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# Editorial

Alhamdulillah, all praise be to Allah (S.W.T.), through Whose blessing this special issue on Islamic banking and finance became a reality. This issue is published to commemorate the 25th anniversary of the establishment of the Kulliyyah of Islamic Revealed Knowledge and Human Sciences, International Islamic University Malaysia.

Islamic finance, particularly the banking aspect of it, started to flourish since about three decades ago, offering financial products that are in accordance with *Sharī'ah* principles vis-à-vis the conventional finance modes that are predominantly interest-based, and which may also not fulfil other *Sharī'ah* requirements. Interest charges are widely regarded by *Sharī'ah* scholars as *ribā* that is strongly prohibited in Islam. Nonetheless, financial intermediation is very important for the healthy growth of an economy, particularly business and employment. Islamic banking and finance grew, providing that intermediation to the Muslim community. Basically, Islamic finance mobilises funds from the surplus units in the economy and channels them to the deficit units, where both these functions are carried-out in accordance with *Sharī'ah*, with the objective of attaining the *Maqāṣid al-Sharī'ah*. The *maqāṣid* encompass the safeguarding of faith, life, intellect, progeny and wealth. Al-Ghazālī and al-Shāṭibī opine that these *maqāṣid* are paramount for promoting the welfare of the people in this world and the hereafter.

Of late, Islamic finance has been gaining further impetus and momentum due to the dwindling global economy that was triggered by the subprime mortgage crisis in the U.S. in 2007. This is because the Islamic banking system was found relatively to be much more stable during the crisis period compared to its conventional counterpart. Even the Western and conventional banking and finance operators are now showing interest in Islamic banking and finance.

It is obvious now that Islamic finance is currently on a path towards taking on a mould in its pristine form, covering more and wider institutions. It has evolved farther from its initial focus on the banking sector. It now covers even the non-banking sectors like the *zakāh*, *waqf*, asset management, risk management etc., much more comprehensively. Developing such non-banking sectors together with the banking sector is crucial in realising a true Islamic finance industry that would contribute towards achieving economic prosperity, justice, stability and sustainability. Nonetheless, Islamic finance still has a long way to go to reach its goals. Working side-by-side with the conventional model, it has to address a number of issues, particularly the issue of converging forces that compel the Islamic model to gradually conform to its conventional counterpart. Also, to define itself distinctly, Islamic finance has to develop urgently the non-banking institutions that includes *waqf*, money and payment systems (i.e. new ways of payments that include e-wallet, mobile money, crypto-currencies etc.). Some *Sharīʻah* scholars, like Imran Khan Nyazee, have illustrated that the current paper money also falls into the category of *ribā* and needs to be addressed. In this regard a number of economists and monetarists, Muslim and non-Muslim, have argued why the classical gold dinar and silver dirhams are pertinent to the pristine Islamic economic and monetary system.

This special issue of *Intellectual Discourse* has rightly given due importance to Islamic finance in the current challenging times that is plagued with multiple crises – economic, political, environmental, social etc. Nine articles are included in this special issue. These articles, for most part, cover the following three areas - foundational, viability of Islamic finance and the *takāful* industry. Four of the articles deal with either the *Maqāṣid al-Sharīʻah* issues or look at issues from the *maqāṣid* perspective.

Younes Soualhi looks at the underlying objectives embedded in the *Sharīʻah* contracts of contemporary Islamic Finance in his paper on "Application of *Sharīʻah* Contracts in Contemporary Islamic Finance: A *Maqāṣid* Perspective." He addresses the issue that if the *maqāṣid* are not fully or partly adhered to, then there is a possibility of the Islamic Finance converging with its conventional counterpart. His study found that, at the product development stage, the application of *Sharīʻah* contracts seem to have observed the *Maqāṣid al-Sharīʻah* but the implementation of the products in the market have raised some viability and value questions. In a related study on "Harmonising Legality with Morality in Islamic Banking and Finance: A Quest for

*Maqāṣid al-Sharī'ah* Paradigm," Luqman Zakariyah addresses the calls for integrating Islamic moral norms with the legal theories. This is partly to address the unethical trends in product innovations and their applications in the industry. In this paper, Zakariyah approaches the issue from the perspective of attaining the *maqāṣid al-Sharīʿah*. Zakariyah also provides some samples of products where legal and moral norms are fused together in order to achieve the *maqāṣid al- Sharīʿah*.

In any economic system, Islamic or otherwise, disputes are bound to occur. Well-structured and governed contracts minimise disputes; hence good contracts and governance are important elements for realising a good monetary and financial system. In the paper on "Dispute Management in Islamic Financial Services and Products: A *Maqāṣid*-based Analysis," Omar Oseni interestingly discusses dispute resolution in the Islamic finance industry from the *maqāṣid* perspective. The rapid growth of Islamic finance has equally seen a rise in litigation as a means to resolve dispute. This study argues that preservation of wealth and financial resources requires effective means of resolving the increasingly diverse disputes in the Islamic finance industry by considering the original value propositions, i.e. to promote maṣlaḥah (benefits) while preventing mafsadah (hardship) and ḍarar (financial harm). The paper makes a case for the adoption and modern applications of dispute resolution mechanisms in *Sharīʻah*, like ṣulḥ, taḥkīm and muḥtasib, and thereby boost consumer trust in Islamic financial products.

Lastly, with regard to the *maqāṣid*, Mustafa Omar Mohammed, Kazi Md. Tarique, and Rafikul Islam develop a new performance measure, i.e. the *maqāṣid*-based Performance Evaluation Model (MPEM), to measure the performance of Islamic banks from a *Maqāṣid al-Sharīʻah* perspective. They suggest this because there are some "accusations" that Islamic banking is not so different from conventional banking, while the bank's activities and objectives are supposed to be directed towards the attainment of the said *maqāṣid*.

Studying the growth of Islamic banking worldwide, Adewale Abideen Adeyemi and Ibrahim Zare provide some empirical evidence on customer's perception on the viability of Islamic Banking in Cote D'Ivoire. Customers were found to be aware of Islamic banking but lacked operational knowledge. They were, however, interestingly willing to patronise Islamic banking if it were established, a decision seemed to be influenced by religion and other banking and customer related factors.

In the whole Islamic banking and finance industry – the theory, practice, education and the training of it – the role of *Sharī'ah* scholars is indispensable. They play a pivotal role in the establishment, advisory, product development, continuous monitoring and auditing of the whole industry. They ensure that the products, services, policies, guidelines and all other activities of Islamic banking are in compliance with the *Sharī'ah*. Normally these scholars sit in *Sharī'ah* committees or boards of the Islamic banks or the central bank. This has lately raised some issues regarding the independence and impartiality of such committees and boards since they are in the payroll of the banks. In dispute resolution between the banks and customers, *Sharī'ah* scholars are accused of being inclined towards the banks. Hence some quarters have argued that *Sharī'ah* committees and boards must be independent from the banks, and should not be under the direct payroll of banks, rather, they should be funded from other sources, public or otherwise. In observing the formation of the *Sharī'ah* supervisory committee, Muhammad Amanullah provides a comparative study of the guidelines used by the Bangladesh Bank and Bank Negara Malaysia, vis-à-vis the criteria of the members of *Sharī'ah* supervisory board according to contemporary Muslim jurists.

It is a well-known fact that debt levels – public and private – are on the rise in almost all countries. In Malaysia, unpaid credit card balances are at record highs, running into billions of ringgits. Part of the reason is imprudent consumption beyond one's means. Many individuals become indebted to Islamic financial institutions because these institutions also provide credit financing. Muhammad Adli Musa's work studies the role of Bank Negara Malaysia in addressing such imprudent consumption.

Many scholars opine that stability and sustainability in financial markets can be attained by making financial contracts to be predominantly based on risk-sharing principles. Risk-sharing is also said to be one of the main tenets of Islamic financing. However, due to some factors like the convergence between Islamic banking and conventional banking, and the risk averse nature of banks in general, debt-based financing like the *murābaḥah* contract has come to dominate Islamic finance. Debt-based instruments do indeed have some negative socioeconomic implications, as is obvious in the present global monetary system. Indeed high levels of debt have been identified as among the major causes for the current global economic slowdown and recession. Necmeddin Guney studies the *murābaḥah* contract that has become a subject of heavy debate among *Sharī'ah* scholars. After discussing the Islamic injunctions on the said contract, Guney discusses the profound transformation the contract has undergone over time. He also provides some suggestions on how the *murābaḥah* contract can be made to conform to the ethico-legal principles of the *Sharī'ah*.

Risk management is an integral part of any financial system that is meant to assist participants to mitigate the many kinds of common risks people face. Established financial systems have evolved into a whole industry for managing risk. This includes the insurance and *takāful* markets and the derivatives markets, i.e. futures, forwards and options etc. In the Islamic financial system, the *takāful* and Islamically structured derivatives play an important role in managing risk. Indeed *takāful* and derivatives are also tools for risk-sharing within the economy. *Takāful* is basically managing the common risks, in solidarity as a 'community', based on mutual assistance in accordance with *Sharī'ah* principles. Participants contribute to a common fund that would be used for financially assisting any member affected by the stipulated risks. Ahmad Basri Ibrahim and Ahmad Fadhil Hamdi Mohd Ali look at the Islamic contracts used in absolute assignment in the *takāful* industry and the *Sharī'ah* issues that might accrue from it.

All the articles published in this special issue of *Intellectual Discourse* add to the wealth of existing Islamic banking and finance literature; they contribute towards the healthy growth of the industry. Nonetheless, many other areas still need attention and further research, particularly the non-banking sectors like the *waqf*, money and payment systems, so that Islamic finance can become an attractive alternative to the conventional financial system. *Inshā' Allāh* other special issues of Intellectual Discourse can include articles and research works in these specialised areas.

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