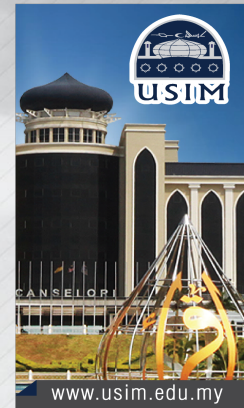


العلم
مقدمة
الدين



VALUE BASED INTERMEDIATION THE WAY FORWARD FOR ISLAMIC FINANCE

Zulkifli Hasan

MEMPELOPORI SAINS ISLAM • MEMIMPIN KEILMUAN
PIONEERING ISLAMIC SCIENCE • SPEARHEADING KNOWLEDGE

“Everything that lapses out from justice into injustice, and from mercy into its opposite, and from *maslahah* to *mafsadah*, and from wisdom into the frivolous, does not belong to *Shari’ah*, even if it is inducted into it by interpretation” (Ibn al-Qayyim).

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Introduction

- The State of Global Islamic Economy Report (GIER) 2022 estimates that the world's 1.9 billion Muslims spent the equivalent of USD2 trillion in 2021 across the halal food, pharmaceutical, cosmetics, fashion, travel, and media/recreation sectors.
- Global Islamic Finance Asset USD2.8 trillion 2019. Expected to reach USD3.69 trillion by 2024.
- Despite the tremendous growth and transformation, there are numerous criticisms on the current practice of Islamic finance, which have led to series of questions as to the distinctiveness of Islamic finance with its conventional counterparts.
- The current practices of Islamic finance in general seem unable to attain its authenticity and share many common similarities with conventional finance.
- The literature has indicated the growing frustration of scholars and proponents of Islamic economics on the failure of Islamic finance in addressing the real economic and ethical issues beyond the legal realm of Shari'ah-compliance.

Stages of Islamic Finance

- **STAGE 1:** Focus on how to migrate Muslim from practicing riba. The focus was to find halal solution by replicating certain features of conventional product with some *hiyal* to quickly migrate the practice from riba.
- **STAGE 2:** Focus on to be genuinely based on *Shari'ah* by removing excessive *hiyal* in their practice.
- **STAGE 3:** Concern with the TAYYIB and IHSAN dimension of having a “good and responsible finance”. The permissibility of a transaction will not only depend on the pillars of a valid contract but also on Maqasid al-Shari'ah, the values, ethics, outcome or consequences of the transactions.



Between Aspiration and Reality

- A study by Beloufi et al (2015) on 40 researches between 1983-2013 found a significant divergence between the theory and practice of Islamic finance.

Critiques



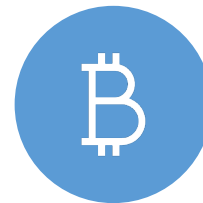
OVER LEGALISTIC



RELYING ON LEGAL
STRATAGEM.



LACK OF SOCIAL DIMENSION
AND POOR RECORD OF
CORPORATE SOCIAL
RESPONSIBILITY.



IDENTICAL TO THE
CONVENTIONAL BANKING.



LACK OF AUTHENTICITY AND
OPERATES WITHIN NEO-
CLASSICAL ECONOMICS.

Over Legalistic Approach

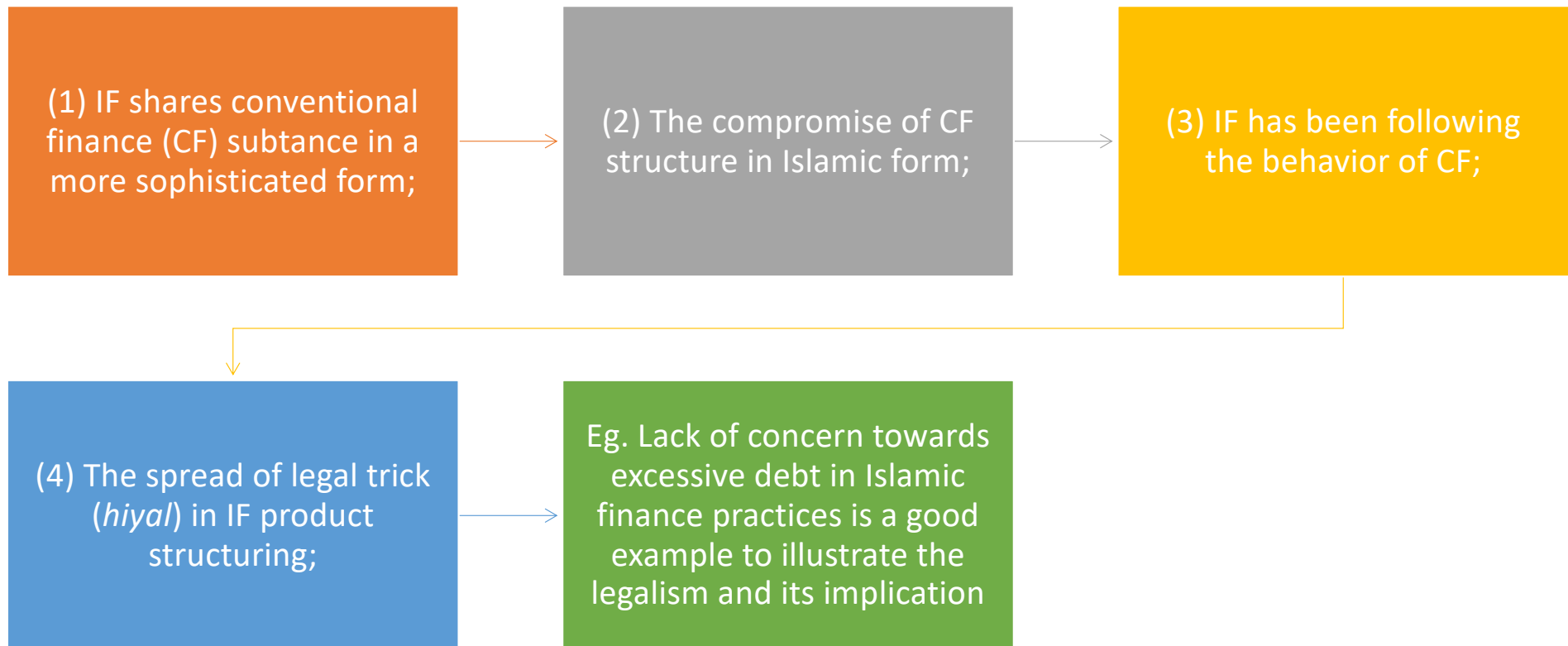
- “From the legalistic perspective, it is argued that interest is haram for being unjust and exploitative. However these concerns are merely rhetorical, as the new institutions in question have become too cozy with their own exploitative environment about which they are mute. **Islamic finance is delinked from the broader goals of development and poverty alleviation**” (Farooq, 2007).
- Islamic finance is experiencing a “formalist deadlock” where the industry is **more concerned with formal adherence to Islamic law** instead of promoting Islamic ethical values (Balz, 2008).
- “The current trend reduces Islam and its *Shari’ah* to their legal dimension **rather than seeing them within a greater civilizational framework**” (Haneef, 2009).
- “*Shari’ah* scholars approach the issue from a microeconomic perspective, and reflect on how an IF, as a financial firm, should conduct its transactions according to *fiqh* rules; **they do not see it in a macroeconomic terms**, with IF, as financial intermediaries, meeting the financing needs of society” (Siddiqi 2000).



Negative Perception

- Muslim Consumer Association of Malaysia (PPIM) reported that they have received more than 4000 reports from consumers between 2003-2012 of their dissatisfaction with IFIs. The PPIM claimed that the IFIs have abused the word 'Islam' for the purpose of profit maximization without taking into consideration the ethical aspects of doing business.
- There are many cases where the customers need to pay the whole amount of selling price to IFIs even the construction project was clearly abandoned.

Legalism and Its Implication



IMF Report 2017

- Hybrid financial products in Islamic finance have emerged that replicate aspects of conventional finance in an Islamic finance context, raising financial stability concerns.
- In the context of Malaysia, Annual growth rate declined from a double-digit in 2011 (24.2%) to 8.2% in 2016.

Towards Reformation: Value Oriented Islamic Finance Practices



A Value Oriented Jurisprudence has already discussed the idea to employ values in the context of *maqasid al-Shari'ah*.



History has also proven that moral enforcement supports and complements the legal mechanism to protect the interest and rights of individuals.



Civilizational oriented dimension is concerned with the social justice and therefore closely related with human well-being.



The permissibility of a transaction will not only depend on the pillars of a valid contract but also on the outcome or consequences of the transactions

Value Oriented Framework



Tenet-Bound: Fundamental tenets derived from Shari'ah



Principles Bound: Concept is grounded on ethics and values and Maqasid al-Shari'ah



Real economy linked: Asset-backed transactions with investments in real, durable assets



Society-service: Serving communities, not markets

Beyond Shariah Compliance

- Islamic jurisprudential issue + public policy + prudential issue.
- The integration of economic substance and legal form in Islamic finance product structuring;
- Genuine debt based transaction and promoting more risk sharing initiatives.
- The permissibility of a transaction will not only depend on the pillars of a valid contract but also on the values, ethics and outcome or consequences of the transactions.
- Ethical business conducts are strengthened and at the same time the interest of consumers are legally protected
- Innovative products to cater to the changing needs of customers in a complex environment, reflecting the form and spirit of *maqasid Shari'ah*.
- To pursue socio economic agenda.
- Stakeholder value approach balancing the rights and interests of all stakeholders.
- In line with SDG, PRI, GCP, ESG and GRI.

Malaysia's Approach



1. Regulation: CBA, IFSA, DFIA.



2. Policy, Guidelines and Shari'ah Standards: Value-based Intermediation



3. Enabling environment: Tax Incentive, Dedicated Muamalat Court



4. Talent and knowledge Institutions: INCEIF, ISRA, AIBIM



5. Shariah Governance System: SAC and SC



Advocacy: Community of Practitioners and media partners

Value-based Intermediation: BNM

- VBI: An intermediation function that aims to deliver the intended outcomes of Shariah through practices, conduct and offerings that generate positive and sustainable impact to the economy, community and environment, without compromising the financial returns to shareholders
- Greater attention will be devoted to value creation and value-based businesses that reflect the true essence of Islamic finance.
 1. Driven by long term and wider objectives (profit, people and planet)
 2. Performance measurement considers both financial and non-financial aspects
 3. Innovation to create values for all
 4. Impact-based approach that fosters good conduct
 5. Meaningful and active roles of key stakeholders (consumers, employees and public)

Islamic Finance and SDG



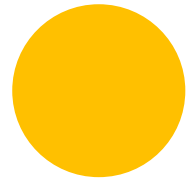
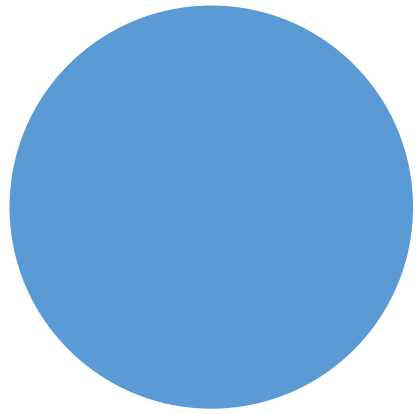
The adoption of the SDGs will lead to sustainable development and shared prosperity.



The 2030 Agenda for Sustainable Development, which includes a set of Sustainable Development Goals to end poverty, fight inequality and injustice, and tackle climate change by 2030.



The IDB Group, in its 2016–25 Strategic Plan, gives priority to inclusive and sustainable socioeconomic development among member-countries within its role in advancing Islamic finance globally.



Value-Oriented Islamic Finance
Practices: Affin Islamic Bank Berhad





AIBB

The image features a dark grey vertical bar on the left side. A black circle with a white border is centered on this bar, containing the text 'AIBB'. To the right of the circle, a list of six items is presented. Each item is contained within a colored rounded rectangle, which is connected to a larger, empty rectangular box on the right by a thin line. The items are: 1. Zakat Policy (blue), 2. Charity Policy (teal), 3. CSR Initiatives (light green), 4. Recovery Policy (medium green), 5. Products and Services (bright green), and 6. Marketing Policy (darker green).

1. Zakat Policy

2. Charity Policy

3. CSR Initiatives

4. Recovery Policy

5. Products and Services

6. Marketing Policy

Zakat Policy

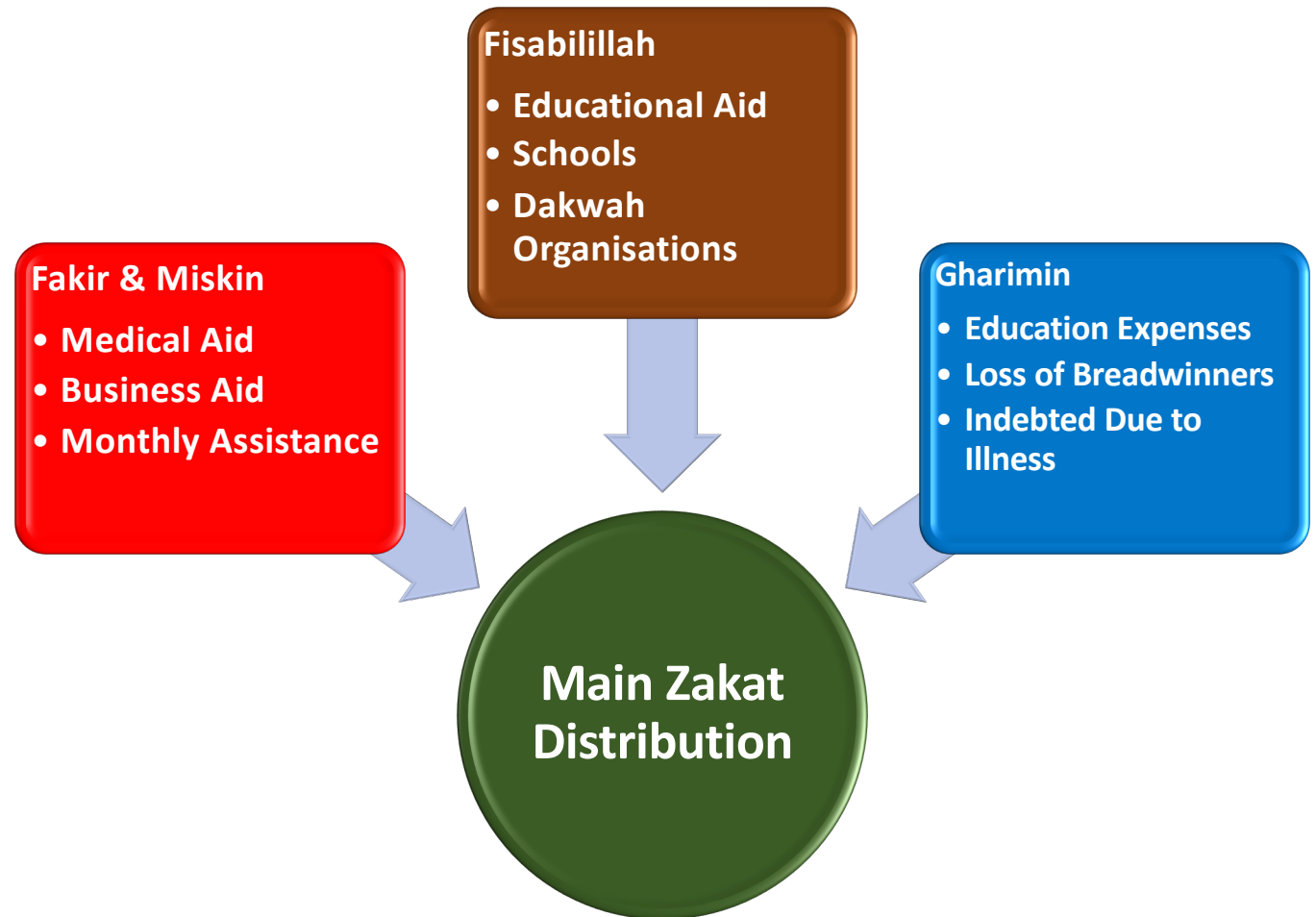
- AIBB pays zakat **on behalf of its shareholders.**
- The policy is being endorsed by the Shariah Committee and approved by the BOD.
- **Assessment and verification** is conducted by Zakat Management Unit, under **approval** of the Management.
- The **zakat distribution report** is submitted to the Shariah Committee in periodic basis.

Charity Policy

- Charity Fund comes from 2 sources
- **Affin Barakah Charity Account-I**
 - designed to cater depositors who wish and donate at the same time.
 - based on *Qard*, where AIBB may give certain return as *hibah*
 - depositors may channel the hibah partially or in full for charitable purposes and AIBB will disclose such in all its publicity
- **Tainted income,**
 - From Shariah non-compliant events
 - Penalty amount (above the bank's cost).
 - Not considered as sadaqah but purification of the bank's income.
- Charity policy is being **endorsed** by the Shariah Committee and **approved** by the BOD.
- This policy **disallows** AIBB to utilise or benefit directly from the fund.
- **Assessment and verification** is conducted by Zakat Management Unit under **approval** by the Management.

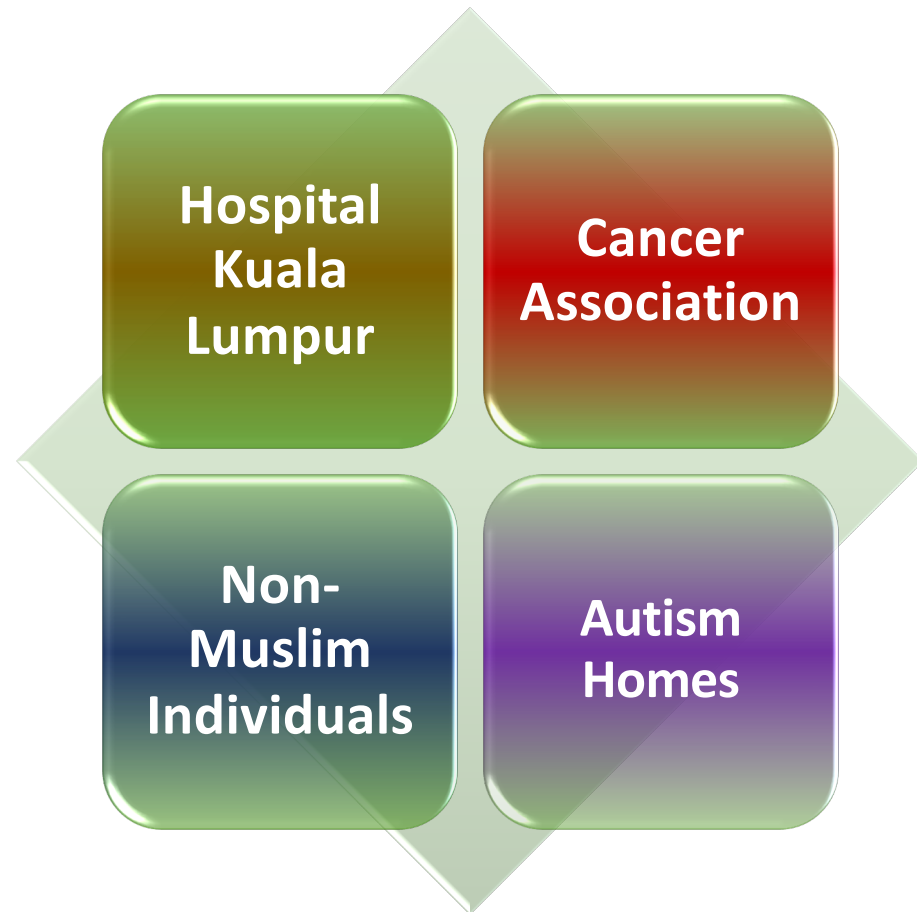
Since 2013 to 2017, AIBB has **declared** zakat of around RM23M.

- AIBB has paid RM7.5M to state zakat authorities throughout Malaysia
- RM7.0M to public and private universities
- RM3.0M for armed forces (Tabung Zakat ATM), and
- RM1.0M for individual and families.



Charity Distribution

- The **distribution report** is submitted to the Shariah Committee in periodic basis.
- AIBB may **publicise** the distribution with some restriction imposed in regards to publicizing distribution of tainted income.
- AIBB has **distributed** around RM0.5M for various recipients.



CSR Initiatives

High emphasis on CSR

Primary responsibility to create stability in its business and the social environment through ensuring policies, products and services, performance and conduct positively impact the financial, societal and environmental well-being of its stakeholders.

Four pillars of CSR: Workplace, Marketplace, Community and Environment.

Recovery Policy

Recovery approach towards delinquent customers. The guideline aims to facilitate the staff to identify customers with genuine difficulties, minimising offensive approach, protecting customer's right while enforcing the Bank's rights as well as practicing good manners in approaching customers. Islamic value of kind consideration in recovery process is expected to have good impact to the bank's reputation and image.

Parameter to determine customers in genuine difficulties for identification. Genuine difficulties may be in form of lost of job, suffering of permanent or temporary disability, death of family breadwinner as well as property being financed is affected by perils or force majeure. The parameter also outlines ways for verification to be done, such as by way of customers' official letter or oath, visitation, medical proof by hospitals and others.

Approach on Products and Services



AIBB maintain its diversification of products, Musyarakah Mutanaqisah, Istisna and Ijarah.



To limit as much as possible the usage of tawarruq financing facilities and for the purpose of liquidity.



Stop offering controversial products such as Bay Inah and Bay Dayn.



Monitoring the performance of each Islamic financial products and services.



Products and services for SMEs and microfinance

Marketing Policy



Parameters and resolutions on marketing and campaign endorsed by SC



Promote values and sustainable development



All materials must be endorsed by SC



TALENT OPTION

In this chapter of **#inspirasibersamaAffin**, we join Hammad Zamakhshari, also known as Bengah, is a social media influencer with a following of 790k

Bengah who has a sibling with down syndrome is passionate about reaching out to the mentally disabled.

He often champions the causes that bring plight to the mentally disabled community.



#InspirasiBersamaAffin **AFFINISLAMIC**

AFFINISLAMIC INTEGRATION



AFFIN GIVING AID/SUMBANGAN
AFFIN REPRESENTATIVE GOES TO THE LOCATION TO GIVE AID TO THE NEEDY



AFFIN ENGAGE WITH COMMUNITY
AFFIN REPRESENTATIVE SEEN MINGLING AND ENGAGING WITH COMMUNITIES



AFFIN SPEAKS ABOUT DOING GOOD
AFFIN REPRESENTATIVE SHARES EXPERIENCE AND ENCOURAGES PPL TO DO THE SAME

AFFINISLAMIC

AFFINISLAMIC LOGO
AFFINISLAMIC LOGO TO BE INSERTED IN THE CAPSULE ACCORDINGLY

Conclusion

- There are some valid and legitimate concerns on the current practices and trends of Islamic finance.
- It is important to critically evaluate the performance of IFIs against their foundational base and at the same time to maintain its positive development.
- *Maqasid al Shariah* aims to endogenise all the interests and rights of all the stakeholders in the wider sense in the process.
- The novelty of such a conceptualization emerges from the fact that it extends the model beyond mechanistic *fiqhi* perspective into value or religio-spiritual oriented dynamic *maqasid* understanding.
- Through Islamic finance practices beyond the legal mechanistic of *fiqh*, IFIs are able to transcend the existing Islamic finance paradigm towards value-oriented and *maqasid al-Shari'ah*-based practices.