

PROFIT MAXIMIZATION IN ISLAMIC BANKING: AN ASSEMBLAGE OF MAQASID SHARIAH CONCEPTION

Khairul Mukminin

Institute of Islamic Banking and Finance, International Islamic University Malaysia

Abstract— This paper aims to achieve enlightenment from *Maqasid shariah* in terms of profit maximization within Islamic banking. Therein the study conducting library-based approach for every single data obtained by virtues of books, articles, and other scholastic literatures and additionally different supporting approaches, namely Islamic jurisprudence, regulatory framework, accounting, and risk are engaged in this paper to exhibit more substantial apologia as regard of the topic. In respect of finding, making the best use of resources to achieve profit maximization within the bounds of the *maqasid* should be believed as maximization of other fundamental independent-rights, inter alia, right of Allah (*zakah*) and right of state (taxation). Moreover, the profit generated ought to bring refinement not solely to strengthen the standing of *nifs mal* (preservation of wealth), but also to nurture whosoever Muslim person who successfully transforms its distress, time, and assets into financial gain. It is obvious that in shariah perspective specifically in the case of profit, nonetheless the right of Allah is the supreme, the right of human-being coming first after all worldly-obligations are adequately accomplished. Differently expressing, *Maqasid al-shariah* is a conception of precedence on how putting the best interest into the right time and the right place without inflicting suffering on the other interests with purpose that every single of interest could be on stage in the long run. For all practical purposes, this study call attention to the muslim public particularly by not losing sight of the fact apropos to the most fundamental of the *maqasid* principally in the circle of wealth namely, protection and establishment sequentially whereby IB should not be dictated to move with insistent haste by taking exhortations of greater distant of *Maqasid* provided by numerous contemporary Islamic scholars due to inherent nature of the bank per se. Through careful interpretation, this study encapsulates on how to derive and benefit from the *maqasid* by stages (protection, establishment, nurture) rather than in an instant manner.

Keywords- Profit Maximization; Maqasid; Shariah Maxim; Risk

I. INTRODUCTION

An honoured Islamic scholar, Dr Mohd Daud Bakar, alluded that there is clear ‘dichotomy’ about both terminology of shariah compliant and shariah based products in contrast with the past practices [1]. The chief point should bear in mind

on this disputation is it is evidently presenting that the concept as well as the implementation of shariah compliant product in the Islamic financial institution particularly is a merely resembling its conventional products counterpart. For instance, debt-based contracts instead of *mudarabah*. Little is known by Muslim nonetheless that the various *aqad* introduced by shariah such as *mudarabah*, *ijarah*, *salam*, and *istisna* to name a few, originally produced in the pre-Islamic history [1].

It is noteworthy to note however, notwithstanding some scholars approach the bank on predominantly accomplishing *mudarabah* and *musharakah*, debt-based transactions in contrast with the scholars’ suggestion, is already given as a commercial instance by the Prophet Muhammad SAW. As mentioned in on hadith from Anas (r.a):

“The Holy Prophet (pbuh) pawned a shield with a Jew in Madinah and he took from him some barley for his family” [2]

What is more from the aforesaid hadith, firstly it evidently displays that the Prophet transacted in deferred payment whereby the Prophet acted as the purchaser. Secondly, regardless who officially required or offered the pledged asset, the Prophet substantiates the affirmation of providing security facility (*rahn*). Logically speaking, it evidently shows that notwithstanding the Prophet Muhammad (pbuh) is eminently named *al-amin*, the trust should be manageable in feasible arrangement with objective that the value of both agreed parties shielded. Thus, a question might arise, how about an ordinary Muslim while their Prophet (pbuh) himself gives an economic example through debt-based together with its collateral? Likewise, while conducting commercial transaction, a trust might be built in tangible form. Put it simply, the existing of collateral secures and manages uncertainty events such as default risk, breach of contracts, and possibility of inability to pay either deliberately or unintentionally in the future after the financing facility given to the customers. Hence, the stance of both parties shielded by the *rahn* per se.

Up to this moment, Islamic banking in general habitually remains averse to risk-taking. In terms of provisioning a financing facility, debt-based facility apparently exercises control over profit and loss sharing practice. It is an undeniable fact that plenty of shariah scholars advocate IB put PLS into effect in the banking daily transactions. For instance, with

purpose of implementing as well as manifesting justice within the bounds of *Maqasid shariah* in commercial proceedings, Islamic banking is advisable to carry *mudarabah* as well as *musharakah*, instead of the debt-based. As augmented by Antonio, Sanrego, and Taufiq [3] below:

“So that whatever the outcome of the business (profit or loss), profit sharing system ensures no parties mutually agreed to do business, to feel aggrieved. Those who do business (*syarikat*) will get results in accordance with the respective portions.”

At first glance, it is truthful that the thought of PLS could prevent involved parties from resentful aptitude since the forethought is born with its origin in the business performance. However, should Islamic banking rely heavily on PLS? Irrespective to the bank positively or negatively performs, in fact, the bank substantively possesses diverse liabilities which is unable to be negotiated. Moreover, whether a contract adhere to shariah, as matter of fact, the bank is not immune to uncountable riskiness due to its inherent nature that comprise tremendous cycle of liquid assets, inter alia, the likelihood of embezzlement, bribery, and mismanagement which could come in the scene in the form of collaboration (involving insider and outsider).

Thus, this study employs doctrinal methodology research by dint of deliberating several pieces of information from financial cost required by the bank to manoeuvre in banking ecosystem as well as financial forensic reports from varied financial service-based providers with main purpose that the paper could postulate and corroborate the implementation of holistic tenets of *Maqasid Shariah* that fully consider possible likelihoods in Islamic Banking without reservation. Since preservation and protection become the paramount aspect of each and every element of the *maqasid*, it should then become fundamental understructure to gauge the regulatory framework in which the bank normally operates under dual-banking system so that stakeholder be it internal or external could be on stage in the long run.

II. OVERVIEW OF ISLAMIC BANKING IN BOTH ISLAMIC JURISPRUDENCE AND SYSTEM OF STATE LAW

A. *The Stance Islamic Banking in the Sphere of Shariah: Islamic Banking as Fictitious Person*

First, Whilst most of society together with numerous writings and critics as regard of *Maqasid al-shariah* make every effort to impose Islamic banking on several holistic actions such as paying zakat, implementing real shariah-based contract such as *musharakah* & *mudarabah* (instead of a mere shariah compliant), contributing on minimizing poverty rate, and fairly distributing income to name a few, does not it mean IB have religious obligations? while it does so, would IB perform or be imposed on other religious practises such as five-time prayers, fasting, and even making pilgrimage to *Makkah*? This line of thinking may create self-contradiction and unreliability since what would be found is ‘deficient legal capacity’. Moreover, it would bring a greater ambiguousness upon how the execution of penalties could be promulgated. On

grounds of that issues, most of classical Muslim jurists turn their back on the fictitious personality [4].

It should be taken into consideration that in the context of this study, the Islamic bank is undeniably the fictitious person what the study leads to. Upon deep contemplation, classical Islamic scholars notice that concept of legal person towards fictitious personality is hardly accommodated within Islamic Law. The reason behind this is for in many cases it causes thoughtful disputation i.e. the key issue concerning legal capacity of the fictitious persons. Other than that, it is a spurn of ‘inflexible doctrine of Islamic law’ that is philosophically challenging since no matter how hard the scholar try to derive a *hukm* for the extent of Islamic banking along with its complex attribute, they would be found on no occasion in the text [4] [5].

The aforesaid elaborateness seemingly conveys a bit cloudless deliberations. First, it is faithful and flawless that what majority of Muslim contend over fictitious person is unmistakably unaccommodated within Islamic law. It is not solely because of neither deficient legal capacity nor imperfect legal capacity, nevertheless, it also could scarcely be traced under both course of natural or acquired causes of defective legal capacity whereby the original intention and endeavour to bring this issue is trying to treat it as *Mahkum ‘alayh* (the subject of the law). Undeniably, circumstances of defective legal capacity namely minority (*sighar*), insanity (*junun*), idiocy (*‘atah*), sleep and fits of fainting (*nawm*, *ighma*), forgetfulness, (*nisyan*), death-illness (*marad al-mawt*), intoxication (*sukr*), jest (*hazl*), indiscretion (*safah*), coercion and duress (*ikrah*), and mistake and ignorance (*khata*’, *shubhah*, and *jahl*) would hardly be traceable in the context of fictitious person like *bayt al-mal*, corporations, and other forms of faith-based organization [4].

Second issue is another possibility, the existence of Islamic banking as one significant part of financial institution as a whole by nature appears to be a ‘vehicle’ rather than the subject of *hukm* per se. Briefly mentioning, this ‘vehicle’ is a comprehensive medium which has unique identity and comprises individual as well as collective individuals as ‘temporal passengers’ (in the biosphere of IB, simply put, consisting of internal stakeholders specifically shareholders, shariah board, board of director, senior management, employee, and so forth) so that they could arrange their mutualistic duties effectively. Above and over, the hustle and bustle of the banking is not a five-finger exercise and utterly done by single person like a traditional commerce. In truth, the previous genus with plenty daily duties mentioned above are not only interacting among the internal person with different interest, but also should get in touch with other significant stakeholders such as customers, legislator (lawmaker), regulators, central bank, and other financial authority.

Therefore, third concern that should be taken into consideration is the presence of IB is the area of state whereby it is extremely dependent on the power of the authority. Over and again, the Muslim jurist would not take the long view on this kind of concern for in given place and given time, the IB

and all its attributes therein could be interchangeable among jurisdictions.

B. Legal Standing of Islamic Banking in the Compass of State Law: Islamic Banking as Legal Person

In some manners, the discussion of fictitious person from Islamic law is more challenging than state law. However, since in many Muslim countries, Islamic banks exist in dual banking system whereby banking industries either shariah-based or conventional are controlled, influenced, and regulated by local or national government, thus it is important to examine the commonly-employed term in Islamic law with other jurisdictions in which IB is governed and acted toward legal person.

More significantly, with purpose of appreciating and minimizing the farther argumentation, Malaysia jurisdiction comes down in favour of the purpose of the study as the designated Muslim scholars within the bound of Shariah Advisory Council of Bank Negara Malaysia (SAC of BNM) acknowledged as legitimate entity. Pursuant to Central Bank of Malaysia Act 2009, the SAC ascertains shariah compliance [6], circulate shariah rulings [6], and bind legally in judicial proceeding namely court and arbitrator [6] as regard of IB’s business, activities, and operations.

Hence, the study would approach example and evidence from Malaysian Jurisdiction in the orbit of legal framework of Islamic banking business in which it is Islamic Financial Service Act 2013 (IFSA) that governs local and international Islamic bank under prescription from Minister of Finance [7]. Fortunately, the term of ‘legal person’ is easily attainable. In Part 1 of Section two concerning interpretation, it propounds some issues this study would like to spotlight as juxtaposition of Islamic jurisprudence substantially. They are three paramount concerns of Islamic law namely the source (lawmaker), the act, and the subject of the law that could be identified on following table:

TABLE I. ISLAMIC BANK AS LEGAL PERSON IN MALAYSIAN JURISDICTION

Subject to	Interpretation
<i>Source of Act is Malaysian Legislator</i> The Act: Islamic Financial Service Act 2013	
Objective	<i>“An Act to provide for the regulation and supervision of Islamic financial institutions, payment systems and other relevant entities and the oversight of the Islamic money market and Islamic foreign exchange market to promote financial stability and compliance with Shariah and for related, consequential or incidental matters”</i>
<i>Subject of the Act</i>	
Person	<i>“includes an individual, any corporation, statutory body, local authority, society, trade union, co-operative society, partnership and any other body, organization, association or group of persons, whether corporate or unincorporated”</i>
Licensed Person	<i>“means a person licensed under section 10 to carry on licensed business”</i>
Licensed	<i>“means a person licensed under section 10 to</i>

Islamic Bank	<i>carry on Islamic banking business and includes a licensed international Islamic bank”</i>
Provision of Finance	Entering into or making an arrangement for another person to enter into, the businesses or activities which are in accordance with Shariah including <i>musyarakah, musyarakah mutanaqisah and mudarabah, murabahah, salam, istisna, ijarah, to name a few.</i>
Right and Obligation	Right: Commercially conducting Islamic banking business prescribed by the Act Obligation: Conducting shariah Compliance as well as other compliance by this Act such as business granted, governance and other relevant act namely Central Bank Act 2009, Companies Act, Anti-Money Laundering and Anti-Terrorism Financing Act 2001, Whistle-blower Protection Act 2010.
Punishment/penalty imposed for breaking Act, contract, compliancy	Failure to compliance with Shariah regarding aims and operations, business, affairs and activities. <i>“Any person who contravenes subsection (1) or (3) commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding eight years or to a fine not exceeding twenty-five million ringgit or to both.”</i>
Relaxation	<i>“Where an institution becomes aware that it is carrying on any of its business, affair or activity in a manner which is not in compliance with Shariah or the advice of its Shariah committee or the advice or ruling of the Shariah Advisory Council, the institution shall—</i> <i>(a) immediately notify the Bank and its Shariah committee of the fact;</i> <i>(b) immediately cease from carrying on such business, affair or activity and from taking on any other similar business, affair or activity; and</i> <i>(c) within thirty days of becoming aware of such non-compliance or such further period as may be specified by the Bank, submit to the Bank a plan on the rectification of the non-compliance”.</i>

Source: IFSA of Malaysia

As has been spotlighted above, the state of Malaysia enacts a comprehensive act that govern Islamic banking for Malaysian community so that it is obvious and possible to achieve. For instance upon this impression, it could be traced on the financial statements of the bank in a way that yield fiscal gain. In other word, what specified by the act is not impossible to be implemented. On top of that, it should be appreciated and eulogized, not solely because the state successfully display or deliver its right over IB, yet, greater than that it substantiates, endorses, and ensure numerous elements of the Islamic law within the range of the act.

III. READDRESS ASSUMPTION OF THE MAQASID

A. Is the Interest of Temporal Interest an Ultimate Objective?

The above question connotes “What is the objective of Allah SWT over human-being along with its temporal attributes?”. Hence, this chapter begins with the two very fundamental objectives of law which are instituted by Al-

Ghazali. They are both purpose of the Hereafter (*dini*) and purposes having relevant to worldly interest (*dunyawi*). Al-Ghazali has proved them beyond doubt that it makes no difference while there are so many elements or dimensions of *maqasid* attributed by Islamic scholars, their proposition would backtrack on the aforesaid principles of Al-Ghazali's. The further issue is however whether the purposes of worldly things are directed at spiritual aspect or at mere temporal benefit. For instances in several academic writings of *Maqasid Shariah* which proposes and urge major stakeholders of Islamic banks, they have fancy for IBs to implement social plus environmental responsibility, equality in terms of distribution of income, and alleviation of poverty to name a few. Broadly speaking, while the principle of *dunyawi* are divisible into four general dimensions namely *nafs*, *nasl*, *'aql*, and *mal* as a matter of fact, it is mindful as well that these four dimensions come into the scene of *maqasid* with aim that they ought to be profitable for the sole *dini* i.e. the Afterlife purposes.

Imran Ahsan Khan Nyazee [4] attracts attentive discussion by alluding other values that might be preserved and protected in different jurisdictions among Muslim jurist and western law. He enhances that it is highly possible that the purposes by recent community and society either in the name of *Maqasid Shariah* or Justice (with references to the Western) would come together and intersect in the same dot such as issue of equality, security, civilization, and independence. Regardless of how they differentiate each other, it should be borne in mind that the engagement of those might be placed as a possible field. Meaning that, they may be changeable from time to time, from one person to person, from one regime to the other, or from one circumstance to the other.

For all intense and purpose, it is worth mentioning that the Islamic World View teach Muslim not merely maximizing profit. Hence, a question might arise to criticize the said statement 'what is the value of Shariah-basis banking compared to its conventional counterpart in reality that even dominating the market-share, generating much more profit, and at some time even allocating abundance philanthropy to society over the globe?' Logically what this subsection is trying to bring forward in these respect is that shariah scholar particularly and Muslim in general should radically endorse as well as promote not solely to countless temporal advantages and virtuous conducts but also to the ultimate objective which is unquestionably presented at the opening of this section as against the secular point of view.

Chapra [8] call attention to muslim as regard of capitalist which transform into socio-economic and equitable distribution due to a mere social or political pressure. It is therefore Utilitarianism, Capitalist, Socialist and other doctrines that only aggrandize the worldly whim the Muslim scholars should be heedful of.

To advocate and convey impactful postulation to, Nyazee [4] points out significant issue regarding relationship between the temporal gain and the improvement of the Next World from two big Contemporary Shariah Scholars namely Al-Ghazali and Al-Shatibi whereby neither of them deny that the presence of other purposes on the compass of *maqasid* must affirm the

foremost firmness of *Maqasid Al-shariah* viz., the protection coupled with preservation of *Din*. All in all, Islamic banking is expected to set the world alight by manners of multifarious innovative approach of earthly *maqasid* without compromising the intention of the Hereafter prescribed by the Lawgiver over human-being.

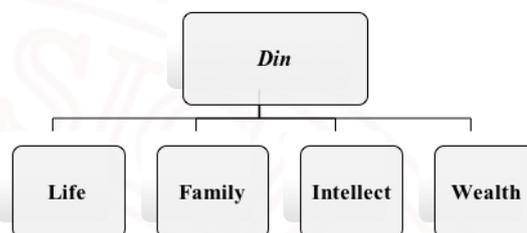


Figure 1. Relationship Interest of The Din and Dunyawi Matters in the Structure of *Maqasid al-Shariah*

Source: Nyazee, (2009)

Dusuki and Abdullah [9] advocate subtle idea to put some point of references into action in business paradigm to disregarding profit maximization and practicing *taqwa*-based to strive forward of happiness in the both worlds whereby Islamic bank needs to provide sufficient *Shari'ah* training to protect the interest of the employee's faith. For that reason, therefore it is not morally wrong by reckoning with other religious mandatories into the bargain such as providing pleasant space and tolerable time for prayer during work-hour and such since in the perspective of *maqasid al-shariah*, the establishment of prayer takes precedence over promoting the growth of the intellect.

B. Issue on Dual-Side of the *Maqasid*

As for the implementation of the *Maqasid al-shariah*, it has dual-side of coin to take into consideration viz. to convey the protection together with the establishment of the devout objective of the Lawgiver (*maqasid*) that had been derived from Islamic law (*Shariah*). Looking at these both general principles, as regard of wealth (*mal*), protection of wealth could be defined as assurance that the fund is legally protected whereas agreement that the fund would lawfully grow in number could be simplified as establishment of wealth. Bearing in mind, it does not mean that it fully guarantees the fund or capital to be increased in number, it depends on the mutual consent and nature of the contract rendered.

In the state of affairs, the organization might be under obligation to face with ethical-dilemmas circumstances. For instance, in one-side of coin the opportunity offers various potential benefit of profit and might be considered lawful from *shari'ah* point of view, however at the same time, in other contrast situations they apparently bring harmful to another party. Thus, a question might come to light, which one come first? protection or establishment of financial gain? On that

account, an example of *qawaid fiqqiyah (shariah maxim)* “Repelling evil supersedes securing benefit” [10] prevails to rule. It means while facing the tricky situations, preventing harm is preferable than taking gain.

In Islamic banking practise as was anticipated, orchestrating both establishment as well as protection are bound to happen. In the event of Malaysian jurisdiction, the paper has exhibited that Government of Malaysia (GOM) accommodates and encourages Islamic banking products and services through its system of law whereby the presence of penalty and imprisonment strengthen the stance of the *maqasid*. Accordingly, the bank bearing consequences as specified by the act. Expressing differently, the protection what the maxim attempt to encourage has been there and the rest are the responsibility or choice of the bank to innovate profitably and prudently. Thus, it is mindful that as the consequences of receiving fund from both depositors as well as shareholders, the bank would have exposures to risks, not solely risks pertaining to compliance with shariah and rules or regulations, but also risks that deliberately caused or accidentally misstated by either insider or outsiders such as fraudulent and unethical activities (fraud).

C. Precedence over the Interest of the Maqasid

One of the pure worship and it is exclusively rightful prerogative of Allah is *zakat*. The reader may be questioning whether it is right of Allah alone or right of Muslim since the *zakat* itself distributed to the beneficiaries. The response is slightly possible affirmative. It should be noted however that *zakat* is the third pillar of worship and thus predominantly belongs to Allah SWT, irrespective to whether or not there is mixture between them, in the case of *zakat*, the muslim has only single side i.e. obligation without presuming like ‘symbiosis-mutualism’. It is widely-known that *zakat* (legal alms) is obliged upon Muslims whose certain amount of zakatable object (*nishab*). Meaning that, some of them ought to do so, whereas one might not be obliged to do further conduct (*amal*) such as in the event of *zakat*. In other words, while the talk of profit or wealth comes in certain level, the obligation of *zakat* would subsequently prevail.

It is obviously stated there would be 2 (two) key scenarios in the arena of the *Maqasid*. Firstly, the higher one would prevail: e.g. *zakat* (as part of the *Din*) would come out on the top over the wealth (*mal*), only if the “certain requirement of the preservation of *mal*” being fulfilled. Secondly, the lower one would be having precedence over the higher one, only if the “certain requirement” being failed. Recall that, to achieve the *din* of *zakat*, Muslim should have zakatable assets or otherwise the obligation would be demolished. It is believed that this principle would be consistent with other elements such

aql whereby the *din* of *Shalat* would be mandatory for Muslim person who naturally or intentionally could protect his/ her intellect from intoxication or forgetfulness, and so on and so forth.

It is nonetheless so unjust on supposition that Islamic teaching present them with similar treatment. Other than paying of *zakat*, in the ecosystem of IB governed as licensed person by rules and regulation of regulatory authority, IBs is not free of taxation cost into the bargain. A bit similar in case of legal alms, the tax itself requires no give-and-take arrangement. Thus, in the next deliberation, this paper would relocate several essential sources and allocations of profit which transpire in the IB in order to identify its beneficiaries and also this paper could scrutinize concerning which interest is stronger or will prevail and which interest should be prime concern.

IV. ATTENTIVENESS TO STATES OF BANK’S HEALTH

A. Health Benefit of Generating Profit: An Analysis of Multifarious Rights Within Islamic Bank from A Financial Statement

In the commencement of this study in respect of the postulation of profit, it already responded that from Islamic perspective there is no significant issue on profit maximization. The matter of further discussion however is on ‘how to earn’ together with ‘how to spend’ the profit itself. Recall that the original intention of the paper is to seeks the *maqasid al-shariah* perspective on profit maximization. Thus, firstly, presume that as long as every single part of the activities, transactions, and business are adherence to shariah and respected laws in which the bank operates under, by all means the matter of ‘how to earn’ is dispersed.

Moving forward on the eminent aim of ‘how to spend’. Expressly questioning, the former term commensurate with ‘which party shall take benefit from the estate of generating profit?’ Initially, either Islamic bank or mainstream bank, the streaming of profit could be traced and be exhibited in income statement of annual report of the organization. However, the clear-cut distinction between them is the column of *zakat*. According to Da Jia Qian and Sivakumar Velayutham [11] profit distribution in Islamic banking could generally be separated into fivefold of entitlement: i) allowance for impairment of financing; ii) income attributable to depositor; iii) expenses/ costs; iv) *zakat*, taxation; v) profit to shareholders. Below are accounts from income statement in which the bank structurally distributes its generated income and additionally in order to display more substantial apologia, one financial statement of an Islamic bank would be employed anonymously.

TABLE II. DISTRIBUTION OF REVENUE/ INCOME IN ISLAMIC BANKING: TRACING A FINANCIAL STATEMENT

Source of Income/ Profit/ Other	Potential Obligation Accomplished	Distribution of Income/ Profit	Potential Right Accomplished
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Income derived from investment of depositors' fund Income derived from investment account funds Income derived from investment of shareholders' fund Reversal of impairment on other assets	Customers (in the courses of fund application in which a ton of repayment over financing facility successfully be arranged)	Allowance for impairment on financing and advances Allowance for impairment on investments Direct expenses	Customers (in the courses of fund application in which multiplex financing facility needs to be rearranged, let say rescheduling, restructuring)
Total distributable income <i>Wakalah</i> performance incentive fees from restricted investment accounts	Customers (in the courses of fund sources) Shareholders	Income attributable to depositor Income attributable to investment account holders	Customers (in the courses of Fund Sources)
Total net income	Internal Stakeholders: Employees Directorships SSC Members External Stakeholders: Auditor Utility provider	Personnel expenses Other overheads and expenditures Finance cost on subordinated sukuk murabahah	Internal Stakeholders: Employees Directorships SSC Members External Stakeholders: Auditor Utility provider
Profit before Zakat and Taxation	-	Zakat	Allah SWT
Profit after Zakat	-	Tax Expense	Government of Malaysia
Profit for the Financial Year	Shareholders	Earnings per Share (profit to shareholders)	Shareholders

Source: Statement of Profit or Loss and Other Comprehensive Income of An Anonymous Islamic Bank for FY 2016 with Arrangements from the Authors

In early days, accountants used to record financial accounts as single person, not as one entity or legal person in the perspective of normal law [12]. It is undeniable fact that such concept mostly impossible to be implemented in accessible annual report nowadays. However, the accounting which behave itself as an art as well as understood a science keep advancing its position over time. As the table above presents, it evidently displays on how this art works displaying heterogeneous interests in the form of unique accounts along with balancing between liability and income. In holistic virtue, this outlook brings to minds one shariah maxim which seemed corresponding to above matter i.e. “*entitlement to profit depends upon liability for loss*” [10].

Prof Dr Muhammad Tahir Mansoori alluded that “*the maxim means that the one who incurs risk and liability of a thing, is entitled to its benefits against the liability*” [10]. Addition to be noted. It may be realizable and applicable that imposition of taxation by a government is sensible therein since it is unmistakably due to the vital role of the government ensuring and providing good climate of economic and business during the crisis or even in the sound condition.

1) *Between Profit and Bank's Liabilities*

As simply elucidated in the prior subsection, it evidently exhibits that the *Maqasid al-shariah* has level of precedence in terms of execution whereby at certain level one would not be enforced to administer higher-ranking conduct while the antecedent priority disregarded or otherwise the higher-level *maqasid* would be enforceable. In a word, the conception of the *maqasid* din the best interest into the right time and the right place without inflicting suffering on the other interests.

a) *Allowances of Impairment*

As per the above table (Table 2), it shows to the public clear-cut accounts that before income distributed to the depositor the paramount priority firstly come into the scene of

rectification of financing plus investment. Turning the spotlight on the account of ‘allowance of impairment’. It is an ultra-fine example of redressal hardship especially on the execution of a maxim i.e. “*Harm has to be redressed*” whereby the maxims could be applied when an actual loss has occurred [10]. The maxim also advises that the party whose difficulty issues should be given assistance to remedy. In IB perspective, it is primarily obvious that IB should give its customer assistance to meet the arrears of a financing facility such as by provisioning of restructuring and rescheduling. Even so, the moral imperative come into customers’ consciousness as well since Islamic Law also protect and safeguard the right of every single of entity in the bank so that the bank could mitigate various related-risk to reduce non-performing financing. Therefore, each party should seize initiative and come up with warm-hearted ‘round-table’ to settle facultative-mutualism.

b) *Distributable Income: Expenses, Expenditures, Zakah, and Taxation*

In different respects, multifarious expenses and expenditures such as staff’s salary, wages, commission, Directors and Shariah Supervisory Council (SSC Members’) remuneration, advertisement, IT expenses, office rental, and so on and so forth thereupon are disbursed from the net-income. It must be realizable that in the sphere of expenses or expenditures, the company in general as well as Islamic banks particularly, they have ‘fixed-cost’ accounts which cost the bank large amount of revenue produced time after time and could not be compromise by the bank’s performance namely, staffs’ salary, maintenance expense, utility charges, to name a few.

The pay-out of *zakat* as well as tax are apportioned respectively afterwards. Lastly, the owners of shares in the company shall takes their portion after every single one of interest mentioned earlier settled.

One thing is significant to bear in mind, the imposed taxation initially is not advocated under Islamic legal system, it becomes approved counteraction since therein the right of state to secure the public interest prevails. Moreover, it is widely-known that it comes as one of biggest part of an organization’s contribution to society for it commonly costs the bank tremendous expenses and even much higher than *zakat* literally.

2) *Achievement of Maqasid al-Shariah with Paradigm of the Profit Maximization*

In vigilant senses, this figure display how the implementation of *maqasid* in the circle of wealth in particular and other dimensions of *maqasid* namely, *Hifdzul Din*, *Hifdzul Nafs*, *Hifdzul 'Aql*, and *Hifdzul Nasl* in general.



Figure 2. Achievement of Maqasid Al-Shariah

Source: Adapted from Imran Ahsan Nyazee’s Book in Deliberation of Maqasid

The named illustration gives a logical apologia that the pre-eminence *maqasid* which as far as one could judge having precedence over the lower-ranking *maqasid*, nonetheless gives the inferior *maqasid* the nod after all ‘non-religious’ obligation appropriately accomplished. *Maqasid al-shariah* demonstrates a logically-accepted and holistic conception of precedence without inflicting hardship on the other interests. In clear-cut manner, the above figure which is supported by Table (2) exhibit that successfulness of protection as well as certain level of establishment (nurturing) within the bounds of wealth would bring a new positive result, inter alia, let say *zakah*, otherwise the higher-right viz. the right of Allah, the Lawmaker, would not abide.

In the field, even in order to provide a set of programme of *shariah* training, the certainty of profit is inevitable. Additionally, it is believed, this understanding would bring consistency to other *maqasid* namely *Hifdzul Nafs*, *Hifdzul 'Aql*, and *Hifdzul Nasl*. For instance, in the sphere of intellectual (*'aql*), a Muslim person who fail to protect his (*'aql*) either deliberately (intoxication) or accidentally (idiocy, minority) would not be mandated for conducting religious activities such as prayer. In contrast, while it could be prevented or achieved, nevertheless the establishment of *'aql* such as being knowledgeable (informed, educated, trained) come into the picture.

B. *Bad Scenario of Health Hazard: Warning Signs*

This part might be harsh somewhat. However, the authors see the parts which are about to be specified should become visible. Simply put, profit and loss is like dual-side of coin accordingly. Above and over, major issue is notwithstanding on the surface IBs have shariah compliance and other adherence to other laws, it does not mean that the bank is immune to or not exposed to risks or other unexpected events such as misstatement, loss, and fraud. Moreover, it is expected to convey prudent awareness on the matter of maximizing as well as building *shariah*-basis workforce, instead of a mere profit maximization. Therefore, it is important for whosoever stakeholders to take these matter into account.

1) *Bad Scenario 1: Failure of Reaching for the Star*

To begin with, opening case would glance at one Islamic bank scandal in Dubai i.e. Dubai Islamic Bank. It is one of the largest fraud which took place in Dubai and heard its First Instance in 2008 [13]. Additionally, it revealed six white-collar crime in which the biggest portion of loss derived from imprudent provisioning of restructuring: two-men Pakistani that held senior executive positions of DIB (a-39-years-old finance manager together with his 50-years-old deputy), two-men Britons businessman (a-48-years-old and a50-years-old), a-36-years-old Turk businessman, and a single American businessman (the financial manager’s sibling) [14].

Briefly in 2011, the perpetrators came to light for granting-accepting bribery (kick-back); providing-approving bogus financing documents (forgery); unlawful profiteering; ignorance on regulation of credit limit allowances; conspiring on embezzlement of public fund; deliberately causing loss over DIB, and government and its entities [15] in the scandal when the highest court of Dubai sentenced the seven defendants for ten-year and issued the verdict of fine payment of Dh to USD 501million [15] and USD 2million [15] as the compensation of loss against DIB.

These are other learnings from others Islamic banking:

TABLE III. LOSSES EVENT IN THE ISLAMIC BANKING

Year	IBs	Loss due to Lack of Governance
1997	IBSA (Islamic Bank of South Africa)	The IBSA was closed in November 1997 with debts of between R50-70 million due to lack of supervision from regulator, bad management, weak risk management, and large number of loans given to insiders. The IBSA was unable to compensate all of depositors who were mostly Muslims who specifically had saved their money to perform their hajj.
2005	BIMB (Bank Islam Malaysia Berhad)	The BIMB declared losses of RM457 million in 2005 mainly due to the provisioning of RM774 million as consequences of bad financing and investment. The issue regarding unappropriated number of board plus no board whose familiarity with banking sector as well as no sound and proper credit and debt collection. Cumulatively, Bank Islam has a gross non-performing loan (NPL) portfolio of RM2.2 billion.

		(Mushtak Parker, 2005).
2008	DIB (Dubai Islamic Bank)	Fraud case of USD 501million revealing different high-level position and nationalities of perpetrators. Some issue arisen: Overdependence on the security pledged, weak enforcement of corporate governance disclosure, poor judgement of risk management.
2011-2012	Bank Syariah Mandiri of Indonesia	Barring providing-approving bogus document of financing facility for fictive customers worth more than IDR50 billion, the fraudster did mark-up around 50% on the financing given.

Source: ISRA (2013): Islamic Financial System: Operation & Principles [16] and Mukminin (2018) [17] and other sources

2) *Bad Scenario II: Profit Maximization or Greedy?*

Looking back at the period in which the global suffering pecuniary crisis, both global-popular-auditing-companies EY and KPMG put the rationale of ‘white-collar’ committing multifarious financial crime during period of financial crisis on the display. EY Survey [17] figured out that fraud motivations in the Middle East mostly due to selfish desire for wealth (greediness), followed by opportunity to manoeuvre and perhaps surprisingly, personal debt play a part in as well. It is undistinguishable, KPMG on its GCC Fraud survey [18] put on the display of the reasoning behind the fraudulent dealing in which the fraudsters are substantially driven by greed as well and the hunger for grandeur habit and opportune moment (opportunity).

V. REINVESTIGATING THE ATTRIBUTES OF MAQASID SHARIAH: DO IB NEED MORE ELEMENTS OF THE MAQASID? OR SHOULD IB SCREEN THE BEST MAQASID ON ITS OWN?

Recall that in the beginning of this subsection, the paper highlighted already that the first and foremost objective of *Maqasid al-shariah* over the *mal* is the protection of fund whereby certainty of capital as well as legal protection are the primary concern, following by the establishment on how to grow the fund in beneficial manners. However, it is so astonishing while the profit is maximized. ‘Does not it mean the gain for others namely, depositors, *zakat*, and tax to name a few also increase at maximum level?’ Nevertheless, while there is high demand to extend the money in some more profitable investments, the protection would take precedence over the establishment.

Above and over, the bank should not move with insistent haste by taking all exhortations. The study has approved that the bank is not immune to uncountable riskiness, hence it is unjust giving thought to the bank by putting it into greater extent of riskiness. The biggest worry and concern is banking institution is frangible to potentials of the varied fraud [19] regardless of the fact major jurisdictional actions and IT System have been implemented. It is irrefutable and inherent nature of a bank since compared to other service-based or physical-product corporations this financial institution comprehends large cycle of very liquid capital, money-that is to say. Meaning that, more considerate, moderate and prudent deeds must be in step with Islamic principles as well as local law.

It appears from above analysis of the maqasid, IB is not advisable to get involved in normal profit or even maximizing its sources of fund into financial gain. It also apparently that the notion of social movements advocated by Islamic scholars and Muslim community is not fully acknowledged here. Again, for all intense and purposes, this study call attention to the muslim public particularly by not losing sight of the fact apropos to the most fundamental of *maqasid al-shariah* in the circle of wealth and not urging the IB excessively beyond the capability of the bank for instance in riskier contracts. In this respect, one maxim could again be applicable “*Repelling evil supersedes securing benefit*” [10].

It is alluded that “*When a person exercises a right which bring benefit to him but at the same time causes harm to someone else, he will be prevented from exercising that right*” [10]. It is needless to say that whilst the IB is lawfully and fully recognized as legal person in certain jurisdiction and thereafter in national compass in the both level of macro and micro economic frequently keep increasing in terms of assets and profitability which means it successfully managing risks and minimizing non-performing loan, therefore there is no reason for the bank to not nurturing the interest of customers in the line of sources of fund. Moreover, the bank is advisable to harmonize its profit to support not solely fortify the position of wealth itself namely investing in well-built IT system, but also to consolidate other higher-rankings dimensions of the *maqasid* such as in terms of *din* (providing appropriate prayer room), *nafs* (coming up with healthy and safe workplace), family (protecting the employees with takaful programme), and *aql* (conducting in-house *shariah* training for the workforce).

Thus, by balancing the aforesaid principles whereby the protection takes precedence over the establishment and the establishment takes precedence over nurturement, IB could preserve the value of wealth and the other higher-values in the long run and presents an ideal bottom-up or inward tenets of the *maqasid al-shariah*. These conceptions conform and ameliorate the general principles of the three alluded by Imran Ahsan Khan Nyazee that the needs (*hajat*) and norms (*hajat*) comes into the scene of the *maqasid* to be considered as the servants of the necessities (*darruriyat*). It means the presence of the former two would embellish the standing of the latter [4].

Following figure shows three elements of the maqasid the bank ought to take into accounts:

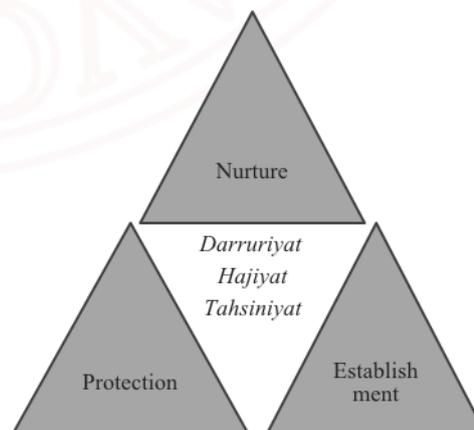


Figure 3. Figure 5 Maqasid Triangle

Source: Adapted from Imran Ahsan Nyazee (2009)

VI. CONCLUSION AND RECOMMENDATION

A. Conclusion

Maximizing of profit in the sphere of IB is always correlated and render disputation over social mandatory by most of Islamic scholars. In Islamic view, there is no material issue as regard of maximization of profit, even the *shariah* also provide that one is allowable to reduce its ratio of profit lower than its capital contribution or even selling one product under its real cost. Additionally, making the best use of resource to achieve profit maximization should be believed as maximization of other fundamental independent-rights, to be specific, right of Allah (*zakat*) and right of state (taxation). On top of that, the profit generated ought to bring improvement on security, good health, and well-being for whosoever Muslim person who successfully transforms its distress, time, and assets into financial gain. It is obvious that in *shariah* perspective specifically in the case of profit, nonetheless the right of Allah, the Exalted, is the supreme, the right of human-being coming first after all worldly-obligation successfully achieved. Differently expressing, *Maqasid al-shariah* is a conception of precedence on how putting the best interest into the right time and the right place without inflicting suffering on the other interests. Through careful interpretation, this study encapsulates on how to derive and benefit from the *maqasid* by stages (protection, establishment, nurture) rather than in an instant manner. This is believed as the essence of epistemological *maqasid* in which the term of protection means preservation and continuation without burdening other elements/ dimensions with perils

For all intents and purposes, this study call attention to the muslim public particularly by not losing sight of the fact apropos to the most fundamental of *Maqasid al-shariah* in the circle of wealth in general and in the ecosystem of banking industries particularly viz., protection and establishment sequentially whereby Islamic bank should not be extorted with insistent haste by taking all exhortations of *Maqasid al-shariah* suggested by most of contemporary Islamic scholars. It should be borne in mind however that it is not solely for the inherent nature of the bank as a defective legal person but also as an intermediary which must safeguard the fund of customers. The study also exhibits how Islamic bank evidently streams its 'raw-profit' into multifariousness interest from a financial statement.

B. Recommendation

Through the analysis and discussion above, there are some significant considerations to be recommended whereby integrating the increasing profit with aim to be in favour of other higher-level *maqasid*, as follows:

Board of Director:

- Investing Islamic Teaching as ethical culture.

- Building a bridge between shareholders and senior management to dedicate and make commitment for voluntary sustainability of development programme, besides the mandatory one such as *Sadaqah* and *waqf* [21]

Shariah Member:

- It is advisable that Shariah members being knowledgeable about risk management to mediate perception of stringent shariah-matter, or at least one member whose such expertise.
- Strengthening the positioning of wealth in the circle of the *maqasid* by virtues of balancing between nurture, establishment, and protection together with endorsing the upper-level *maqasid*.

Senior Management:

- Installing the *maqasid* in the circle of wealth and other higher-ranking *maqasid* (if possible) into the products and services.
- It is undeniable fact that during generating profit, the preservation of wealth may intersect at higher-ranking *maqasid* that should be prioritized. For example, in the time of mandatory prayer which take precedence over other *maqasid* being seated in the first dimension.
- Promoting as well as manifesting in commitment to disclosure, especially on significant accounts pertaining to preservation of *maqasid*.
- Flourishing 'Beyond Shari'ah' as Resilient Identity which means extracting both the outward appearance of shariah as well as its essence.
- Providing venue for building bridge between other stakeholders.
- Since there is no issue on PM, human capital is vital organisational person.

Regulatory Authority:

- In the perspective of Islamic Jurisprudence over banking, the study already highlighted that the presence of 'fictitious person' is very dependable on the local government to accommodate social-will towards Islamic banking industries which comes into the scene as 'legal person'. Therefore, the standing position of the government is very significance to ensure that the bank is not in the position 'between the devil and the deep blue sea' whereby in one side possess obligation to assure the fund fully protected as well as increased as financial gain and the other side imposed immoderate and excessive contribution to well-being of the society.
- The right of state in terms of taxation which naturally cost the bank tremendous expenses and even much higher than *zakat* and historically interpreted as right of community therein with purposes of public interest such as hospital and road should be disclosed and

widely-known as one of biggest part of bank's contribution to society.

Future Research

- It is noteworthy to concern the greed in Islamic point of view with aim it could bring practical sense and be align in several findings of global surveys conducted by famed organizations.

REFERENCE:

- [1] M. D. Bakar, Shariah Minds in Islamic Finance, 2016, Kuala Lumpur: Amanie Media.
- [2] M. J. Lee, Islamic Banking in Malaysia: Shariah Theories, the Laws, Current Structures and Practices, and Legal Documentation, 2017, Kuala Lumpur: LexisNexis.
- [3] M. S. Antonio, Y. D. Sanrego, and M. Taufiq, An Analysis of Islamic Banking Performance: Maqashid Index Implementation in Indonesia and Jordania, 2012, Journal of Islamic Finance, Vol. 1 No. 1 (2012) 012 – 029. IUM Institute of Islamic Banking and Finance ISSN 2289-2117 (O) / 2289-2109 (P).
- [4] I. A. K. Nyazee, Islamic Jurisprudence, 1945, 4th Reprint of 2009 by Islamic Research Institute Islamabad.
- [5] I. A. K. Nyazee, Theories of Islamic Law, 1945, 4th Reprint of 2014 by Islamic Research Institute Islamabad.
- [6] Act 701 of Central Bank of Malaysia Act 2009.
- [7] Act 759 of Malaysian Islamic Financial Service Act 2013.
- [8] M. U. Chapra, Towards a just monetary system: a discussion of money, banking, and monetary policy in the light of Islamic teachings, 1985, Kingdom of Saudi Arabia, Riyadh: International Islamic Publishing House (IIPH).
- [9] A.W Dusuki and N. I. Abdullah, *Maqasid al-Shari'ah, Maslahah, and Corporate Social*, 2007. Responsibility. The American Journal of Islamic Social Sciences 24:1. Retrieved from <http://irep.iium.edu.my/2209/1/dusuki-abdullah-maqasid%5B1%5D.pdf>
- [10] M. T. Mansoori, Shariah Maxims: Modern Application in Islamic Finance, 2012, Islamabad: International Islamic University.
- [11] D. J. Qian and S. Velayutham, Conventional Banking and Islamic Banking: Do the Different Philosophies Lead to Different Financial Outcomes?, 2017.
- [12] I. A. K. Nyazee, Islamic Law of Business Organization: Partnership, 1997, The International Institute of Islamic Thought. Pakistan: Islamabad.
- [13] A. Shaaban, Dubai Islamic Bank Fraud Case Adjourned, Khaleej Times, 2009, Retrieved from <https://www.khaleejtimes.com/article/20090428/ARTICLE/304289911/1002>
- [14] A. Mustafa, Dubai Islamic Bank fraud repayment ordered back to appeals court, The National, 2011, Retrieved from <https://www.thenational.ae/uae/courts/dubai-islamic-bank-fraud-repayment-ordered-back-to-appeals-court-1.375115>
- [15] A. Hassoune, Moody's DIB Analysis February 2010, Moody's Investors Service. 2010, Retrieved from http://media.corporate-ir.net/media_files/irol/19/199381/MoodysDIBAnalysis-Feb2010.pdf
- [16] ISRA, Islamic Financial System: Principle & Operations, 2013, 2nd Print, International Shariah Research Academy for Islamic Finance (ISRA).
- [17] K. Mukminin, 2018, How Close Islamic Banks are to Global Fraud: Learnings from Dubai Islamic Bank In The Time of Sub-Prime Crisis, European Journal of Islamic Finance.
- [18] EY, Bribery, corruption, and fraud in the Middle East: first Middle East bribery, corruption and fraud survey, 2011.
- [19] KPMG, GCC fraud survey for gulf cooperation council (GCC) countries, 2008, Retrieved from http://www.middleeasttransparent.com/IMG/pdf/2008_GCC_Fraud_Survey_English_1_.pdf
- [20] Z. M. Sanusi, M. N. F. Rameli, and Y. M. Isa, Fraud schemes in the banking institutions: prevention measures to avoid severe financial loss. 7th International conference on financial criminology 2015 13-14 April 2015, Wadham College, Oxford, United Kingdom.
- [21] P. P. Biancone and M. Radwan, Social Finance and Financing Social Enterprises: An Islamic Finance Prospective, 2019, European Journal of Islamic Finance, Special Issue Islamic and Social Finance .

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