



The Urgency of Sharia Maqashid in the Development of Mudharabah Contract in Sharia Banking

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Abstract

Fiqh maqashid teaches that the purpose of Islamic law is for the benefit of humans both in this world and in the hereafter. Thus, to achieve this benefit, every life activity, including economic activity, should always lead to the goals of Islamic law (maqashid sharia). Contracts with the principle of profit-sharing are present as a solution for Muslims to avoid the practice of usury and other methods that are contrary to sharia. Mudharabah contract applies the principle of profit sharing and is one of the service products for Islamic banking and other Islamic financial institutions. Sharia banking continues to develop by improving the quality of services for customers and society. However, Islamic banking continues to work hard to convince the Muslim community that the services provided are indeed under sharia. This paper aimed to explore the character of the mudharabah contract, which contains sharia values, and to describe the dimensions of maqashid sharia in each nature of the contract. It illustrates the urgency of maqashid sharia in developing mudharabah contracts for the benefit of the hereafter. The paper is normative, concerning norms originating from Islamic law and using a conceptual approach through the views and doctrines developed among fiqh scholars. This study concludes that the mudharabah contract reflects the values of Islamic law and leads to Maqashid sharia, namely maqashid Hifz an-Nafz (maintaining the soul) and hifz al-Maal (maintaining the property).

Keywords: *Sharia Maqashid; Mudharabah; Sharia Banking*

Introduction

The purpose of the Sharia revelation is for the benefit of both the world and the hereafter, as taught by the fiqh scholars in the Maqashid Sharia books. For the sake of achieving advantage, ideally, every dynamic of life is an embodiment of the values of monotheism to Allah SWT. The value of monotheism places Allah in all affairs as the starting point and the endpoint of the return of all affairs, including economic activities.¹ Allah says, "And to Allah includes the secrets of the heavens and the earth

¹ Anwar Abbas and Bung Hatta, 'Ekonomi Islam', Ed. 1, Kompas Media Nusantara', Jakarta, 2010, p. 11.

and all matters are returned to Him. Therefore, worship Him and put your trust in Him. And your Lord will not be negligent of what you do.” (Quran Surah Hud 11:123) It has been mentioned that the purpose of the revelation of the Shari'ah is to achieve benefit and avoid harm in two different dimensions of time, this world and the hereafter. This means that all aspects of life must lead to the achievement of these goals, including the life of economic activity, which is a human effort to meet the needs of life.²

Compiling an Islamic Economics building or any other muamalah activity cannot be separated from the Sharia Principles as the fundamental benchmark and leads to the Maqashid Sharia. Quraish Shihab believes that Islam does not teach Economics, but Islam brings values to be applied in economic activities.³ The values taught by Islam lead to benefit and avoiding mafsadah as God's purpose of lowering sharia (maqashid sharia).

It is necessary to pay attention to several studies which show that in today's economic practice, the values of Islamic monotheism in meeting financial needs are essentially abandoned by the people. As the research results from Noland show, there is no correlation between religion and a country's economic performance. A similar study conducted by Pryor concluded that Islamic teachings do not significantly impact economic characteristics, economic systems, and economic institutions in Muslim countries.⁴ Due to historical conditions, the Islamic world has lost its technology and economic vitality.⁵

In the past, Islamic economics experienced success during the caliphate. One proof of the triumph of Islamic economics is during the Caliphate of Umar bin Khattab. It is said that Caliph Umar once refused when Muadz served as governor of Yemen to send all the zakat he collected to Caliph Umar. Then Muadz said, "I have not found anyone entitled to receive the share of zakat that I have collected.⁶ The absence of people entitled to receive zakat at that time showed that people had high economic welfare. The dream to restore the Islamic economy in its heyday is still far from hopeful, like a roast away from charcoal. The reality of this success is different from the current conditions, not only in Indonesia but also in other Muslim-majority countries.

Indonesia is a country with the largest Muslim population. The Indonesian Muslim population as of February 2020 was 87.2%.⁷ Furthermore, data from the Central Statistics Agency (BPS) shows the poverty rate in Indonesia as of September 2021, reaching 9.71%, or equivalent to 26.50 million people.⁸ It is one indication that Indonesia is still far from prosperous. Some Western scholars influenced by modernization theories assume that Muslims are synonymous with decline, backwardness, and poverty. They accuse Islam and Muslim society itself of being anti-progress.⁹ It is homework for Muslims, ulama, and Muslim scholars with government support to break these orientalist views. The support and active role of the government are needed, especially those related to regulations and other policies to revive Islamic economic activities. Optimizing the functions and roles of Islamic Financial Institutions, both banks and non-banks, can help move the wheels of the community's economy through their business activities.

² Eva Muzlifah, "Maqashid Syariah Sebagai Paradigma Dasar Ekonomi Islam", *Jurnal Ekonomi dan Hukum Islam*, Vol. 3, No. 2, 2013, p. 85.

³ Quraish Shihab, 'Syariah Ekonomi Bisnis dan Bunga Bank', Lentera Hati, Jakarta, 2021, pp.128-129.

⁴ Saiful Anwar, 'Pengantar Falsafah Ekonomi dan Keuangan Syariah', Ed.1, Rajawali Pers, Jakarta, 2018, p. 13.

⁵ M. Umer Chapra and Tariqullah Khan, 'Regulasi dan Pengawasan Bank Syariah', 2nd ed. Translated by terjemahan Ikhwan Abidin Basri, Bumi Aksara, Jakarta, 2008, p. 5.

⁶ Saiful Anwar, Op.Cit, p. 10.

⁷ Redaksi, <https://ibtimes.id/data-populasi-penduduk-muslim-2020-indonesia-terbesar-di-dunia/>, 08 Februari 2020, accessed on 16 juni 2021.

⁸ Data Badan Pusat Statistik, Persentase Penduduk Miskin per September 2021, <https://www.bps.go.id/pressrelease>, 2022, accessed on 18 April 2022.

⁹ Sumanto al Qurtuby, Islam dan Masalah Kemiskinan di "Dunia Muslim", <https://www.dw.com/id/islam-dan-masalah-kemiskinan-di-dunia-muslim>, 2016, accessed on 20 April 2022.

Islamic banks, as one of the Islamic Financial Institutions, are not just institutions attached to the word sharia but also an identity that carries the mandate to advance the community's economy by seeking profit and other non-profit services (social functions). In addition, Islamic banks also carry out the order to maintain sharia entities, which in each of its operations must comply with sharia provisions. So Islamic banks are looking for profit and must always guarantee sharia in every operational activity. Various challenges of Islamic banking in its mission to advance the Muslim economy. Among other things, public confidence in the sharia banking business activities and government support is still half-hearted amid efforts to continue encouraging the progress of conventional banks. Article 2 of Law no. 21 of 2008 concerning Sharia Banking (starting now referred to as the Sharia Banking Law) states that "Sharia Banking in conducting its business activities is based on Sharia Principles, economic democracy, and the principle of prudence". Business activities based on Sharia principles, among others, are business activities that do not contain elements: *riba/usury*, *gharar*, *maysir*, *dzalim*, *Haram*.

To promote the Islamic economy, steps are needed through the development of the real sector, strengthening of Islamic banking, integration of technology, human resources, and affirmations from the government.¹⁰ Mudharabah contract is one type of service at Islamic banks in distributing and receiving funds by applying the principle of profit sharing. In this contract, one party acts as the owner of the funds (*shahibul maal*) and the other party is the manager of the funds (*mudharib*). Then the profits are divided based on the ratio (percentage) agreed upon at the beginning of the contract. Sharia banking business activities based on profit sharing should be able to revive actual sector activities while at the same time ensuring that sharia banking business activities are protected from elements that violate Islamic law. In fact, in the operational activities of Islamic banking, products are strengthened in consumptive services such as *murabahah*, *Qardh*, *Ijarah* with several variants. Services with a profit-sharing system do not get priority. Several factors cause *mudharabah* and *musyarakah* contracts to be less attractive because it is considered that this contract scheme has a high risk due to uncertainty about the return or profit of operating results, moral hazard, and asymmetric information. Anticipatory steps are needed to eliminate the *mudharabah* contract's high-risk nature. These steps do not conflict with sharia principles. The paper tries to describe a series of methods to minimize the risk of *mudharabah* contracts using *maqashid sharia* parameters.

Discussion

Maqashid Sharia Concept

Islam as a mercy for the entire universe has complex teachings covering all aspects of life, both about the relationship between the creator and humans, human relationships with humans and human relationships with the natural surroundings. The Prophet Muhammad was sent by Allah as a messenger for all the Ummah on this earth. Allah says, which translates: "And We have not sent you Muhammad) but to (be) a mercy for all the worlds." (Q.S Al Anbiya 'verse 107).

Scholars agree that the primary purpose of Islamic law is *maslahah*. Syatibi believes that the primary purpose of sharia is to maintain and fight for three categories of law: *Darruriyat*, *Hajiyyat* and *Tahsiniiyyat*.¹¹ What is stated is better known as *Maqashid Syariah*. Etymologically, *Maqashid* means intentional or purposeful, and sharia implies the way to the water source or the road to the primary source of life.¹² According to the term, *Maqashid Shari'ah* is the content of values that is the goal of the law. So, *Maqashid Shari'ah* are the goals to be achieved from a legal determination.¹³

¹⁰ Ibid.

¹¹ Muhammad Syukri Albani Nasution, 'Filsafat Hukum Islam', Ed. 1 Cet.2, Raja Grafindo Perkasa, Jakarta, 2014, p. 105.

¹² Ibid.

¹³ Eva Muzlifah, Op.Cit, p.78.

There are five objectives of Islamic law (maqashid sharia), namely: preserving religion (hifzh ad-din), preserving the soul (hifzh an nafs), preserving reason, preserving reason (hifz al aql), preserving offspring (hifzh an nasl), and preserving property (hifz al maal).

1. Keeping Religion (*Hifzh ad-Din*)

Aṭ-Ṭabari explains that the word ad-Dn means: obedience (aṭ-ṭā'ah) and submission (aḏ-zillah). According to Quraish Shihab, three, the word "religion" in Arabic usually uses the term "din". Din consists of three letters; dal -ya'-nūn. These three letters can be read dain, debt, or read dn, mastering, subjugating, obeying, and surrendering. Both Dain and dn, require that there are two different parties. The first party has a higher position compared to the second party. In the context of the word dain, the debtor is higher than the debtor. In din, the first party is God, the essence that is worshipped and obeyed by humans as worshipers.¹⁴

Allah says in Q.S. Ali Imrān: 19 "Indeed the only ad-Din (religion) accepted by Allah is Islam". Protecting religion (al-Din) - for individuals, ad-Din related to worship performed by a Muslim and Muslim woman, defending Islam from false teachings, acknowledging the oneness of Allah with the sentence of monotheism (La Ilaha Illallah). There is no god but Allah, He has no partner, none worthy of worship except Allah. Then the confession is practised in everyday life by performing acts of worship, fully carrying out Allah's commands and staying away from His prohibitions. All of them are collected in the Pillars of Faith, namely, the Creed, Prayer, Fasting and Hajj. As the hadith of the Prophet says, "Be fearful of your Lord (Allah), establish your five daily prayers, fast in the month (Ramadan), pay zakat on your wealth, and obey your leaders, surely you will all enter the paradise of your Lord." (HR. Tirmidhi (616), and Abu Dawud (1955)). The purpose of Islamic law to maintain religion is indicated by Allah in His Word and the Hadith of the Prophet Muhammad. Allah says in the Qur'an Surah Muhammad verse 7: O you who believe! If you help (religion) Allah, indeed, He will help you and confirm your position." Next Al-Qur'an Ash-Shura :13 "Uphold Religion and do not be divided about it".

The Prophet Muhammad as the messenger of Islam taught from his Sunnah, among others: From Abdullah bin Abbas RA, that the Messenger of Allah said, "Take care of Allah, He will guard you; take care of Allah, you will find Him with you; ... (HR At Turmuzi).

2. Nurturing the Soul (*Hifzh al-Nafs*)

Allah says, "And they ask you about the spirit. Say, 'The spirit belongs to my Lord, and knowledge is not given but a little.'" (Surah al-Isra: 85). Etymologically Hifz al-Nafs means guarding the soul and comes from a combination of two Arabic words, namely hifz, which means protecting and nafz, which means soul or spirit. Meanwhile, in terms of terminology, Hifz al-Nafs is preventing bad things from happening and ensuring they are alive. Al-nafs in Islamic repertoire have many definitions, some of which can mean soul, life and others.¹⁵ In Islam, human life is precious and must be guarded and protected. A Muslim is forbidden to kill another person or himself. Allah says in the Qur'an Surah Al Isra' (17): 33, Translation: "And do not kill a soul that Allah has forbidden (killing it), except with one (reason) that is right..." category Daruriyyat maintenance of the soul, namely the prohibition of taking life others and themselves. The meaning of caring for the soul teaches that the earth and the heavens and what is in them belong to God, including humans as living beings whose God has blown the spirit since they were still in their mother's womb. It is the absolute right of God to determine life and death. So whoever kills without a just cause according to Allah means he has taken Allah's rights. Allah said, "Therefore We

¹⁴ Quraish Shihab, 'Menabur Pesan Ilahi: al-Qur'an dan Dinamika Kehidupan Masyarakat', Lentera Hati, Jakarta, 2006, p. 21.

¹⁵ Aay Siti Raohatul Hayat, "Implementasi Pemeliharaan Jiwa (Hifzh An Nafs) pada Pengasuhan Anak Berbasis Keluarga", *Jurnal Kajian Keislaman dan Kemasyarakatan*, Vol. 5, No. 2, 2020, p. 155.

decreed (a law) for the Children of Israel, that: Whoever kills a human being, not because that person (kills) another person, or not because of causing mischief on earth, it is as if he had killed a human. Entirely and whoever preserves the life of a human being, it is as if he has preserved the life of all humankind. And certainly, our messengers have come to them with clear statements, many of them after that. truly transgressed in making mischief on earth." (Surat al-Maa'idah: 32)

3. Keeping Minds (*Hifzh al- Aql*)

Arabic dictionaries give the meaning of *aql* (literally) with the intention of *al-imsak* (withstanding), *al-ribath* (bond), *al-hijr* (withstanding), *al-nahy* (forbidding) and *man'u* (preventing). An intelligent person (*al-'aaqil*) is a person who restrains himself and rejects his lustful desires. In the Indonesian Dictionary of reason, namely: thinking power (to understand something and so on); thought; human memory.¹⁶ Allah says in the Quran, Surah Al Baqarah (2), Verse 164):

“Indeed, in the creation of the heavens and the earth, the alternation of night and day, the ark that sailed on the sea brought what was useful to humans, and what Allah sent down from the sky was water, then with it He gave life to the earth after it died (dry) and He spread in the earth all kinds of animals, and the swaying of the winds and the controlled clouds between the heavens and the earth; Indeed (there are) signs (oneness and greatness of Allah) for a people who think.

Allah created humans as the noblest creature in His sight and was given the privilege of being a caliph on earth. Thus, Allah has blessed humans with reason. What distinguishes humans from animals is a reason; therefore, we must protect and protect them. Only with the human mind is able to accept divine guidance and signs of His greatness, distinguish which rights are false. Only with human reason can they equip themselves with the knowledge to explore, manage, and utilize God's creation to fulfil their needs. With reason, humans can act, not just follow their desires. Islam advises us to seek knowledge to the ends of the world and prohibits damaging our common sense, such as drinking alcohol or consuming certain foods that can damage the mind so that the mind loses its ability to function normally (loss of consciousness).

4. Maintaining Generation (*Hifzh al- Ird/an nasl*)

Allah created humans by giving them honour and a higher degree than other creatures. Islam maintains offspring with the teachings of prohibiting free association, adultery. For that, honour and maintenance of offspring are obtained through marriage. The marriage path itself will lead to the conveniences of life, such as a clear lineage, as befits a family life that has been exemplified by the Prophet Muhammad with his wife and children.

5. Keep Property (*Hifz al-Maal*)

Wealth is a crucial and valuable thing, but Islam forbids us to obtain our property illegally by taking other people's property by stealing or corruption, cheating, and other forms of cheating. As the sound of the letter al-Baqarah 2:188: "And do not let some of you eat the property of some of you falsely".

The five critical things above are obtained from sharia as the essence of human existence. Therefore, all social groups should protect it because if not, human life in this world will be chaotic,

¹⁶ Dinar Dewi Kania, Konsep Aql dan Qalb dalam Perspektif Islam, artikel, <https://insists.id/konsep-aql-dan-qalb-dalam-perspektif-islam-1>, 26/09/2012, accessed on 23 Juni 2021.

brutal, poor and suffering, both in this world and in the hereafter. The approach through *maqasid al-shari'ah* focuses on seeing the values in the form of human benefit in every *taklif* revealed by Allah.¹⁷

The *maqasid al-shari'ah* approach to establishing the law occurred during Muhammad's apostolic period. It can be seen, among other things, if the Prophet (saw) forbade Muslims to keep the meat of the *kurban* except within a specific limit, only for three days' provision. However, several years later, some of the companions violated the rules set by the Prophet. The matter was brought to the attention of the Prophet. When he confirmed the actions of the Companions who kept the sacrificial meat more than the time set by the Prophet, namely three days, he explained that the prohibition against storing sacrificial meat was based on the interests of *al-Dhaffah* (guests consisted of poor people who came from villages around Medina). After that, the Prophet said: "Now save the meat of the sacrifice because there are no more guests who need it."¹⁸

Maqashid sharia was originally introduced by Syatibi as *al-kulliyah al-Khaimah*. It can be explored and developed according to current needs as *maqashid sharia*, such as freedom of opinion, political rights, the right to get a job, education, etc.¹⁹ The primary study of *maqasid shari'ah*, is a matter of wisdom and illat the enactment of a law. To be a direction for every *mujtahid*, in establishing a law whose problem is not explicitly regulated in the Qur'an and Sunnah, the purpose of Islamic law, in general, is known in advance.²⁰ So knowledge of *maqasid al-shari'ah* is one of the essential factors determining a *mujtahid's* success or failure in his *ijtihad*.²¹

Mudharabah Concept

Based on Article 20 Paragraph (4) of the Compilation of Sharia Economic Law, a *mudharabah* contract is a collaboration between the owner of the funds (*shahibul maal*) and the fund manager (*mudharib*) to carry out certain businesses with profit-sharing based on a ratio. In practice, the *shahibul maal* prepares 100% of the funds while the other party acts as the manager (*mudharib*) for certain businesses agreed upon between the *shahibul mal* and the *mudharib*. Historically, the practice of *mudharabah* has been exemplified by the Prophet Muhammad. At that time in trading, the Prophet Muhammad traded using capital from *Khadijah ra*. As the Hadith narrated by Ibn Majah, from *Shuhaib Rasulullah* said, "Three things that contain blessings, namely buying and selling tough, *muqaradhah* (*mudharabah*), and mixing wheat with flour for household needs, not for sale."

Islamic scholars agree that the pillars of *mudharabah* are: 1. The parties to the contract, namely the owner of the funds (*shahibul maal*) and the manager of capital (*mudharib*); 2. Worth (*Rasul Maal*); 3. The business carried out (*al-'amal*); 4. Profit (*ribh*); and 5. Statement of consent and acceptance (*sighat akad*).²² In practice and concept, the *mudharabah* cooperation contract has changed, both in terms of form, mechanism and reference in its implementation.

The steps for determining the profit-sharing ratio for both profit sharing and revenue sharing methods are as follows:²³

¹⁷ Toha Andiko, *Maqashid Syariah Dalam Ekonomi Islam*, Samudera Biru (Anggota IKAPI), Yogyakarta, 2018, h.55.

¹⁸ Malik ibn Anas, *al-Muwaththa'*, Muhammad Fuad Abd al-Baqi (ed.), t.t. t.p, t.th., h. 29.

¹⁹ Eva Muzdalifah, *Op.Cit*, p. 87.

²⁰ Toha Andiko, *Op.Cit*, p.56.

²¹ *Ibid*.

²² Otoritas Jasa Keuangan (OJK), 'Buku Seri Standar Produk Perbankan Syariah 5 (Standar Produk Mudharabah', Jakarta, 2019, p. 23.

²³ Moh. Mufid, 'Maqashid Ekonomi Syariah, Tujuan dan Aplikasi', cet.1, Empatduamedia, Malang, 2018, pp. 118-119, dalam Muhammad, 'Sistem Bagi hasil dan Pricing Bank Syariah', Yogyakarta UII Press, Yogyakarta, 2016, p.9.

1. The profit-sharing ratio is made at the time of the contract by referring to the possibility of profit and loss
2. The amount of the profit-sharing ratio is determined by the amount of profit
3. The determination of the portion of the parties is based on an agreement that contains an element of willingness (at teraphim) without coercion
4. If there is a loss, it will be borne by the parties
5. Profit sharing increases according to the increase in operating results

Maqashid Sharia in the Development of Mudharabah Contracts

Maqashid shari'ah occupies a vital position in formulating the shari'ah economy, creating sharia banking and financial products. Knowledge of maqashid sharia is the main requirement in *ijtihad* to answer various problems of economic and financial life that continue to develop. Maqashid sharia is needed to formulate macroeconomic policies (monetary, fiscal, public finance) and to create Islamic banking and financial products and other microeconomic theories. Maqashid sharia is also necessary in making regulations for Islamic banking and financial institutions.²⁴

The dynamics of life's problems in the contemporary era demand the birth of legal products that can answer challenges that did not find answers in previous legal products. In the age of modern Islamic economics and finance, many problems arise, such as hedging (swap, forward, options), Margin During Construction (MDC), profit equalization reserve (PER), trade finance and all its problems, dozens of cases of hybrid contracts, instrument interbank money market, Sukuk schemes, repo, syndicated financing between sharia banks or conventionally, restructuring, property indent financing, *ijarah maushufah fi al-zimmah*, hybrid take over and refinancing, forfeiting, overseas funding, KTA scheme, multi financing use, credit card design, laws related to fiduciary guarantees, mortgages and mortgages, maqashid of annuities, *Tawarruq*, net revenue sharing, gold installments, gold investment, as well as several new cases that keep popping up.²⁵

Shaykh Muhammad Thahir ibn Asyur mentions that forgetting the importance of the maqasid side in Islamic sharia is the main factor causing stagnation in *fiqh*.²⁶ Imam Ghazali, stated that the purpose of sharia is (Chapra, 2011, Dusuki, 2007).²⁷ to encourage human welfare, which lies in the protection of faith (*din*), soul (*nafs*), reason (*aql*), offspring (*nasl*) and property (*maal*).

The Islamic Fiqh Institute, namely the Organization of the Islamic Conference (OIC) emphasizes that every fatwa issued by the authorized party must always present Maqashid Syariah, so that the legal products produced do not conflict with the benefits and interests of human life. It is stated that maqashid sharia functions to:²⁸

- 1) Understanding the texts of the Qur'an and Al-Hadith and their laws comprehensively
- 2) Choose the most appropriate the opinions of the fuqaha Based on maqashid sharia as one of the standards (*murajjihah*)
- 3) Understand the *ma'alat* (long-term considerations) of human activities and policies and relate them to their legal provisions

²⁴ Saefudin, "Peran Maqashid Syariah dalam Pengembangan Sistem Ekonomi Islam", 25 Februari 2021, <https://www.pta-semarang.go.id/artikel-pengadilan/199-peran-maqashid-syari-ah-dalam-pengembangan-sistem-ekonomi-islam>, accessed on 07 Maret 2022.

²⁵ Toha Andiko, Op.Cit, p. 97.

²⁶ Eva Muzlifah, Op.Cit.

²⁷ Saiful Anwar, Op.Cit, p. 270.

²⁸ Sahroni Oni and Adiwarmar Karim, 'Maqashid Syariah', Raja Grafindo Persada, Jakarta, 2015, p.43.

The following article will describe the mudharabah contract from the maqashid sharia perspective. So, it is clear the urgency of maqashid sharia in developing mudharabah contracts.

1. Mudharabah contract is a form of economic activity to fulfil the necessities of life. Allah Almighty commands humans to meet their basic needs, such as the need for food. Fulfilling food needs is one of the maqashid sharia *hifz al nafs* (maintaining the soul). Without food, humans will not survive. Allah commands in the Qur'an, as in His Word, "When the prayer has been performed, then you will be scattered on the face of the earth; and seek the bounty of Allah and remember Allah as much as possible so that you may be successful" (Q.S Al Jumu'ah Verse 10). Every effort for *maslahah* in the world and the hereafter, namely to attract benefits and reject evil, Allah then establishes rules to be guided and obeyed by how humans should carry out the wheels of life, one of which is the fulfilment of economic needs. The benefits of the world and the hereafter will only be fulfilled if it is accompanied by a pure intention to seek the pleasure of Allah, and are applied in the form of obedience to the values of Islamic teachings. Compliance is accompanied by the belief that all acts of worship performed by Muslims are a form of human servitude to the creator. Can prevent humans from greed and justify any means to fulfil their desires. Allah says, "...Verily my prayer, my worship, my life and my death are only for Allah, the Lord of the worlds. (Q.S Al An'am Verse 162).
2. *Hifz Al Maal*, Islam requires humans to try to fulfil their needs and, at the same time, maintain the sanctity of the acquisition of the resulting property. Refrain from greedy traits and justify all means for the fulfilment of mere lusts, such as the practice of usury and other forbidden practices. In a mudharabah contract, the collaboration between the owner of the funds and those who have the ability and willingness to do business is a solution to avoid the practice of usury. Islam is clearly against *Riba*. In the Qur'an the prohibition of usury is contained in Surah al Maidah verse 42, an Nisa verse 160 and 161, ar Rum verse 39, Ali Imran verse 130, al Baqarah, Verses 275, 276, 278, and 279. God's Word in the Qur'an 'an Surah Al Baqarah Verse 275:

"Those who eat usury cannot stand up except as one who Satan has possessed because he is mad. That is because they say buying and selling are the same as usury. Even though Allah has permitted buying and selling and forbids usury. Whoever gets a warning from his Lord, then he stops, then what has been obtained before belongs to him and his affairs (up to) Allah. Whoever repeats it, they are the inhabitants of Hell; they will abide in it forever."

The verse above implies that fulfilling the necessities of life utilizing *Riba* can damage the mind like a person possessed by a demon because he is crazy. The following Hadith states that "The Messenger of Allah (saw) cursed the one who eats usury property, the one who gives usury, the author of usury transactions and the two witnesses to usury transactions. They are all the same (sinful)." (Muslim)

Based on the arguments of the Qur'an and hadith regarding the prohibition of usury, taking into account the opinions of 9 scholars of jurisprudence, namely Imam al-Nawawi, Ibn al-'araby, Al-'Aini, Al-Sarakhsy, Ar-Raqhib al- Isfani, Muhammad Ali al-Shabuni, Muhammad Abu Zahrah, Yusuf al-Qardhawi and Wahbah Al-Zulaihy, as well as the stipulations on the prohibition of bank interest from various international ulama forums, including *Majma'ul Buhuts al-Islamiyah* at al-Azhar Egypt in May 1965 and *Majma' al Fiqh al-Islamy* of the OIC countries in Jeddah on 10 Rabiul Awal 1406H/22-28 December 1985 and also the previous DSN fatwa, the MUI has taken a stance by issuing No. 1 of 2004 concerning interest (interest/*Fa'idah*), then the answer to the question on the legal status of interest (Interest/*fai'dah*) on loan transactions (*al qardh*) and debt transactions (*al dayn*) both by financial institutions and individuals by The Indonesian Ulema Council (MUI) is unlawful, as stipulated in the second part of points 1 and 2 that the current practice of interest-bearing money meets the criteria of usury *nasi'ah* because it is illegal, whether carried out by financial institutions or individuals.

The mudharabah contract, known as the partnership contract with a profit-sharing system, is one of the alternative solutions offered in the Islamic economic system. To keep Muslims in every economic activity within the corridor of sharia. This system brings together the fund's owner with the workforce or business expertise. This system's nature and spirit of cooperation place the parties in a mutually balanced position (they need each other). On the one hand, some have funds but not enough ability to manage these funds to support the economy.

On the other hand, some parties do not have funds but know the form of work skills and business skills (skills and entrepreneurship) and at the same time avoid money settling into unproductive. Imam al-Ghazali's view is that money is like a mirror that can only judge what is in front of it but cannot judge itself. Thus, capital must constantly rotate in the economy. The faster money turns in the economy. It will be directly proportional to the level of people's income and the better the economy (Zainul Arifin, 2006: 16).

One of the sharia's objectives is that if someone who owns the property but cannot afford it cannot manage it himself, he must hand it over to another party. Wealth only accumulates in the owners of capital.²⁹ The conglomeration of wealth and economic inequality is one factor that prohibits the practice of interest (interest/fa'idah). Wealth will accumulate on the owners of capital by benefiting from the results of lending funds to the needy. At the same time, the poor continue to be pressed on the one hand to meet their needs and comply with the obligation to pay additional funds (interest) and other administrative responsibilities. Thus, the rich will get richer, and the poor will get poorer so that the gap in life in society will widen, as a picture of injustice and even tyranny for the weak.

Conclusion

Mudharabah contract as a contract with a profit-sharing system is a way out for Islamic financial institutions and individual business economic actors. This contract brings together owners of funds on the one hand who cannot do business and entrepreneurs on the other hand who have the will and ability to do business but do not have the funds to run their businesses. This contract, which has been practised by the Prophet Muhammad in his commerce, combines the nature of the spirit of cooperation and, at the same time, gains mutual benefits between shahibul maal and mudharib. Maqashid sharia has a priority in the development of mudharabah contracts to keep this contract always running in sharia values so that it leads to the benefit of the people both in the world and in the hereafter, namely, first: hifz and-Nafs (maintaining the soul), that Allah Almighty commands humans to trying to meet the needs of life, to maintain and ensure that the needs for food and other needs are met. Therefore, the Islamic mudharabah contract requires always to try as optimally as possible, while continuing to ensure that the business carried out does not conflict with sharia values, for example: holding the values of honesty and fairness, preventing the circulation of money only among investors, preventing economic actors. sharia from the practice of usury, gharar, maysir, gambling, dzalim and bribery and other prohibited elements. Second, Hifz al-Maal (safeguarding property), Islam commands to try to meet the needs of life while prohibiting justify all means, while maintaining the sanctity of the acquisition of property and ways to obtain it by avoiding things that are prohibited, such as usury, dzalim, haram, cheating and other characteristics that are contrary to sharia.

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