia and motorcycle taxis, now for example, in Islamic banking, Bank Muamalat, we have a Sharia Supervisory Board DPS. National Sharia Council. So the product that is issued must have a study from the institution, which is certain that there is a study related to the sharia, now for the specific products that were asked to be in direct contact with religion, yes, sir, we have Hajj savings, there are Umrah savings too, then we also have a special savings for a mosque account. So we have savings for Hajj, Umrah and the mosque account earlier. Now, we open this mosque's account specifically because it is to accommodate the people's funds because we know for this mosque that the funds are managed by the people's funds from the people and must be returned to the people. Maybe if we talk about other banking or for example conventional or maybe in other Islamic banking, the funds of this mosque or this mosque's account are usually the same as other accounts, in the sense that from the nature of the account there is a monthly administration fee, now this is our concern in muamalat for the account We do not have a monthly administration fee for this mosque. So it's purely intact, funds from the community are from the people, that's how much they manage. And in terms of opening an account, it is much more flexible and younger because we know

that for mosques in Indonesia, especially in this Polman, not all of them are completely legal."

From the interview results, he firmly believes that the practices carried out by Bank Muamalat in Polman follow Sharia provisions. CSR products and funds also continually support the existence of religion, both ritually and in substance.

The same thing was expressed by the Branch Manager of Bank Syariah Mandiri Mamuju:

The product problem is inevitable based on religion because anything issued by Islamic banks is like that, including independent Islamic banks. There have certainly been considerations and the basis of religious law issued by the BSM bank, including the independent sharia bank. There have certainly been considerations and the cause of religious law issued by the Sharia Supervisory Board (DPS). So whatever is issued by the BSM bank, well, it is definitely without usury, and it is clear because there is a DPS (Sharia Supervisory Board). Every product that comes out from a sharia bank is fair and a halal recommendation.

The Head of BSM Polman also expressed it:

there are many in Mandiri Islamic banks. If the product is the same as CSR. If all independent Islamic banks should be in direct contact with the product, all of them should be. Why do I say they have to be in direct contact? At an independent Islamic bank, before the product is launched, it will be evaluated as well. We have a sharia supervisory board to ensure that it is sharia, so if, for example, it comes into direct contact from this site, I say everything is in direct contact. However, maybe if we speak more specifically, it means that there are products even though they are sharia-compliant, but this is a particular product, this is a problem. What is the name of the sharia? That is all. The problem for those who are in direct contact may be the nature of ritual worship.

The Branch Manager of Bank Syariah Mandiri Mamuju revealed the same thing as the results of interviews with other Islamic bank leaders:

It is inevitable that we are based on religion because anything issued by Islamic banks is like that, including independent Islamic banks. There have certainly been considerations and the basis of religious law issued by the BSM bank, including the independent sharia bank. There have certainly been considerations and the foundation of religious law issued by the Sharia Supervisory Board (DPS). So whatever is issued by the BSM bank, well, it is definitely without usury, and it is clear because there is a DPS (Sharia Supervisory Board). Every product that comes out and a sharia bank is like that, fair and halal recommendations.

b. Hifz al-Nafs

According to most scholars, led by Imam al-Gazaliy, hifzhu al-Nafs ranks second after hifzhu al-Din. Ibn Taymiyya supports this opinion by saying, "damage is sometimes in religious matters and sometimes in worldly affairs. So the most significant corruption in worldly affairs is the killing of souls without rights. Therefore, killing is the biggest sin among other significant sins, after the most significant corruption in religious matters, namely kufr."

Nasf here, according to some opinions, is spirit or life. More specifically, it is an infallible life, namely a life that has the right to be protected. As stated by Imam Khalil, one of the meanings of the nafs is the spirit or life with which the body becomes alive. However, this opinion is not correct because the meaning of nafs is much broader. The need to be a nafs is not only to maintain life but also to maintain human dignity. Ben Zagibah 'Izzuddin defined hifzhu al-Nafs by: "keeping man's self (substance) in his material and moral elements, to uphold the essence of man which is the axis for the sustainability of the earth's development, and so that his mission as caliph God became real."

Recognizing the dignity and privileges of humans, the scholars established several rules closely related to protecting their souls (hifzhu al-Nafs).

First, all maqasid al-Sharia must be closely related to the benefit of humans, whether daruriyyat, hajjiyat, or tahsiniyyat. Everything

that supports human life and quality is accepted, while anything that destroys it or degrades its quality is rejected.

Second, eliminating *masyaqqah* and rejecting difficulties in human life is contrary to its glory and the rights of life. It is prescribed to pray plural and *qasar* prayers so that human life is not difficult. Allah emphasizes that the elimination of difficulties is related to the whole religion of Islam.

Third, Islam elevates the quality of human life to conform to its *karamah*, both concerning behavior, character, and customs.

Fourth, Islam forbids all forms of behavior contrary to human behavior, such as tyranny, human mutilation (*al-Muslah*), and killing children and women in war.

Fifth, emergencies change several things that were initially *haram* to become permissible (*الضرورات المحظورات*). Human life threatened with being lost due to starvation, for example, is allowed to save it by consuming pork and *haram*.

The results of the interview with the Head of the Sub-Branch Office of Bank Muamalat Polman about the partiality of Islamic banks on human rights, such as the right to live and maintain life:

If there is no particular program from the bank because it is a financial institution, but for cooperation, we work together if we have life insurance. This institution is a *sharia* independent *aksa*. Yes, there is a *sharia aksa*. It is spiritual. However, indeed the bank sells the product. It only facilitates some branches that do have KSR financials. From *sharia* insurance in several departments but coincidentally in Mamuju, there is none, so the product is not marketed. Yes, the customer is indeed automatic. Maybe the financing is like that. Financing so every financing we must ensure. I took care of that earlier. If in the middle of the soul there is something that dies, it is automatically disaffected by aspiration.

The same thing was expressed by the Head of the Sub-Branch Manager of Bank Syariah Mandiri:

So, if we look at this, what is the name for, to be more specific? Let's discuss it. If we are insured for our employees, we think there is a BPJS with an email to make it easier. Thank God that there are no problems for employees of independent Islamic banks for their health problems with this. Furthermore, if it's credit, what if, for example, the customer requires financing to continue to die? That's how we also need it to have life insurance. We insurance for several categories of financing, we share it. Well, suppose the collateral is not collateralized car or house. In that case, he has life insurance as collateral, plus usually, we also use layoff insurance. For example, he dies, and the insurance is processed to pay his debts so that his heirs don't have to bear the burden.

c. Hifz al-Aqal

Humans exist because of their minds. At least, that is what Rene Descartes believes through his prevalent theory. "I think that is why I exist. Long before that, Islam came with teachings that highly valued the function of reason. There is no ministerial responsibility for people who have no sense. All worship in Islam requires the normal (healthy) functioning of the mind. The phrase "*la Dina liman la 'aqla lah*," there is no religion for people who do not have a reason, shows how important reason is for the establishment of religion. Because of the importance of the function of the reason for humans, Islamic teachings appreciate and emphasize that it is protected from various factors that can damage it."

All religions in the world place reason in an essential position because one of the conditions for understanding and practicing religion is the proper functioning of logic. Only intelligent beings can think and then believe in the existence of God. Many people who have a reason do not want to think about it and believe that God's existence is another matter. In other words, one of the capitals to accept God's existence and understand religious teachings is the reason.

When asking for information from the Branch Manager of Bank Muamalat Polman about how the contract in *sharia* banking must be rational,

maintaining reason must be sustainable, and improving education as an effort to preserve the greatness of cause:

"Even so, we support the activities, especially for what activities. School supplies, prayer equipment for students are also available. For BS, we do it for student fees when they graduate, when the best graduates graduate. There are also many in Mamuju, Muhammadiyah in Mamuju and then there are also several others, sir, in Mamuju as well."

Bank Syariah Mandiri expressed the same thing:

"We have a scholar investment savings. We have a scholar investment savings product for CSR we have student fees. It also depends on whether or not. There are some considerations that are given. We can also give scholarships in 2000. Muhammadiyah University of Kendari had 100 million scholarships."

The leadership of Bank Syariah Mandiri Mamuju Branch expressed the same thing as the leadership of other bank branches:

"If there is no special program from the bank because it is a bank institution that specializes in finance, but for cooperation, we really work together if we have life insurance, this institution is a sharia independent aksa, yes, there is a sharia aksa, it has the soul, but indeed the bank sells the product, it only facilitates some branches do have KSR financials. From sharia insurance in several branches but coincidentally in Mamuju there is none so the product is not marketed."

Keeping the mind, in this case, is how to ensure that the economic process must be rational and not harm anyone, while to achieve a rational mind, it must be supported by sufficient knowledge. The products of Islamic financial institutions must be oriented towards the fulfillment of the education rights of the community. Islamic financial institutions must run programs based on the development and support of education itself to achieve the primary goal of sharia in the form of his aqal or maintain reason.

d. Hifz al-nasal

Islam prescribes marriage to channel sexual instincts lawfully and legally. Marriage protects offspring and honor. Protecting offspring is preserving it and keeping the lineage clear. Likewise, defending honor, it is recommended to find a partner within limits set by the Shari'a. Islam is against promiscuity which often leads to undesirable things. To avoid these problems, Islam prescribes ways to protect lineage and honor.

Insha Allah, the customer's funds are guaranteed to be halal and will positively impact the family and descendants supported by these savings and business funds.

Branch Manager of Bank Muamalat Polman, when asked a question regarding the implementation of maintaining offspring such as getting married, giving birth, aqiqah:

We have multipurpose financing products. So, those are the requirements because when we talk about Islamic banks, they are different from conventional ones. One of them is that he must have an underline, in this case, the basic need for that person. So it is not borrowing money that will be returned with the money, but there is a real need. However, if it is related to the previous instructions for conditions, such as getting married, we have all kinds of multipurpose financing, but we also focus more on saving plans. The savings for this plan, sir, can be used for educational planning, wedding planning, planning, for example, demanding childbirth, and this savings plan, there is no administrative fee discount, sir.

Meanwhile, the Chairman of Bank Syariah Mandiri Polman said:

They say that for walimah purposes, he is included in multipurpose. There are many multipurpose contracts, so there are many parents for the cost of their child's marriage.

The Head of Bank Syariah Mandiri Branch explained briefly about keeping offspring:

If there is no special one, but in Mamuju, but for other branches, because some in this BSM branch are already in this plot, what are they

selling? What is this selling? It exists because the product is a financing product, but it is intended for marriage. Yes, it does exist.

The banking sector carries out the care for offspring by preparing multipurpose financing to be used by anyone in need, including the funding of marriage, aqiqah, and to continue to maintain the continuity of the development of human life.

e. Hifz al-maal

Assets in Arabic are called mal (singular) amwal (plural). This vocabulary in various forms in the Qur'an is repeated 86 times. There are several views of the Qur'an on the utilization of assets, namely;

First, the property is a deposit and a trust. Even though it belongs to and is created by Allah, but Allah SWT. It gives the mandate and power for humans to use and utilize it as a deposit and trust and at the same time as a "representative" of Allah to distribute the assets obtained to those who are entitled.

Second, the treasure is a living decoration. Humans have a strong tendency to own, control, and enjoy wealth. It is a human instinct to be happy and loves material things, physical and material in productive assets.

Third, wealth is a test of faith (fitnah). Wealth is not a bad thing and is not a torment, as some people think. It is also not a measure of the high status of its owner or a sign of virtue and piety. As some others believe, it is a blessing from Allah and a test for the owner, whether grateful or not. Kufr. Therefore, Allah SWT. Calls wealth as "fitnah," namely tests and trials.

Fourth, property as a provision for worship. The property owned by a person should be used for prayer in the form of carrying out Allah's commands. The worship is in the form of issuing zakat every year. Donate at any time or give alms to the needy in an available and limited time. Anytime when you have wealth, donate or donate to the poor.

The leadership of Bank Syariah Mandiri Polman revealed that in developing and

maintaining assets, products that can be used to create assets are offered:

"So, for business, we divide it into three levels. In the first independent Islamic bank concept, the micro-micro level is up to 250 million. The microscopic level is above him, up to 5 billion, and the corporation is above the commercial. The above 5 billion is divided indeed because each business group has different handling, what is the name. This small one, this micro one, is a bit different. The handling pattern is different. For example, the person with 200 million credit and the 4 billion credit person are different sociologically. That is why they are made different."

while according to the head of the Bank Muamalat branch said:

Yes, there are for business development, in principle, there are 2, what are the types of financing, there are work warehouses or investments

Meanwhile, according to the leadership of Bank Syariah Mandiri Mamuju:

If we invest directly, there is nothing more than cooperate with the insurance. Aksha Mandiri Syariah Insurance, so there is a program so that some of their funds are invested in the sharia sector, maybe there is a share of the results to the customer. However, indeed it is not a bank customer. An insurance customer, only a sharia bank, says that the customer needs money. I want to invest in sharia more sharia. Here is the product.

Protect property. It is manifested in every product issued by the bank. The bank seeks to maintain and allocate customer funds lawfully and adequately and make a reasonable profit. In addition, it can also be seen from the implementation of the zakat system, which aims to clean up customer assets transparently and together.

The issue of property development is a severe concern of Islamic banking in West Sulawesi by developing and offering products in the investment property development such as mudharabah and musharaka products.

4 Conclusion

The formulation of *maqāshid al-syarī'ah* in the field of sharia economics is essential to be used as the primary reference in facing the challenges of conventional economics that continues to grow, *maqāshid al-syarī'ah* is used as a guide and guidance in carrying out sharia economics. *Maqāshid al-syarī'ah* macro means efforts to maintain the interests of religion, soul, mind, lineage, and property. It is *Maqāshid al-syarī'ah* which is universal which has become a consensus of scholars, *Maqāshid al-syarī'ah* becomes the rail that guides the direction of Islamic financial institutions and Islamic banking to continue to innovate products and contracts to keep it from being too rigid so that it does not become too rigid. It can develop, but at the same time, the sharia also needs to be maintained in order to remain consistent. Sharia Banking in West Sulawesi have implemented *maqāshid al-syarī'ah* as an essential part of running Islamic financial institutions' operations. It can be illustrated from the results of interviews conducted by several informants.

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