



An Analysis on Islamic Social Finance for Protection and Preservation of *Maqāṣid al-Sharī'ah*

Nor Razinah Mohd Zain^a, Engku Rabiah Adawiah Engku Ali^b

^{a*} Ahmad Ibrahim Kuliyyah of Laws (IIUM)

^b IIUM Institute of Islamic Banking and Finance (IIiBF)

Corresponding author: mumtaaz_razi@hotmail.com.

Abstract

Islamic social finance is akin to the conventional social finance but the former is subjected to the established principles of *Sharī'ah*. In generating positive impacts to the society, the Islamic social finance and its instruments must be utilised in protecting and preserving the *Maqāṣid al-Sharī'ah*. A critical analysis on the Islamic social finance in relation to the *Maqāṣid al-Sharī'ah* is provided through this research. By using the doctrinal and qualitative methods, the practices of the Islamic social finance as applied in OIC member states are reviewed and provided as examples. Problems of implementation of Islamic social finance in the OIC countries are listed; while tentative solutions are suggested with a hope of triggering better solutions. At the end of discussion, a list of recommendations for future researches is proposed for considerations.

Keywords: Islamic social finance, *Maqāṣid al-Sharī'ah*, and OIC member states.

© 2017 International Islamic University Malaysia

1. Introduction

Social finance is an approach in investing and managing a certain fund with the purpose of solving societal challenges (MaRS, 2016). It is deemed important in generating positive impacts to the society such as alleviating poverty, providing necessary infrastructures such as school and hospital, and preserving life and dignity. Such investment may not be purely based on charitable and social donations. Rather, it is a form of co-operative investment which offers financial return and also social gain. Under the conventional practice, social finance can be traced from investment in form of equity or debt financing (Investopedia, 2016), microfinance and social impact bonds. It is found that Islam already provides a social-based financing investment which is not only able to benefit individual but also society at large.

Borrowed from the social finance study, it is identified that the concept of Islamic social finance is broad and already exists in Islam. For sake of definition, inclusively, it covers the Islamic traditional instruments based on philanthropy (such as *Zakat*, *Sadaqat* and *Waqf*) and cooperation (such as *Qard* and *Kafala*) (Islamic Social Finance Report, 2015:8). Not limited only to the traditional instruments, it also covers the modern form of Islamic financial services such as Islamic microfinance, *Sukuk* and *Takaful* which stand with the objectives of solving societal challenges.

Focusing on the Islamic social finance, this exploratory research looks in depth into the reality of Islamic social finance and its critical role in preserving and protecting the Islamic jurisprudential principle of *Maqāṣid al-Sharī'ah*. Such analysis is crucial as an effort to discover the relationship between the Islamic social finance with the *Maqāṣid al-Sharī'ah*, while promoting Islamic social finance to local and international investors. The doctrinal and qualitative approaches are adopted (McConville and Wing, 2007:3) for this research.

This research is organised into seven main sections. After the introduction section, section 2 provides the discussion on the Islamic jurisprudential principle of *Maqāṣid al-Sharī'ah*. The insights on understanding of *Maqāṣid al-Sharī'ah* are given. Section 3 explains the Islamic social finance and its instruments. Section 4 provides the practices of Islamic social finance in the Organisation of Islamic

Cooperation (OIC). By looking in-depth into the reality, the problems in implementing the Islamic social finance in OIC member states are identified in section 5. The suggested solutions for the problems are provided in section 6. Last but not least, the conclusion and future research recommendations are provided in Section 7.

2. The Islamic Jurisprudential Principle of *Maqāṣid Al-Sharī'ah*

In the application of any instrument or laws derived from *Sharī'ah*, *Maqāṣid Al-Sharī'ah* can be considered as the supposed end results which must be attained. It is the fruit of the *Sharī'ah*. It is also a yardstick which can be used in measuring the success of the application. In the failure of attaining the *Maqāṣid Al-Sharī'ah*, automatic indication can be assumed that such application of instrument or laws may be wrongfully applied or fail due to other reasonable factors.

2.1 Definition of *Maqāṣid Al-Sharī'ah*

The *Maqāṣid Al-Sharī'ah* is a combination of two words, which are (i) *Maqāṣid* and (ii) *Al-Sharī'ah*. Both of the words have their own meanings. Literally, the word *Maqāṣid* connotes a purpose or objective or goal (Auda, 2008:2). It is a goal which is essential to be attained in application of any *Sharī'ah*'s principles. In achieving such goal, Muslim jurists such as Al-Qardawi emphasise on looking towards the goal or objective of Prophet Muhammad (peace be upon him) in his conducts and actions as a leader, an administrator, and a judge (Auda, 2008:2). They believe that the goal or objective in application of any *Sharī'ah*'s principles can be rightfully attained by following the best examples from Prophet Muhammad (PBUH).

According to Kamali (2008:2), when the term *Al-Sharī'ah* is used, it refers to “a way to the watering-place or a path apparently to seek felicity and salvation”. This is derived from Qur'anic manifestation when Allah the Exalted said: “Thus we put you on the rights way of religion. So follow it and follow not the whimsical desire of those who have no knowledge” (Qur'ān, 45:18). Technically, Kamali accepts the definition of *Al-Sharī'ah* as “a path to religion, which is manifestly connected with the essential set of values of Islam and the best manner of their protection” (Kamali, 2008:2). From legal perspective, *Al-Sharī'ah* is “the collective name for all laws or principles ordained by Allah SWT for His servants through Prophet Muḥammad (PBUH) including the various Islamic systems of *Aqeedajh*, *Akhlaq*, *'Ibadah* and *Mu'amalah*” (Shuaib et. al, 2001:391).

In collective form, *Maqāṣid Al-Sharī'ah* is understood as the purposes or objectives behind the Islamic rulings (Auda, 2008:2), or behind the revelation of the *Sharī'ah* itself. *Maqāṣid Al-Sharī'ah* is also the purpose of the *Sharī'ah* which essential to be achieved in solving individual and societal problems consistent with the objectives of the Lawgiver i.e. Allah the Almighty.

2.2 The Objectives of the Lawgiver

Muslim jurists have different classifications in identifying the objectives of the Lawgiver. The most prominent classifications can be traced from: (a) the classification based on the levels of necessity, (b) the classification based on the scope of rulings and aim in achieving certain objective, and (c) the classification based on the scope of people that are included towards achieving certain objective. The explanations of the classifications are provided as follows:

- (a) The classification based on the levels of necessity: *Maqāṣid Al-Sharī'ah* can be divided into three levels of necessity. The first level is *Daruriyyah* (essential) of necessity. It is the absolute requirements in order to attain the perfection of survival and spiritual well-being of individuals. Without these *Maqasid*, it leads to destruction and precipitates chaos and the demise of normal order in the society as accordance to the *Sharī'ah*. The purposes of law which reached the level of essential are divided into two types and they are, (i) *Deen* (religion) or purposes of hereafter, and (ii) *Duniyawi* or purposes pertaining to this world affairs (Al-Ghazali, n.d., pp.186-187). They are further divided into four types which are preservation and protection of (i) *Nafs* (life), (ii) *Nasl* (progeny), (iii) *'Aql* (intellect), and (iv) *Maal* (property). In addition to such, Al-Qardawi includes another purpose, which is the preservation and protection of *Ard*' (honor) and he considers it as essential (*Daruriyyah*) (Auda, 2008:2). Al-Ghazali stipulated that from the five

purposes of the *Maqasid*, the protection and preservation of religion (*Deen*) has the priority over the rest of purposes (Al-Ghazali, n.d:186-187; Auda, 2008:5).

- (b) The classification based on the scope of rulings and aim in achieving certain objective: this classification is done by referring to the revealed orders stipulated in Qur'ān and Sunnah. For example, by referring to the Qur'ānic verses on prohibition of drinking alcoholic drinks, the scope of the order is prohibition and the aim for such order is to preserve 'Aql (intellect) (Qur'ān, 5: 90-91).
- (c) The classification based on the scope of people that is included in achieving certain objective: this classification is done by referring to the people involved in the prescribed orders and the relevant objective that it intends to achieve. For example, in a case of spendthrift. It is clear that overly spendthrift can cause devastating results to property and the underage owner of the property. It is also prohibited for overly spendthrift without any just cause (Qur'ān, 17:27). The rule of guardianship applies here, where the objective is to prevent the spendthrift from overwhelmingly using his property in excessive manners.

Based on the above list of classification, the first classification i.e. based on level of necessities is frequently used and referred to in identifying the *Maqāṣid Al-Sharī'ah* (Dusuki et. al., 2007, pp. 143-165). Therefore, when preservation and protection of *Maqāṣid Al-Sharī'ah* is mentioned, it indicates the preservation and protection of *deen* (religion), *nafs* (life), *nasl* (progeny), 'aql (intellect), *māl* (property) and *ard'* (honor).

2.3 Preservation and Protection of *Maqāṣid Al-Sharī'ah*

The preservation and protection of *Maqāṣid Al-Sharī'ah* is tantamount to securing the interests or good (*maslaḥah*) and avoiding any evils or mischief (*mafsadah*), (Nyazee, 1994, p.322). Securing the interests (*Maslaḥah*) and avoiding any evils (*Mafsadah*) can be considered broadly from different dimensions such as individual, society and country. By holding to the *Maqāṣid Al-Sharī'ah*, the interests or good (*maslaḥah*) can be secured and evils or mischief (*mafsadah*) can be deleted either from the individual or the society. An objective or goal (*maqasid*) cannot be taken as valid unless it brings fulfilment of good and elimination of evils. At the same time, such objective or goal must not be contrary to the *Sharī'ah*.

From a practical aspect, Muslim jurists frequently use the *Maqāṣid Al-Sharī'ah* in justifying their legal reasoning or *ijtihād* in attaining the objectives of the Lawgiver. When it comes to the application of instruments or laws as derived from the *Sharī'ah*, the *Maqāṣid Al-Sharī'ah* must be achieved. If not, such instruments or laws can be assumed to have flawed from the path of *Sharī'ah*. When such situation happens, potential adjustments or changes are necessary to be done to the instrument or laws in achieving the objectives of *Sharī'ah*. By doing so, the application of instruments or laws as derived from the *Sharī'ah* can be monitored. At the same time, the *Maqāṣid Al-Sharī'ah* can be preserved and protected.

3. Islamic Social Finance

As identified earlier, the Islamic social finance which currently applied nowadays can be divided into three main categories which consist of: (a) Islamic traditional instruments based on philanthropy. Examples: *zakat*, *sadaqat* and *waqf*. (b) cooperative-based foundations. Examples: *qard* and *kafala* (Islamic Social Finance Report, 2015:8). (c) Other modern forms of Islamic financial services. Examples: Islamic microfinance, *sukuk* and *takaful* (Jemilah Mahmud, 2015).

3.1 Instruments of Islamic Social Finance

For the purpose of this research, the discussion is limited only to *zakat*, *sadaqat*, *waqf*, *qard*, *kafala*, Islamic microfinance, *sukuk* and *takaful*:

- (a) *Zakat* is the obligatory payment made annually by Muslims. Such payment is paid on a certain portion from their properties for religious and charitable purposes. It is one of the five compulsory pillars in Islam. It can be used for the benefits of poor and needy in the society. It is

widely applied among Muslims and OIC countries. It is reported that a minimum of USD600 billion of excess *zakat* has potentially been distributed for humanitarian action annually (Mahmud, 2015; Islamic Social Finance Report, 2015, pp.: 8-9; Islamic Social Finance Report, 2014, pp.: 14-15). Normally, *Zakat* is collected by religious authorities established by the states. In many OIC countries, the collection of *zakat* and its distribution to the needy in the society are subjected to the procedures of the religious authorities. Basically, there is no standardization of the *zakat*'s collection and distribution among the states. Depending on the established legal systems of the countries, *zakat* is collected and distributed to the needy. Without any existence of proper religious authorities, the members of the society depend on their religious leaders or *Imam* to pay their *zakat*. The *Imam* is also responsible to distribute the collected *zakat* to the needy.

- (b) *Sadaqat* is the charitable amount which can be paid out voluntarily in a form of donation. It is religiously encouraged. Different from *zakat*, there is no specific calculation provided in determining the charitable amount. There is no exact data collected for the total amount of *sadaqat* collected from the OIC countries. But, it is believed that the amount is higher in comparison to *zakat* since there is no limitation provided in terms of eligibility of the donors (Mahmud, 2015). In practice, *sadaqat* can be given directly to the people who are in needs. In the event of conflicts or disasters, *sadaqat* is channeled through specific humanitarian bodies such as MERCY for sake of proper management and administration. This is important in ensuring the *sadaqat* is protected from any misappropriation.
- (c) *Waqf* refers to the assets or investments which are given by their owners based on the concept of trust where the proceeds are meant to be utilized for sake of public at large or the owners can also specify the suitable beneficiaries. When *waqf* are created, the ownerships are vested to Allah the Exalted. As long as the *waqf* properties are in existence, any benefits from them can be utilized perpetually for the sake of the beneficiaries. Since the practice of *wqf* begins through the advancement of Islam since earlier than 8th century, many *waqf* are lost from the records. It is estimated that *waqf* in Muslim countries reached 1/3rd or more of cultivated lands (IDB, 2014). Currently, the value of *waqf* is estimated to range from USD100 billion to USD1 trillion (IDB, 2014). In practice, *waqf* have been used to mainly contribute to social, health, environmental, education and infrastructure. These are not only applicable to needy but also to the public at large. Some of traceable practices can be seen as provided below:
- i) Social: interest free loans, debt relief funds, free guest houses for passing strangers, marriage loans, free shelter for domestic and abuse cases or shelter for angry housewives, orphanage, fund for ransom (of war prisoners).
 - ii) Health: hospitals, veterinary hospitals, shelters for stray animals, medical caravans, and mobile clinic.
 - iii) Environmental: seeds or trees *waqf* which encourage the plantation of trees and elimination of deforestation (Budiman, 2011:800). This practice can be extended to plantation of vegetables for suitable beneficiaries such as orphans.
 - iv) Education: establishment of universities without payment of fees, students' hostels, libraries, and free books.
 - v) Infrastructures: such as mosques, roads, bridges, public utilities, public railways and any other public transportation.
- (d) *Qard* is a commercial contract that involves lending of money from a lender to a borrower where the latter is obliged to return the same and equivalent amount of the borrowed money to the lender (BNM Concept Paper, 2016:6). It stands without interest and recognized under the *Shari'ah*. The said contract is established and completed when the ownership of the money is transferred from the lender to the borrower. Such transfer of ownership raises an obligation on the part of the borrower to pay the borrowed amount to the lender. In practice, the contract of *qard* is applied in Islamic financial services and frequently used as the foundation to Islamic microfinance (Mojtahed and Hassanzadeh, 2009).

- (e) *Kafala* is a contract of guarantee or taking of responsibility for a liability provided by the guarantor or *kafil* (Hassan and Lewis, 2007:17). There are basically four main types of *kafala* (Mejelle, 2001). They are:
- vi) *Kafala bil maal*: is “a guarantee of property is constituted by a person becoming guarantor for the payment of something” (Mejelle, 2001, Article 614). It is a contract of guarantee where the guarantor is obligated to pay on behalf of the guarantee in situation where the guarantee fails to fulfil his obligation.
 - vii) *Kafala bil nafs*: is “a personal guarantee which is constituted by a person becoming a guarantee for another man personally” (Mejelle, 2001, Article 613). It is said that *kafala bil maal* can be changed to *kafala bil nafs* (Mejelle, 2001, Article 651). When the guarantee failed to settle his obligation, the guarantor is personally responsible to hold such obligation by payment from his own property or money. It is synonymous with practice of recovery of debt.
 - viii) *Kafala bil taslim*: is a guarantee for a contract of delivery of goods or services. The guarantee is bound legally to the guarantor until the contract is fulfilled. In situation of failure of the contract, the guarantor has to pay for incomplete delivery or service.
 - ix) *Kafala bil darak*: is a contingent guarantee or also known as a purchase price of goods sold (Nicholas H.D. Foster, 2001, p.133). It is “constituted by a person becoming guarantor for the payment of the price of the property sold, in the event of its being appropriated by a person having a right thereto, or for the vendor personally” (Mejelle, 2001, Article 616).

In modern practice, *kafala* is more frequently used as contract of guarantee in recovery of debt, or in contract of sponsorship. It is also used as a contract of guarantee for financing orphans (Yassari, 2015:928) and investments.

- (f) Islamic microfinance: includes all microfinance products (micro-credit, micro-equity, micro-savings, micro-transfers, micro-insurance) which consistent with all the principles of *Shari‘ah* (Obaidullah, 2008). For example: micro-credit that is based on Islamic microfinance can be created without interest and developed through Islamic commercial contracts such as *qard hasan* (benevolent loan) and *murabahah* (a purchase with cost plus profit structure).
- (g) *Sukuk*: is an Islamic bond where it bestows a share of an asset to the investor with clear commensurate cash flows and risk (IDB, 2016). Under the Islamic social finance, socially responsible investment (SRI) *sukuk* or green *sukuk* should be considered here. It is a *sukuk* which is issued to finance environmental-friendly projects (MIFC, 2016). Investors are issued with *sukuk* as identification of their shares in the projects. When the project is completed, they will be paid according to their shares plus profits or any other agreed terms.
- (h) *Takaful*: is a *Shari‘ah*-compliant insurance where a group of participants mutually agree among themselves to guarantee each other (in the group) from any defined loss that may happen upon them (BNM, 2016). Such guarantee is done by contribution of donation from each members of the group in the *takaful* fund. *Takaful* is useful in facing calamity which unpredictable to happen in the future. By having *takaful* in advance, it can be treated as a form of financial security for any member of the *takaful* group.

3.2 Relationship between Islamic Social Finance and Maqāṣid Al-Sharī‘ah

Under the principle of *Maqāṣid Al-Sharī‘ah*, there are six essential matters which are important for humans’ survival and as such are necessary to be protected and preserved. Such essential matters are: (i) *deen* (religion), (ii) *nafs* (life), (iii) *nasl* (progeny), (iv) *aql* (intellect), (v) *maal* (property) and (vi) *ard’* (honor). Such six essential matters can be protected and preserved through the Islamic social finance and its instruments.

For an example, with Islamic microfinance, a small scale micro-credit without interest can be initiated. This creates businesses and opportunities in employments which eventually creates jobs for the members of the society. Simultaneously, it decreases unemployment among public and ensure their survivals. It protects and preserves *nafs* (life). The educational infrastructures such as schools and universities through *zakat*, *sadaqat* and *wqf* can open the golden gate of knowledge which allows the preservation and protection of *'aql* (intellect). With opportunities of employments and educations, other societal challenges can be tackled such as elimination of abuses towards women and children, and prostitution. These ensure the protection and preservation of *nasl* (progeny) and *ard'* (honor). Instrument such as *takaful* can be properly utilized in facing calamity, while SRI or green *sukuk* can be used to protect environment for future generation. At the same time, protection and preservation of *deen* (religion) can be safeguarded where Islam is a comprehensive religion which provides a comprehensive mechanism for securing the *Maqāṣid Al-Sharī'ah*. Concurrently, alleviation of evil or mischief (*mafsadah*) can be done from the society and the interests or good (*maslahah*) can be preserved in the society.

4. Practices of Islamic Social Finance from OIC Member States

Islamic social finance and its instruments are majorly practiced among the OIC member states which consist of 52 countries (OIC, 2016). The OIC member states are progressively practicing the Islamic social finance and its instruments for sake of their citizens. Listed below are some of the practices of Islamic social finance by the OIC member states:

- (a) *Zakat*, *sadaqat*, and *waqf*: these instruments of Islamic social finance are already practiced widely in OIC member states. In process of alleviation of poverty and women empowerment (Islamic Social Finance Report, 2015:8), a hybrid structure with combination of the instruments are suggested and yet to be tested (Hassan, 2010). However, the said instruments are majorly used as funds for Islamic microfinance issued by the religious authorities (Obaidullah, 2008).
- (b) *Kafala*: An orphanage sponsorship based on *kafala* is committedly done in Aceh Pidie and Aceh Utara, Indonesia especially since the aftermath the tragedy of tsunami 2004. It is known as Orphan Kafala program. The program is a collaborative initiation from the Islamic Development Bank (IDB), OIC and Zakat Management Institutions. The total fund collected for the programme reached IDR 10.9 billion (BMM, 2016). The said program with contribution from the Baitulmaal Muamalat (one of the Zakat Management Institutions) provides also training and rehabilitation program. It covers activities such as handicraft, machine repairing, hand phone services, tailoring skill and basic computer training (BMM, 2016).
- (c) Islamic microfinance: rapid initiatives based on Islamic microfinance are developed in countries such as Nigeria (Mhammed and Hasan, 2008) and Pakistan (Akhter et. al., 2009) for alleviation of poverty. Earlier on, Malaysia and Indonesia have adopted the same instruments for small scale businesses and investments (Abdul Rahman, 2010).
- (d) *Sukuk*: the first SRI or green *sukuk* was issued in 2012 for a 50MW photovoltaic project in Indonesia. The said *sukuk* was structured in Malaysia. It was funded entirely based on a power purchase agreement. The responsible companies (Solar Guys International and Mitabu) for the project managed to collect an amount of USD100 million for the project's investment (MIFC, 2016). Later in 2015, United Arab Emirates (UAE) followed such footstep with a plan to issue green *sukuk* for renewable energy project (MIFC, 2016). Such *sukuk* is planned to be issued by the Dubai Clear Energy Business Council and the Dubai Supreme Council of Energy. With the same interest, the Islamic Development Bank (IDB) indicated that they preferred to issue *sukuk* for climate-related projects. Such indication was made in the United Nations Global Warming Conference 2015 in Paris (MIFC, 2016).

- (e) *Takaful*: has the potential to be developed as sustainable safety net for society at large in providing basic needs, especially in facing calamity such as tsunami or earthquake. In Indonesia, a suggestion for micro-*takaful* is made for the people with low income (Haryadi, 2006). The micro-*takaful* also has potential to be applied in Iraq (Hasim, 2014).

5. Problems for Implementation of Islamic Social Finance in OIC Member States

It is clear from the above discussion that Islamic social finance has a huge potential to be used for protection and preservation of *Maqāṣid Al-Sharī'ah*. However, there are several problems which need to be addressed in implementation of Islamic social finance in OIC member states:

- (a) There is absent of standardization of laws for collection of *zakat*, *sadaqat* and *waqf*: it is acceptable if there are differences between the laws from one country to another country among the OIC member states. However, when the laws are not standardized within a country, it will affect the effectiveness of fund collection. Inevitably, it can grossly affect the distribution of fund to the suitable candidates. Same problem can be found in laws relating to *waqf*. Without proper law in monitoring creation of *waqf*, the status of *waqf* can be easily refuted. Not just that, the proceeds from the *waqf* assets can be easily misappropriated.
- (b) Refusal to pay *zakat*: since *zakat* is one of five essential pillars of Islam, it is compulsory to be paid by those who are qualified.
- (c) Corruption: without proper laws, smooth administration of any collected fund or management of assets cannot be implemented properly which can open the doors for corruption and misappropriation.
- (d) Conflict within or between the countries: conflicts within or between countries are increasing in OIC member states. This can be traced from war in Syria, war in Yemen, conflict Palestine-Israel, Arab Spring and recently, attacks on Turkey. Such conflicts not only cause losses of life but also disturb the preservation and protection of *Maqāṣid Al-Sharī'ah*.
- (e) Different collection of funds from one country to another country: some of the countries collect higher fund collection in comparison to other countries. Whereas, a country with less performance in economy may obtain less in collection of fund.
- (f) Lack of skills in doing business or investment: without proper skills, failure in doing business or investment is higher regardless of the amount given such as through Islamic microfinance.
- (g) Absent of records for those who are in needs: without proper records, the distribution of funds or proceeds is difficult to reach the right people who are in needs.

6. Suggested Solutions for the Implementation of Islamic Social Finance in OIC Member States

In finding solutions for the problems in implementing the Islamic social finance in OIC member states, it is important to realise that every country is unique. There is possibility that one country's problems may be different from another country. However, it is suggested here the solutions for problems as listed above:

- (a) There is absent of standardization of laws for collection of *zakat*, *sadaqat* and *waqf*. The relevant body that is responsible for legislation of laws should be alerted concerning to the status of laws for *zakat*, *sadaqat* and *waqf*. It is suggested that proper identification of the related problems within the country for *zakat*, *sadaqat* and *waqf* must be done. Such identification of problems can be done through collaborative research between the responsible officers and the experts who knowledgeable about the laws and their implementations. Local experts are encouraged to be referred to. After the problems are identified, proper laws should be legislated in providing the solutions.
- (b) Refusal to pay *zakat*: for such refusal, penalty should be imposed by the relevant authorities subject to their legal systems.
- (c) Corruption: a mechanism for reporting the corruption must be initiated. A smooth investigation should be carried out in handling the corruption. It must be done without fear or favour. The

witnesses must be protected from any possible threats. The penalty as imposed by the laws should be severed and equivalent to the amount involved. It is important to make it as a lesson for any person who intends to commit it.

- (d) Conflict within or between the countries: it is suggested that OIC itself plays an aggressive role in making peace or resolving the conflicts. Such action must be done without fear or favour. Necessary intervention is needed to stop a conflict such as for war in Syria. Humanitarian funds should be channeled and managed for those who can be categorized as refugees.
- (e) Different collection of funds from one country to another country: it is essential to be less considered about political or racial orientation, especially when Muslims are considered as brothers to each other. For those countries that have surplus from their fund collections or proceeds of assets, such surplus should be considered to be channeled to other countries which are in needs. Not necessarily such surplus to be given voluntarily, but it can be used as progressive investments from one country to other country. A proper arrangement for purpose of assisting the less fortunate Muslims should be done. Any possible profits from such investments can be used for other investments.
- (f) Absent of skills in doing business or investment: the relevant authorities should provide any necessary training for those who are involved in any business or investment generated from the Islamic social finance's instruments. This is important to increase the potential of success in doing the business or investment. Continuous guidelines through workshops or seminars should be held for them in increasing their experiences and skills. At the same time, any collected profit from the success of the business or investment should be used for other people who are interested in doing the business or investment.

7. Conclusion and Future Research Recommendations

The preservation and protection of *Maqāṣid Al-Sharī'ah* which majorly emphasises on the six essential matters ((i) *deen* (religion), (ii) *nafs* (life), (iii) *nasl* (progeny), (iv) *'aql* (intellect), (v) *maal* (property) and (vi) *ard'* (honor)) are important for alleviation of mischief or evil (*mafsadah*) in the society. It is also crucial in preserving interests or good (*maslahah*) in the public. Therefore, it is important to apply the Islamic social finance and its instruments that have high potentials for the preservation and protection of *Maqāṣid Al-Sharī'ah*.

Focusing on the practices of OIC member states, it can be concluded that the OIC member states are already on the right track in implementing the Islamic social finance. Such right track ultimately is able to reach the preservation and protection of *Maqāṣid Al-Sharī'ah*. However, the problems in implementing the Islamic social finance and its instruments must be properly identified and solved. Within this limited space, only a few of the problems can be listed here. Subjected to the uniqueness of each of the OIC member states, their problems may be varied from one country to other country. The suggested solutions for the listed problems are not exhaustive, but they are hopefully able to provide some insights; or at least, they are able to trigger better solutions.

It is recommended that more researches should be done in analysing the Islamic social finance in solving societal challenges, especially for sake of preservation and protection of *Maqāṣid Al-Sharī'ah*. Some of recommendations for future researches are:

- (a) The relevant laws applicable for each and every instruments of Islamic social finance;
- (b) The in-depth analysis on the problems in implementing the Islamic social finance or its instruments;
- (c) The in-depth solutions or model solutions in implementing the Islamic social finance or its instruments;
- (d) The factors which can contribute to the success of Islamic social finance in preserving and protecting *Maqāṣid Al-Sharī'ah*;
- (e) The detriments which can cause failure to the success of Islamic social finance in preserving and protecting *Maqāṣid Al-Sharī'ah*, and last but not least;
- (f) The suitable mechanism or model in implementation of Islamic social finance in each of the OIC member states (which eventually subjected to their legal systems, cultural and ethics backgrounds).

References

- Akhter, W., Akhtar, N., & Jaffri, S. K. A. (2009). Islamic micro-finance and poverty alleviation: A case of Pakistan. *Proceeding of the 2nd CBRC, Lahore*.
- Al-Ghazali. (n.d.). *Shifa' al-Ghalil*.
- Auda, J. (2008). *Maqasid al-Shariah as philosophy of Islamic law: a systems approach*. IIIT.
- BMM. (2016). Retrieved from: <http://www.baitulmaalmuamalat.org/language/en/what-we-do-2/program/special-empowerment/orphan-kafala/>
- BNM Concept Paper. (2016). Retrieved from: http://www.bnm.gov.my/guidelines/05_shariah/CP_Qard_Final.pdf
- BNM on Takaful. (2016). Retrieved from: <http://www.bnm.gov.my/index.php?ch=174&pg=500&ac=428>
- Budiman, M. A. (2011). The role of waqf for environmental protection in Indonesia. A Paper presented at *Aceh Development International Conference (ADIC)*, Kuala Lumpur, Malaysia.
- Dusuki, A. W., & Abozaid, A. (2007). A critical appraisal on the challenges of realizing maqasid Al-Shariaah in Islamic banking and finance. *International Journal of Economics, Management and Accounting*, 15(2).
- Haryadi, Agus. (2006). Developing microtakaful in Indonesia. *Second International Convention on Takaful and Retakaful*, Vol. 23. Kuala Lumpur.
- Hasim, Haslifah Mohamad. (2014). Microtakaful as an Islamic Financial Instrument, for Poverty Alleviation in Iraq. *Middle-East Journal of Scientific Research*, 21 (12), 2315-2325.
- Hassan, K., & Lewis, M. (Eds.). (2009). *Handbook of Islamic banking*. London, Edward Elgar Publishing.
- Hassan, M. K. (2010). An integrated poverty alleviation model combining zakat, awqaf and micro-finance. A Paper presented at Seventh International Conference–The Tawhidic Epistemology: Zakat and Waqf Economy, Bangi, Malaysia.
- IDB. (2016). Retrieved from: <https://sustainabledevelopment.un.org/content/documents/10289.pdf>.
- Investopedia. (2016). from: <http://www.investopedia.com/terms/s/social-finance.asp>.
- Islamic Social Finance Report 2014. (2014). Retrieved from: <http://www.irti.org/English/Research/Documents/Report-2.pdf>
- Islamic Social Finance Report 2015. (2015). Retrieved from: <http://www.irti.org/English/News/Documents/ISLAMIC%20SOCIAL%20FINANCE%20REPORT%202015.pdf>.
- Kamali, M. H. (2008). *Shari'ah law: An Introduction*. Oneworld Publications.
- Mahmud, J. (2015). Retrieved from: https://issuu.com/wief/docs/tan_sri_jemilah_mahmood_-_islamic_s
- MaRS Centre for Impact Investing. (2016). from: <http://impactinvesting.marsdd.com/>
- McConville, M., & Chui, W. H. E. (Eds.). (2007). *Research methods for law*. Edinburgh University Press.
- Muhammed, A. D., & Hasan, Z. (2008). Microfinance in Nigeria and the prospects of introducing its Islamic version there in the light of selected Muslim countries' experience. *Iefpedia*, 1-18.
- MIFC. (2016). Retrieved from: <http://www.mifc.com/index.php?ch=28&pg=72&ac=162&bb=uploadpdf>
- Mojtahed, A., & Hassanzadeh, A. (2009). The evaluation of Qard-al-hasan as a microfinance approach in poverty alleviation programs. *Money and Economy*, 5(2), 1-32.
- Nyazee, I. A. K. (2003). *Islamic Jurisprudence (UsËl al-FËqh)*. The International Institute of Islamic Thought and Islamic Research Institute.
- Obaidullah, M. (2008). Introduction to Islamic microfinance. *IBF Net Limited*.
- OIC Member states. (2016). Retrieved from: <http://www.oic-oci.org/oicv3/states/?lan=en>
- OLPC Peru/Arahuay. (n.d.). Retrieved from the OLPC Wiki: http://wiki.laptop.org/go/OLPC_Peru/Arahuay.
- Abdul Rahim, A. (2010). Islamic microfinance: an ethical alternative to poverty alleviation. *Humanomics*, 26 (4), 284-295.
- Shuaib, F. S., Ahmad Bustami, T. A., Kamal, M., & Hisham, M. (2001). *Administration of Islamic law in Malaysia: text and material*. Malayan Law Journal.
- The Mejelle: Being an English Translation of Majallahel-ahkam-i-adliya and a Complete Code on Islamic Civil Law*. (2001). Other Press.
- Yassari, N. (2015). Adding by Choice: Adoption and Functional Equivalents in Islamic and Middle Eastern Law. *American Journal of Comparative Law*, 63(4), 927-962.