

Examining Maqasid Al-Shariah in Islamic Banks: Before and after Value-Based Intermediation Implementation

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Abstract

Value Based Intermediation (VBI) initiative stemmed from Bank Negara Malaysia (BNM) or the Central Bank of Malaysia's observation that *maqasid al-Shariah* (the objectives of Shariah) was not fully being implemented in Islamic banks since 1983. However, some Islamic banks have claimed that even before the idea of VBI was brought forward by BNM, *maqasid al-Shariah* had already been existent in their banking operations. This study aims to compare the practice of some Islamic banks in realizing *maqasid al-Shariah* through their available products and services before and after VBI implementation. This study adopts a qualitative

research methodology whereby the information on VBI implementation was gained from semi-structured interviews conducted with bankers from three Islamic banks in Malaysia directly involved with VBI implementation. This study has found that *maqasid al-Shariah* had indeed been realized by Islamic banks even before the implementation of VBI. However, this VBI initiative was a boost in assisting Islamic banks to structuralize their efforts in achieving *maqasid al-Shariah* and help strategize their initiatives through practices, the business conducts and offerings of their products and services. As a result, Islamic banks can generate a positive and sustainable impact on the economy, community, and environment, consistent with the shareholders' sustainable returns and long-term interest and achieving *maqasid al-Shariah*. Future research should involve all Islamic banks which practice VBI in their banking operation.

Keywords: Bank Negara Malaysia, Maqasid Al-Shariah, Islamic Banks, Value-Based Intermediation

Introduction

Islamic banking institutions should firmly uphold their vision and mission reflecting *maqasid al-Shariah* (objectives of Shariah). Al-Ghazali (1997) defined *maqasid al-Shariah* by emphasizing the Shariah component of the term in safeguarding five objectives of Shariah related to the well-being of people, namely their *din* (faith), *nafs* (lives), *aql* (intellect), *nasl* (posterity), and *mal* (wealth). However, Al-Ghazali only focused on the preservation of the five important aspects in human life, while a generally comprehensive definition of *maqasid al-Shariah* was not provided (Lahsasna, 2013). On the other hand, Ibnu Ashur (2006) had defined *Maqasid al-Shariah* in a more universal and broader sense where the preservation of the community was also included in the scope of *maqasid*. Thus, the uppermost *maqasid al-Shariah* rests within the concept of compassion and guidance that seeks to establish justice, eliminate prejudice and alleviate hardship to all (Ishak & Asni, 2020). According to Mohammed, Tarique and Islam (2015), all members of the Organisation of Islamic Cooperation (OIC) including Malaysia had agreed to establish Islamic banks in their respective countries to practice Islamic values within their financial system by avoiding *riba* (interest), *gharar* (uncertainty) and *maysir* (gambling) in order to provide justice, fairness and equitable distributions of income and wealth, in line with *maqasid al-Shariah*. This direction undoubtedly complies to the *maqasid al-Shariah*. Islamic financing is basically based on al-Quran and al-Sunnah where the prohibition of *riba* and any other predetermined interest rate is clearly stated and condemned (Caporale & Helmi, 2018). Islamic banking which is based on Shariah or Islamic law offers the Shariah compliant products and becomes an alternative to the *riba*-based conventional banking system (Asutay & Sidek, 2020).

The phenomenal growth of the Islamic finance industry especially in Islamic banking had caught the attention of the Malaysian government since the establishment of the first Islamic bank in 1983. It was remarkable that the Islamic banking industry could persevere in a competitive environment alongside its conventional counterparts in Malaysia. Islamic banking had begun to properly develop from the early 80's whereby its primary focus included improving the Muslims' banking system as well as the Tabung Haji saving scheme established in 1963. In March 1983, Malaysia's First Islamic Bank, Bank Islam Malaysia (BIMB), was integrated under the companies Act 1965 and had begun its operation with the main objective of eradicating interest-oriented *riba*. Soon after, in 1993, efforts of expanding and promoting the Islamic banking industry could be evidently seen as the Malaysian government had allowed conventional banks to provide Islamic banking products via "Islamic windows", thus

leading to the reinforcement of a dual banking system (Lo & Leow, 2014). Most literature states that the objective of the establishment of Islamic banks is mainly to avoid *riba*, *gharar* and *maysir* but those are not the only reasons as to why Islamic banks strive to achieve *maqasid al-Shariah* (Dusuki & Bouheraoua, 2011). The benefits of Islamic banks should reach the society and environment by offering products and services which could be greatly impactful to them.

The fundamentals of *maqasid al-Shariah* also include protection of religion, life, intellect, progeny and wealth (Dusuki & Bouheraoua, 2011), and if these fundamentals are not met, human life would be in chaos. This implies that when *maqasid al-Shariah* is applied in Islamic banks, the society will prosper as a whole, depending on the intentions of the Islamic banks themselves. Besides that, undertaking a business with reverence to the name of Allah the Almighty will make it possible for Islamic banks to meet their needs, support their employees, fulfill the stakeholders' needs and pay *zakat* (alms giving). The multiplier effect from *zakat* on social agendas can be considered significantly huge (Muhamat, Jaafar & Basri, 2017). By doing so, the Islamic banks' progress towards achieving *maqasid al-Shariah* would be eased and protected because when an institution is established with the intention of servitude towards Allah the Almighty in its endeavors, then the company would abide by the proper practices as laid down by Islam; thus, the business activities would be Shariah-compliant (Olapado, Arshad, Muda & Hamoudah, 2019).

Furthermore, to promote a good relationship between Islamic banks with their stakeholders, both parties should avoid the production of prohibited products and services including pork, intoxicants, clubs and casinos that could negatively affect people's lives by causing deaths or diseases. This restriction would address an extremely crucial matter, which is the protection of many lives (Shehu, Ahmad & Al-Aidaros, 2015). On top of that, in terms of intellectual protection, the lives of people are to be taken into heavy consideration in relation to the prohibition of intoxicants. Therefore, Islamic banks should not produce, distribute, encourage and engage in the act or consumption of intoxicants, for example, alcohol, wine, beer and home-made alcoholic brews as these substances would cause the deterioration of the human intellect (Mohammed et. al., 2015).

For the protection of posterity, it is important that Islamic banks' business activities should create balance and ensure effective management of resources. For instances, Islamic banks should not participate in any investments involving imbalance between production and resources including excessive oil production or deforestation. Products and services that are detrimental to the environment opposes the fundamentals of *maqasid al-Shariah*, and thus, their creation is rejected in the *maqasid al-Shariah* framework. Otherwise, the future generation would not have the opportunity to utilize all the natural resources provided on Earth. Therefore, all creations, even the trees, lands and animals must be protected (Dusuki & Bouheraoua, 2011), especially with the environmental problems Malaysia is currently facing after experiencing ample economic growth (Growth domestic product- GDP) leading to the rise in various pollutions such as the increase of CO₂ emissions, marine and water pollution caused by overfishing activities and coral reef destructions, deforestation, as well as soil and coastal erosion (Hamid et al., 2019).

The final objective of *maqasid al-Shariah* is the protection of wealth, which stipulates that Islamic banks should provide products and services associated with legitimate trade activities, equal profit and loss sharing and a righteous corporation centering on justice and trust. This ensures the prevention of exploitation, injustice and unequal distribution of wealth and the elimination of any form of *riba*, *gharar*, *maysir* elements for a fair and equal distribution of

wealth among stakeholders (Shehu et al., 2015). This practice is in line with what has been stressed by Ibn Ashur (2006) on the fair circulation of wealth among the poor and the rich in the society.

In their research, Asutay and Harningtyas (2015) highlighted on the overall performance of Islamic banks specifically on the lack of implementation of *maqasid al-Shariah* whereby there was extremely minimal involvement within the social entity, intellect, posterity and ecology (Hassan & Nor, 2019). According to Mohammed et. al. (2015), despite the tremendous growth and achievements, Islamic banks were seen as shying away from *maqasid al-Shariah* since their establishment. He also stated that Islamic banking products were seen by critics to be replicating its conventional counterparts where its pricing were unfair and were mainly operating based on a debt structure. It was argued that the convergence of Islamic banking products to conventional banks opposed the objective of Islamic banks. On top of that, Mohamad, Lehner and Khorshid (2015) mentioned that Islamic finance is frequently criticized for its lack of obligation to make a real difference for the welfare of the poor people or people who are in need. For the past 30 years, the global finance industry leaned towards benefitting the rich people and the corporate players, with limited participation and profit to the public. All the above-mentioned points are the main reasons why BNM came up with the idea of Value-based Intermediation (VBI) as a tool for Islamic banks to achieve *maqasid al-Shariah*. BNM (2018a) in collaboration with the Islamic finance industry had released a Strategy Paper on VBI on the 20th of July 2017 entitled "Value-based Intermediation (VBI): Strengthening the Roles and Impact of Islamic Finance", presenting the strategies to fortify the roles and effects of Islamic banking facilities in order to achieve a sustainable economic growth without the need to undermine the returns of shareholders. The featured strategies encouraged VBI application which will prompt to a more advanced set of products and services offered by Islamic bank institutions for an improved conduct of entrepreneurship, better welfare of the community, and financial growth, without placing shareholders' returns in jeopardy. This direction of BNM marked another milestone for Islamic banking and finance in Malaysia through its notable growth with a newly introduced strategic intermediation concept, named as VBI. This concept was seen as a vital strategy of BNM for all Islamic banks towards realizing and reflecting the true essence of *maqasid al-Shariah* in the industry. Furthermore, BNM (2018b; 2018c) had also published a "Consultative Paper on VBI Scorecard" on the same date as the establishment of paper on "Implementation Guide for Value-based Intermediation" in 2018. VBI Scorecard by BNM (2018b) referred to quantitative and qualitative data in evaluating not only the execution but also the efforts of Islamic banking institutions by BNM, particularly in conveying the true essence of *maqasid al-Shariah* through financial intermediation activities.

There were many banks that did not partake in VBI implementation when it was first introduced by BNM because it was not compulsory for Islamic banks do so. Furthermore, some Islamic banks claimed that they had already implemented *maqasid al-Shariah* in their banks even without the VBI initiative (Personal communications, 2019). Currently, out of 16 Islamic banks in Malaysia only 12 of them have adopted VBI and they are known as the members of the VBI Community of Practitioners (CoP) (Association of Islamic Banking and Financial Institutions Malaysia, 2020). The study relates the operation of Islamic banks with the aim to achieve *maqasid al-shariah* through the offering of their products and services before and after the VBI implementation. Hence, the objective of this study is to compare the practices applied by different Islamic banks in achieving *maqasid al-Shariah* through their available products and services prior to as well as following the VBI implementation.

Methodology

Based on the objective of the study, a qualitative research design was deemed the most suitable method for interpreting the array of views from Islamic bank practitioners on *maqasid al-Shariah* and VBI implementation. A qualitative research methodology, including a review of the currently available literature and qualitative content analysis, have been applied. This study also conducted face-to-face semi-structured interviews with identified participants based on certain criteria, applying non-probabilistic, purposive, and judgment sampling methods. Limitation of this study is mainly on the difficulty to obtain consent from the Islamic banks to participate in this study as well as to acquire published materials on VBI implementation in Islamic banks. Fortunately, three members of the VBI CoP Islamic banks namely Bank Pertanian Malaysia Berhad (Agrobank), Maybank Islamic Berhad and Bank Islam Malaysia Berhad (BIMB) were willing to be interviewed for this study. The interviews were carried out with practitioners in the three Islamic banks mentioned, consisting of one Head of Shariah and two other Shariah Officers directly involved with VBI implementation in their respective banks. Since this study is exploratory in nature, the analysis of this study was solely dependent on the views, opinions and facts given by the three informants who were involved directly with VBI implementation projects in the three Islamic banks. The three informants also had extensive Shariah backgrounds enabling them to relate Islamic banking operations with *maqasid al-Shariah*. However, the three informants favored to remain unidentified and anonymous. Thus, they will be marked as R1 to R3.

Results

The discussion on the comparison of the practices of Islamic banks in realizing *maqasid al-Shariah* through their products and services offerings before and after VBI implementation is based on Table 1. From the analysis on the practices of the three Islamic banks, the researchers concluded that *maqasid al-Shariah* had been realized in Islamic banks operations even before VBI implementation. However, before the release of the strategy paper on VBI by BNM in July 2017, there was no proper framework in implementing value creation beyond banking. With VBI, BNM aspires that the roles and impacts of Islamic banks will be strengthened and *maqasid al-Shariah* can be realized in a sustainable financial ecosystem. A sustainable financial ecosystem here means that Islamic banks will be able to offer products and services with good entrepreneurship facility, promoting the well-being of the community, a sustainable environment and economic development, without having to compromise shareholders' returns.

Based on Table 1 and the interview with R1 (personal communication, 6 January 2020), it clearly shows that before the implementation of VBI in 2017, Agrobank had already applied *maqasid al-Shariah* into their products and services by providing comprehensive financial solutions across the agriculture chain. Agrobank had launched its own financing product for Agro Entrepreneur called Fund for Food (3F) to support community well-being in food production (Aziz, 2011). R1 mentioned that the primary food production and distribution had become more efficient because food were sold at a reasonable cost due to the low margin of financing given by the bank. Agrobank had successfully applied *maqasid al-Shariah* as this product served as an alternative to conventional loans in protecting public *maslahah* (interest) from the involvement with *riba*. The Bumiputera Industrial and Business Community Scheme (MPPB) financing was another product offered by Agrobank prior to VBI. From this product, more of Bumiputera entrepreneurs were brought into the agricultural sector, specifically in the production of food crop as well as processing and marketing of agricultural

products excluding rubber, forestry, pepper, palm oil, cocoa, tobacco, drinks and vegetable oil (Aziz, 2011). This bank's initiatives realized the *maqasid al-Shariah* in entrepreneurship facilities among the Bumiputera entrepreneurs.

Following the integration into CoP, R1 emphasized that Agrobank was wholly committed to become a responsible financial body to fulfill its responsibilities to the society and environment under VBI implementation. A service offered by Agrobank was retail banking financing solutions aimed for the betterment of the agricultural community. Agrobank had also invested a great part in entrepreneurial development programs that equipped agropreneurs with various financial information as well as to polish their entrepreneurial skills. Some programs including Agropreneur Development Programme (ADP), Business Advisory and Intervention and Best Practice Sharing programme are curated to facilitate the development of aspiring agropreneurs to expand their business sustainability. R1 also stressed on the various ADP sessions which had equipped agropreneurs to with beneficial information such as current policies related to their respective industries, strategies for business sustainability and tips on product branding to effectively improve marketing technique.

Table 1 has shown that BIMB had achieved *maqasid al-Shariah* before the VBI implementation such as in the protection of dignity and ensuring well-being of the community, the bank has offered products on *wasiat* or will writing services in collaboration with Amanah Raya Berhad. R2 (Personal Communication, 2020) explained on another two products that fulfilled the *maqasid al-Shariah* before the implementation of VBI which are personal financing and Bancatakaful that could provide protection on both human's life and intellect as mentioned in *maqasid al-Shariah*. However, R2 emphasized on the fact that products and service was not structured and shown as it was meant to achieve *maqasid al-Shariah*. R2 also highlighted that there are other products and services which achieved *maqasid al-Shariah* but the activities have not been highlighted to the public as a whole but only to the recipients to promote the well-being of the society such as rescheduling facility given to the customer who are unable to pay back the financing due to genuine hardship. However, this help from the bank is not publicized to the public.

Table 1

Products and Services Before and After VBI Implementation by Islamic Banks to Realize Maqasid al-Shariah

Banks	Before VBI	After VBI
Agrobank	<ul style="list-style-type: none"> • Already applied <i>maqasid al-Shariah</i> into their products and services but there was no proper framework • Example of product: Fund for Food (3F) and Bumiputera Industrial and Business Community Scheme (MPPB) financing 	<ul style="list-style-type: none"> • The <i>maqasid al-Shariah</i> of the bank has appeared to be more structured • Examples of products: Agropreneur Development Programme (ADP), Business Advisory and Intervention and Best Practice Sharing programme
Bank Islam Malaysia Berhad (BIMB)	<ul style="list-style-type: none"> • Achieved <i>maqasid al-Shariah</i> but it was not structured before the VBI implementation • Examples of products: Will writing services, Personal Financing-i and Bancatakaful 	<ul style="list-style-type: none"> • The <i>maqasid al-Shariah</i> of the bank appeared more structured • Example of product: Sadaqa House
Maybank Islamic Berhad	<ul style="list-style-type: none"> • Achieved <i>maqasid al-Shariah</i> before the VBI implementation but was not well-structured 	<ul style="list-style-type: none"> • The <i>maqasid al-Shariah</i> of the bank appeared more structured • Example of product: HouzKey

R2 explained that after becoming CoP, *maqasid al-Shariah* at BIMB appeared to be more structured as compared to before the implementation of VBI. The example of products and services provided by the bank after the implementation of VBI is Sadaqa House (Bank Islam, 2020). Sadaqa House is a charity crowdfunding platform prepared by BIMB, where people could donate to charitable projects that are uploaded on it. Donations could be made in accordance to the donors' own interests or to a non-affiliated perpetual fund of Sadaqa House. R2 emphasized that this is one of the BIMB's efforts to create a more sustainable economic development, community and environment. To date, IJN Foundation, Yayasan Sultanah Bahiyah and Universiti Teknologi Malaysia are the partners on Sadaqa House project with BIMB, in which the main sectors are healthcare, environment, community empowerment and economic empowerment. Sadaqa House became an intermediary between donors and charitable projects. Thus, good governance became one of the important matters necessary in Sadaqa House. The Zakat and Charity Committee, as mentioned by R2, provides oversight on Sadaqa House's whole operation in order to highlight the bank's allegiance to bringing good governance, transparency and disclosure of Sadaqa House's fund management through public reporting. In order to serve the Muslim community, Islamic banking and finance should encompass the different aspects of the economy. This is because VBI promotes not only Shariah compliance in Islamic banking activities but a more holistic view of Shariah (Hassan & Nor, 2019). BIMB is seen to achieve *maqasid al-Shariah* through Sadaqa House as it will give

benefits to needy people by using crowdfunding platform and the donation received will be used for charity project.

R3 (Personal Communication, 2020) from Maybank Islamic Berhad had emphasized that *maqasid al-Shariah* had been realized by the bank before VBI implementation by helping potential customers in genuine financial problems to get financing. This act does indeed fall under the concept of *taawun* (cooperation) among brothers which is encouraged in Islam based on Surah al-Baqarah, verse 148: “Strive, then, to excel each other in good deeds.” Furthermore, the bank also does a screening process on the companies showing interest in doing financing with the bank to verify whether the company has any issues with the environment such as pollution issues and thus, the bank will try to avoid this kind of companies. R3 explained on the bank’s willingness to sacrifice profit due to the good cause upheld by the bank and believed in that by preserving *maqasid al-Shariah*, the profit will become indemnity. Maybank Islamic Berhad has become a leading Islamic bank in Malaysia in terms of its total assets, total financing, total funding as well as profitability as compared to other Islamic banks.

R3 admitted that it was difficult at first to implement the VBI, but the bank managed to adapt easily as it already had prior experience and the structure, culture and framework suitable to use in VBI. As Maybank Islamic Berhad is a subsidiary of conventional bank which is Maybank Group, Maybank Islamic Berhad attempted to introduce *maqasid al-Shariah* not just in Islamic bank divisions but also in group levels. One of the examples of product that has been introduced by Maybank Islamic Berhad in VBI implementation is HouzKEY, a rent-to-own scheme using the Islamic concept of *Ijarah* (Raj, 2017). Until today, this scheme is offered in both Islamic and conventional banks of Maybank Group.

R3 emphasized that this product was specially designed to support those who had difficulties in getting home ownership due to the high initial cost or down payment in buying a house by offering 100% amount of financing. The benefits of this product are; the customer only needs to pay 3 months refundable security deposit at the point of signing up contract with Maybank to accept HouzKEY facilities, the monthly rental will reduce customer’s obligation overtime, and the number of guarantors is up to 3 guarantors to improve customer eligibility in getting the application for this product to be approved. Even though this initiative by Maybank Islamic Berhad is viewed as a “risk-taking” product, but considering VBI, Maybank Islamic Berhad had this product introduced as a form of assistance to those how could not find means to purchase a house.

From the practices of the three Islamic banks, Islamic banks are able to structuralize their strategies and performances in adopting an ethical banking ethics complying with Shariah with the help of VBI implementation. It can be concluded that *maqasid al-Shariah* has been realized in Islamic banks even before the implementation of value-based intermediation by BNM. However, before the implementation of VBI, Islamic banks were at a disadvantage as there were no proper guidelines or framework in the implementation of *maqasid al-Shariah* into their banking operations.

Conclusions

Based on the findings and analyses on Agrobank, BIMB and Maybank Islamic Berhad’s practices, the researchers can conclude that *maqasid al-shariah* has been realised in Islamic banks operations in the offering of Islamic banking products and services before and after VBI implementation. The informants from the 3 Islamic banks agreed that the Islamic banks have done the activities or programs that resemble what VBI have done before VBI implementation

but the activities have not been highlighted. When VBI was introduced by BNM, it made the implementation of *maqasid al-shariah* more structured and transparent in the Islamic banks' practices. VBI helps the 3 Islamic banks to structuralize their strategies and performances in adopting ethical banking ethics complying with Shariah. With VBI implementation in Islamic banks, *maqasid al-Shariah* can be further realized and enhanced in boosting the promotion of Islamic finance into the global market. The main focus of VBI is the execution of Shariah propositions via financial intermediation activities, which in due time, will enhance the roles and impacts of Islamic banking institutions. A well-grounded understanding and appreciation of Shariah propositions as well as a sustainable and resilient Islamic banking institution are necessary in order to ensure a long-term capacity and profound perseverance to persistently steer the VBI agenda while overcoming all challenges impeding the success of an effective and efficient VBI implementation. BNM should encourage all Islamic banks to implement and practice VBI in their banking operation so that more parties will benefit from it.

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