

Determination of The Malaysian Sharia Index in Health Aspects According to The Perspective of Maqasid Sharia

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Abstract

The Malaysian Sharia Index Model (ISM) is a standard for measuring compliance with national governance based on sharia objectives. Health aspects are among the eight main areas used as indicators of compliance measurement. There are three approaches in the input of measuring compliance in the field of health with the *maqasid* sharia, namely compliance with sharia - work practices compliance, quality assurance and process effectiveness and empowerment and continuous strengthening of structural and human resources. Accordingly, this study aims to analyze the setting of health field measurement inputs and the setting of clusters involved in the ISM model. This study uses a qualitative approach which in the form of an exploratory study. Data collection used the method of documentation on the ISM stipulation document and its achievement report. Data were analyzed using content analysis method. The results show that the determination of health aspect as one of the measurement indicators is in line with the general principle of *maqasid* in terms of preserving the soul and offspring. The three measurement inputs as well as the setting of the target group to be measured are also relevant approaches to measure the level of *maqasid* sharia compliance. However, there is a need for the details of the sharia -compliant index for specific sub -fields in the field of health in order to better meet the *maqasid* sharia in a *juz'iy* (specific) manner. In conclusion, ISM is a holistic framework in ensuring a governance that is in line with the *maqasid* sharia and thus ensures the well -being of people and the harmony of society in Malaysia.

Keywords: Malaysian Sharia Index, Maqasid Sharia, Public Health

Introduction

Islam is a comprehensive religion that has comprehensive guidelines to ensure the well -being of human life. The general principle of *maqasid* sharia which preserves *maslahah* (goodness) and eliminates *mafsadah* (destruction) is a measure of compliance aspects of life with the demands of sharia. In this regard, the Malaysian government's move to create the Malaysian

Sharia Index Model (ISM) is a good step in ensuring that the country's governance meets syarak standards. This article will analyze the measurement of sharia indices in the field of health by looking at the setting of measurement inputs and the target groups involved.

Background of The Study Problem

The launch of Malaysian Sharia Index Model (ISM) by the Prime Minister of Malaysia on 10th February 2015 is a proactive step towards the idea of creating a model of national governance. This idea was put forward in the Majlis Perdana Ulama Umara 'which convened on 28th August 2014. The setting of this index aims to ensure that the governance of the country is in line with the *maqasid* sharia and then create a balance achievement in national progress. In this regard, an indicator measurement was developed to measure the compliance of the country's governance with the *maqasid* sharia.

This ISM model is a benchmark for the assessment of compliance aspects of *maqasid* sharia in eight main areas, namely Islamic law, politics, economics, education, health, culture, infrastructure and environment and social. The determination of these eight priority areas is based on their priorities in the development of a country. This article focuses on the definition of ISM and its approach in health aspects.

In general, various aspects of health services are now undergoing progress over time. A quality healthcare services mean providing patients with higher satisfaction, promoting and improving healthcare services, increasing customer efficiency and satisfaction and reducing mistakes (Afezah, 2017). The tendency to apply Islamic and spiritual elements in the services provided is also a step towards creating services that meet the needs of customers. The practice of the concept of Mesra Ibadah Hospital (HMI), sharia compliant hospital, Islamic medical tourism and healthcare concept applied with Islamic values have a place in today's society (Zawawi & Othman, 2018; Rahman et al., 2018). However, no scientific measurement has been established to see the extent of sharia compliance aspects of services provided. Therefore, this study details out the sharia index measurement approach in health aspects by focusing on measurement inputs and target groups involved.

Methodology

This study is a survey study that involves a qualitative study based on the research problem. Qualitative research refers to study that tends to collect data through observation or analysis of document content. This approach is used in collecting data of sharia compliance concept in the field of health in general. Secondary data from the works of past scholars were also studied to obtain findings about it. This study uses a case study design that examines the sharia index in aspects of health in Malaysia. The research data was obtained through the analysis of the Malaysian Sharia Index document: A Governance Model Based on *Maqasid* Sharia and highlights the works of classical and contemporary *maqasid* sharia and related articles. Data related to the determination of the Malaysian sharia index in the aspect of health was then analyzed to explain the position of the sharia index in the aspect of health from the perspective of *maqasid* sharia.

The collection of research data was done through analysis of the work of authoritative *maqasid* sharia scholars. Scholarly writing in related medical fields is also analyzed and forms the basis of contextual debate. Analysis of data is using inductive, deductive and comparative

methods. Inductive method is used in formulating related ISM models and the results become the framework to the form of data analysis of the study. The deductive method is used in formulating the construction aspects of the ISM model from the perspective of *maqasid* sharia. Next, a comparative method is used to make a comparison between the views of past and contemporary scholars related to the construction of sharia compliance models in the aspect of health to identify the approach.

Findings Analysis

The findings analysis of this study focuses on three aspects to answer the objectives of the study, namely the analysis of the Malaysian Syariah Index Model (ISM), ISM in the aspect of health and the elements of *maqasid* sharia in the field of health.

Malaysian Sharia Index (ISM)

The Malaysian Sharia Index (ISM) is a scientific measurement model of the national governance compliance with sharia objectives. This index directly assesses the level of compliance of government policies and programs with Islamic standards. In addition, the relevant parties are able to identify areas that can be improved either on the part of the government, implementing bodies or the community (Yahya, 2002).

The determination of the eight aspects of the measurement in this ISM is appropriate according to the priority context. The fields of Islamic law, politics, economics, education, health, culture, infrastructure and environment as well as social (JAKIM, 2015) are important aspects of governance for a country. Determining the *maqasid* sharia as a yardstick in understanding the guidelines for the formation of basic and policies for the people is an appropriate step. This ISM is considered to be a holistic, comprehensive and the first model in the world (Abidin *et al.*, 2016).

Each field assessed in the ISM has its own measurement index. This refers to the angle that assessed the level of compliance with the *maqasid* sharia which includes aspects of preserving religion, life, intellect, lineage and property (*Department of Islamic Welfare Malaysia*, 2015). There are studies that focus on measuring compliance with the *maqasid* sharia using this ISM. The study of the development of ISM model measurement in the implementation of Islamic law in Melaka for example found that this approach becomes a necessity and should be developed at the national level (Hasan *et. al.*, 2021). In this regard, a survey from other aspects should also be made to see the success of the developed model.

Maqasid Sharia in the Field of Health

Maqasid sharia is a collection of meaning, purpose and wisdom emphasized by Allah s.w.t. and contained in every prescribed law. Ibn 'Ashur (1985); al-Fasi (1972) elaborate on the definition of *maqasid* sharia by emphasizing on what is contained behind the provision of sharia law in the form of a set of meanings, purposes and wisdom as stated. They see the *maqasid* of sharia as the objective of sharia itself and the secret laid down by Allah s.w.t. for each of its laws.

In addition, the elaboration on the meaning of *maqasid* sharia is also made by emphasizing on the impact of the existence of *maqasid* behind the provision of each sharia law. Al-Imam al-Shatibi explained that the sharia was revealed by Allah s.w.t. to preserve the *maslahah* of

the servant in this world and in the hereafter (Al-Syatibi, 2012). His definition in general is the basis for the details of the *maqasid* sharia in more depth.

Al-Raysuni (1995); Al-Hasani (1995) also define the *maqasid* sharia as the purpose that has been set by sharia to be realized for the benefit of ummah. This definition indicates the existence of the element of *maslahah* in the *maqasid* sharia. This further strengthens that the sharia was revealed to bring good to the servant because it has *maslahah* that covers various aspects of life. The *maslahah* found in the provision of this law is the result of the meaning and wisdom emphasized by the Islamic law, whether it is general or specific (Al-Yubi, 1998). Al-Qaradawi further strengthens the elaboration of the *maqasid* of sharia by linking it as the name for the wisdom behind the provision of law and this proves that Allah s.w.t. does not prescribe something that is contrary to that wisdom (Al-Qaradhawi, 2006). The word *hikmah* is a word that has a close relationship with the meaning of *maqasid* even with the same meaning that is the purpose of a law (Al-Shalabi, 1981; 'Abd-al-'Aziz, 1980). However, the *maqasid* here is not the same as the meaning of 'illah' mentioned by the *ulama usul* in the *qiyas* debate because 'illah is an outward, permanent and reasonable nature with the law (Ismail, 1993). It is clear that what is stated by al-Qaradawi is a suggestion to look at the provision of law not on the meaning and expression that is apparent alone and also the meaning behind it.

Based on the description of the *maqasid* sharia above, the *maqasid* sharia approach aims to guarantee the importance of religion, life, intellect, lineage and property behind the provision of law. Therefore, every aspect of human life must be geared towards realizing these five objectives consistently. The element of *maqasid* sharia exists behind the determination of the eight areas of governance of the ISM model that was introduced, including in the field of health.

Maqasid syariah in the aspect of health in particular aims to preserve life (*hifz al-nafs*) and offspring (*hifz al-nasl*). Both of these aspects are included in the category of *maqasid daruriyyah* (goals that must be preserved) to ensure the sustainability of human life (Al-Khadimi, 2006). This is based on three measurement inputs in the field of health that are set towards achieving the stability of the national health system, which in turn aims to ensure the optimal level of health of the people.

Looking at the importance of preserving life after preserving religion shows that this goal is the most important should be given attention after preserving life. Therefore, its stipulation in the measurement of ISM is in line with the principle of *maqasid* sharia. Steps towards the preservation of life also take the same law as the concept of *wasail* law (way) which follows the law of *maqasid* (Karamah, 1999).

Shariah-Compliant Index Measurement Inputs of Health Aspects and Involved Groups

The measurement of the sharia index in the field of health is based on three measurement input approaches. Compliant work practices, quality assurance and process effectiveness and empowerment and continuous strengthening of structural and human resources are the three aspects that measure the compliance of this field of health with sharia objectives (JAKIM, 2015).

The discussion of the sharia compliance concept in health services is growing in Malaysia in adding value to existing services (Hamzah *et al.*, 2019). This measurement input can be strengthened by taking into account three important elements towards the operation of sharia health services namely through the establishment of Sharia Advisory Council (SAC), appointment of Sharia Compliant Officer (SCO) and development of Sharia Critical Point (SCP) (Hamzah *et al.*, 2019). These elements constitute controls towards the management of sharia-compliant health services in Malaysia as has been implemented at An-Nur Specialist Hospital, Bangi Selangor (Talaat, 2016; Shariff *et al.*, 2018). Establishing sharia compliance screening procedures in work practices and service operations is one of the media to determine whether a service can be considered as sharia compliant practices (Ayedh *et al.*, 2019) besides involving sharia experts as advisors and monitors (Aziz *et al.*, 2020). Work culture associated with elements of spirituality and *tasawwuf* also impact the aspiration of creating sharia -compliant work practices (Zubaedi & Utomo, 2021) when noble values are applied.

The determination of the above three measurement inputs is a step that is appropriate to the implementation objective of realizing the *maqasid hifz al-nafs* (goal of preserving the soul) and *hifz al-nasl* (preserving the offspring). The success of the process towards achieving the *maqasid sharia* is a *wasilah* that guarantees the achievement of an objective. Accordingly, an objective achieved through the process makes the position of the process equal to the objective. In the context of the measurement inputs of the compliance aspects of national health with the *maqasid sharia*, these three measurement inputs are elements that support the achievement of optimal health levels. The absence of a specific model of measurement previously made ISM as an appropriate medium. He stressed that each country should have its own evaluation framework according to its own approach (Berhanu, 2021).

The group involved in the assessment involves all parties that contribute to the country's sharia -compliant achievement efforts in every aspect under the ISM. The policy makers represented by the government are the right parties to be judged because these groups hold the power of government. Policy implementers from among the agencies involved in the field of health are the ones who ensure that the policies formulated by the government are implemented properly. Furthermore, the community as the beneficiary of the policy developed is the target group who is also assessed in terms of compliance.

Emphasis on the elements of *maqasid sharia* in the administration of the country in general and in the aspect of health in particular is one of the biggest objectives of government institutions in organizing community life so that any harm can be avoided. This is in line with the view that the aspect of power (*al-wilāyah*) is one of the scopes prescribed for realizing good and rejecting evil (Al-Badawi, 2000).

The presentation of the report a year after the launch of ISM in Malaysia on 28 March 2016 by the Prime Minister showed that the Health Index Score reached 73.92% and was in fourth place after the scores of the Islamic legal (87.9%), education (82.49%), and politics (79.19%) indices. From the *maqasid sharia* compliance aspects by the target group involved, it shows that the compliance with the *maqasid sharia* by policy makers in the field of health reached 81.32%. While the achievement by policy implementers and the community is at a moderate level of 68.98% (policy implementers) and 61.64% (community) (JAKIM, 2016).

This achievement indicates a declining pattern of achievement. The determination of the government as the first target group in ISM compliance is in line with the view of Al-Juwayni (1997) regarding the main role of the government which is to function in organizing human needs and creating a systematic life. This further realizes the well-being of life when any harm is avoided in society through the power of government in accordance with the Shari'ah ('Izz al-Din al-salam, t.t) and in line with the method of fiqh *تصرف الإمام على الرعية منوط باملصلحة* (the actions of the imam (ruler) towards his people should be based on *maṣlaḥah*) (Al-Suyuti, 1990). Adherence to the ISM at the government level will lead to similar achievements at the policy implementer and community levels. The achievements obtained are a manifestation to the success of the measures compiled and indicate room for improvement over time. Nevertheless, this percentage of achievement is generally reflective the compliance to ISM in general in the aspect of health without elaborating on the various more specific health sub - fields in Malaysia for example in obstetrics and gynecology. This requires a separate assessment because each sub -field in the aspect of health care has different detailed approaches and goals although the ultimate goal is to realize the objective of preserving the soul.

Conclusion

Sharia Compliance -compliant work practices, quality assurance and process effectiveness, empowerment and continuous strengthening of structural and human resources are accurate measurement inputs in measuring elements of health aspects compliance with sharia objectives. The determination of the target group also covers all parties that should be involved in the successful implementation of the ISM model. In general, the implementation of the sharia index in the aspect of health through measurement input as well as the target group meets the needs towards achieving *maqasid* sharia. However, this general framework requires the development of further studies in a smaller scope to ensure that the *maqasid juz'iy* (goals of the smaller part) of the health field are also achieved and subsequently create a comprehensive and holistic health system.

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References

- Al-Salam , I. A. (n.d.). *Qawaid al-Ahkam fi Masalih al-Anam* (Beirut: Dar al-Ma'rifah, t.th).
- Ali, A. A. (1980). *Al-Sabab 'Ind al-Usuliyin*. Al-Sa'udiyyah: Jami'ah al-Imam Muhammad bin Sa'ud.
- 'Ashur, M. T. (1985), *Maqasid al-shari'ah al-Islamiyyah*. Tunisia: al-Sharikah al-Tunisiyyah li al-Nashr wa al-Tawzi'.
- Abidin, Z. Z., Mokhtar, R., & Sungit, R. (2016). *Maqasid As-Syariah dalam Indeks Syariah Malaysia*. Muzakarah Fiqh & International Fiqh Conference 2016 pada 22 dan 23 November 2016.
- Al-Badawi, Y. A. M. (2000). *Maqasid al-Syari'ah 'Inda Ibn Taymiyyah*. Jordan: Dar al-Nafa'is.

- Al-Fasi, A. (1972), *Maqasid al-shari'ah al-Islamiyyah wa Makarimuha*. Maghribi: Matba'ah al-Risalah.
- Al-Hasani, I. (1995), *Nazariyyah al-Maqasid 'Inda al-Imam Muhammad al-Tahir bin 'Ashur*. Virginia: The International Institute of Islamic Thought.
- Al-Juwayni, A. M. (1997). *Al-Burhan fi Usul al-Fiqh*. Beirut: Dar al-Kutub al-'Ilmiyyah.
- Al-Khadimi, N. D. (2006). *'Ilm al-Maqasid al-Syar'iyyah*. Riyadh: Al-Abekan Publisher & Booksellers.
- Al-Qaradawi, Y. (2006), *Dirasah fi Fiqh Maqasid al-Shari'ah*. Qahirah: Dar Al-Shuruq.
- Al-Raysuni, A. (1995). *Nazariyyah al-Maqasid 'Inda al-Imam al-Shatibi*. Riyad: Dar al-'Alamiyyah li al-Kitab al-Islami.
- Al-Shalabi, M.M. (1981), *Ta'lil al-Ahkam*. Beirut: Dar al-Nahdah al-'Arabiyyah.
- Al-Shatibi, A. I. (2012). *Al-Muwafaqat*. Qahirah: Al-Maktabah al-Tawfiqiyyah.
- Al-Suyuti, A. R. (1990). *Al-Ashbah Wa al-Nazair*. Beirut: Dar al-Kutub al-'Ilmiyyah.
- Al-Yubi, M. S. (1998), *Maqasid al-Shari'ah al-Islamiyyah wa 'Alaqatuha bi al-Adillah al-Tashri'iyyah*. Arab Saudi: Dar Al-Hijrah.
- Ayedh, A. M. A., Shahrudin, A., & Kamaruddin, M. I. H. (2019). Shariah Screening Methodology: Does It 'Really' Shariah Compliance? *IQTISHADIA*, 12(2), 144.
- Aziz, H., Amri, K., Cummins, J., Weiss, M. A., Alhabshi, S. O. M., Alshammari, A. A., Shaifuddin, S. A. M. (2020). Assessing The Sustainability Performance Of Takaful Companies In Malaysia. *Journal of Islamic Accounting and Business Research*, 3(1), 7670–7673.
- Endeshaw, B. (2021). Healthcare Service Quality-Measurement Models: A Review. *Journal of Health Research*. 35, 106–117.
- Halim, N. A. A., & Hassan, S. A. (2020). Tahfiz Nurse Homecare dalam Perkhidmatan Kesihatan Berteraskan Islam: Satu Penerokaan. *Jurnal Islam dan Masyarakat Kontemporari*, 21(3), 101-117.
- Hamzah, M., Jamaludin, M., & Sawari, M. (2019). The Establishment of Fundamental Shari'ah Compliant Hospital Management in Malaysia. *Journal Halal Industry and Services*, 2(1).
- Hanapi, M. S., & Khairuldin, W. M. K. F. W. (2017). The Halal-Green in Al-Qur'an: A Conceptual Analysis. *International Journal of Academic Research in Business and Social Sciences*, 7(10), 2222-6990.
- Hasan, S. A., Yahya, M. A., Mohamad, A. B., & Ibrahim, A. F. (2021). Pembangunan Pengukuran Model Indeks Syariah dalam Pelaksanaan Perundangan Islam di Negeri Melaka: Satu Sorotan Awal. *Jurnal 'Ulwan*, 6(1), 227-248.
- Hassan, S. A., & Khairuldin, W. M. K. F. W. (2020). Research Design Based on Fatwa Making Process: An Exploratory Study. *International Journal of Higher Education*, 9(6), 241-246.
- Isma'il, S. M. (1993). *Dirasat Hawl al-Ijma' wa al-Qiyas*. Qahirah: Maktabah al-Nahdah al-Misriyyah.
- Jabatan Kebajikan Islam Malaysia (JAKIM) (2015), *Indeks Syariah Malaysia: Model Tadbir Urus Berteraskan Maqasid Syariah*, JAKIM: Putrajaya.
- Khairuldin, W. M. K. F. W., Embong, A. H., Anas, W. N. I. W. N., Ismail, D., & Mokhtar, W. K. A. W. (2019). An augmented reality (AR) approach in educational integration of Du'a in Islam. *International Journal of Academic Research in Progressive Education and Development*, 8(1), 32-39.
- Khairuldin, W. M. K. F. W. (2020). *Pengurusan Fatwa Di Malaysia*. Kuala Terengganu: Penerbit Universiti Sultan Zainal Abidin.
- Makhdom, M. K. (n.d.). *Qawa'id al-Wasail fi al-Shari'ah al-Islamiyyah Dirasah Usuliyyah fi Daw' al-Maqasid al-Shar'iyyah*. Riyad: Dar Ishbilia.

- Rahman, M. K., Zailani, S., & Musa, G. (2018). Tourists' satisfaction and loyalty intention at Shariah compliant private hospitals in Malaysia. *International Journal of Tourism Sciences*, 18(4), 295-311.
- Rahman, W. A. W. A. (2017), Transformational Leadership and Empathy: The Impact of Quality in the Health Care Services in Kelantan, Malaysia. *International Journal of Economics, Business and Management Studies*, Vol. 4, No. 1, 50-56.
- Said, N. A., & Khairuldin, W. M. K. F. W. (2017). Freedom of Speech in Islam and its Connection with Street Demonstrations. *International Journal of Academic Research in Business and Social Sciences*, 7(4), 122-129.
- Shariff, S., Mohtar, S., & Jamaludin, R. (2018) *A practical journey in implementing a shari'ah compliant hospital: an Nur Specialist Hospital's experience*. *IIUM Medical Journal Malaysia*, 17 (2). pp. 177-188.
- Talaat, A. Z., Talaat, N. S., Sharifuddin, S., Yahaya, H., A Majid, M. S., & A. Majid, M. S. (2016). An-Nur Specialist Hospital: Islamic Management Practices. *The International Journal of Business & Management*. 116-122.
- Yahya, H. (2002). "Sekuriti-sekuriti yang Diluluskan Syariah: Kriteria dan Pendekatan" (Paper in Persidangan Tahunan Pegawai Syariah kali ke-4, Hotel Renaissance, Kota Bharu, Kelantan, 25 August 2002.
- Yusof, A. S., & Mokhtar, R. (2021). Keperluan Pematuhan Indeks Al-Maqasid Syariah Bagi Institut Zakat di Malaysia. *AZKA International Journal of Zakat & Social Finance*, 1(2), 105-122.
- Zawawi, M., & Othman, K. (2018). An overview of Shari'ah compliant healthcare services in Malaysia. *Malaysian J Consum Fam Econ*, 3(1), 91-100.
- Zubaedi, Z., & Utomo, P. (2021). Nilai Kerja Dalam Pendekatan Tasawuf Dan Pengaruhnya Sebagai Bimbingan Pribadi-Sosial Terhadap Pembentukan Karakter Masyarakat Modern. *Altifani: Jurnal Pengabdian*, (5), 99-112.