

INTEGRATION OF COMMERCIAL FINANCE AND SOCIAL FINANCE: CHALLENGES OF SHARIA BANKING IN INDONESIA

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ABSTRACT

The Sharia financial system includes not only commercial finance but also social finance such as zakat, infaq, sodaqoh and waqf, these two aspects cannot be separated from each other. Sharia banking as part of the sharia financial system also has these two aspects. In addition to having an intermediary function, sharia banking in Indonesia also has a social function, namely as Baitul Mal Institution and Sharia Financial Institution-Recipient of Money Waqf (LKS-PWU), but in practice this has not been optimal, whereas optimization in the integration of commercial and social finance within sharia banking can be one solution in improving the community's welfare.

The Objective of this research is to find the challenges of sharia banking in Indonesia in optimization the integration of commercial finance and social finance. This research was engaging a normative juridical research method with analytical descriptive approach.

The challenges of sharia banking in Indonesia regarding the integration of commercial and social finance is located on optimizing the integration of its social and intermediary function, which in this case Sharia Banking is not only limited to act as baitul mal institution and Sharia Financial Institution-Recipient of Money Waqf (LKS-PWU) and handed over of its management to zakat and waqf institution, but also given the authority to act as direct manager of the community's social fundi.

Keywords: Challenges, Commercial Finance, Social Finance, Sharia Banking.

INTRODUCTION

Indonesia has enormous potential in developing the Sharia economic system. Apart from being a large market share due to the majority of Indonesia's population is Muslim, it is also due to the increasing awareness of Indonesian Muslims regarding usury-free economic activities. The prohibition of usury by jumhurs (mostly) of ulama (Islam religious leader) especially on the convention of 150 prominent ulama during the Islamic Research conference in the month of Muharram 1385 H or May 1965 in Cairo Egypt who reached an agreement by acclamation that the profits derived from all kinds of lending activities were categorized as usury practices which are haram (forbidden/illegitimate), and it results on increasing awareness of Indonesian moslems about the need for usury-free economic practices.

Conceptually, it is demonstrating that the Islamic theory regarding muamalah iqtishadiyyah (economic activities) is a complete and comprehensive system, as is the case with universal and non-partial Islamic teachings, Islamic teachings are kafah (comprehensive) teachings, as affirmation of Allah, *udkhulu fil-alsilmi kaffah*, meaning to enter Islam totally. Islamic economics is a rabbaniyyah, divine economy, humanity, moral economy and middle economy (Muhammad, 2007). This value has an impact on all aspects of the economy in the field of assets in the form of production, consumption, circulation, and distribution (Yusuf, 1995). As a divine economy, Islamic economics has very high transcendence aspects, which combine it with the material, world aspects. The starting point is God and the goal is to seek Allah's Fadl through the way (*thariq*) which does not contradict what Allah has outlined (Yusuf, 1995). In connection with the actualization of divine values, it is also recognized that this value is the spirit of Islamic economic activity, therefore all concepts and applications cannot deviate from this divine value corridor, even further affirming that this value must not be separated from all the activities of the whole human being.

The definition of Islamic economics in the laws and regulations in Indonesia is contained in the Regulation of the Supreme Court of the Republic of Indonesia No. 2 of 2008 concerning Compilation of Sharia Economic Law (hereinafter written KHES). This provision is stipulated with the consideration that there is a need for a judge for economic law according to sharia principles for the smooth examination and settlement of sharia economic disputes as referred to in Article 49 letter i along with an explanation of the Law on Religious Courts, SBSN Law and Article 55 of the Sharia Banking Law. Article 1 Number 1 KHES states that Islamic economy is a business or activity carried out by individuals, groups of people, business entities that are legal entities or not legal entities in order to meet commercial and non-commercial needs according to sharia principles. It was also stated that the Islamic economy is a collection of legal norms derived from the Qur'an and al-hadith that regulate the economy of mankind (Zainuddin, 2008).

The Islamic financial system is organized by financial institutions that base their activities on sharia principles or also called sharia financial institutions. Islamic financial institutions (sharia financial institutions) are a business entity or institution whose wealth is mainly in the form of financial assets or non-financial assets or real assets based on the concept of sharia (Rodoni, 2008). Islamic financial institutions can be divided into two, namely depository syariah financial institutions (sharia depository financial institutions) called sharia bank financial institutions and non-depository sharia financial institutions (non-depository sharia financial institutions) called non-bank Islamic financial institutions. The role of the two sharia financial institutions is as financial intermediaries between those who are over-funded or the ultimate lenders and those who lack funds or the ultimate borrowers. Therefore, Islamic financial institutions carry out not only commercial functions but also carry out social functions as the scope of the sharia financial pillar and both Islamic Financial Institutions and Non-Bank Islamic Financial Institutions must comply with sharia principles.

The principle of sharia is the principle of Islamic law in banking activities based on a fatwa issued by an institution that has authority in determining fatwas in the field of sharia. This is as stipulated in Article 1 Number 12 of Law No. 21 (2008) concerning Sharia Banking. Article 26 of the Law further stipulates that the sharia principle is stipulated by the Indonesian Ulema Council, which is precisely the National Sharia Council-Indonesian Ulama Council (DSN-MUI). The fatwas that the DSN-MUI uses are outlined in the regulations of the Indonesian banks. This was before the sharia banking regulatory and supervisory authority was transferred to the

Financial Services Authority, so that after the authority was transferred to the Financial Services Authority, DSN-MUI fatwas were included in the Financial Services Authority Regulation.

When there are no laws and regulations that recognize the existence of DSN-MUI and its products in the form of fatwas, the binding power of fatwas is based more on the concept of living law (Umam, 2012). Thus, borrowing the teachings from Eugen Ehrlich that the desire to carry out legal reform through legislation, namely in the field of Islamic banking has been balanced with awareness or reality that lives in society. As a consequence, the existing laws and regulations, namely the Sharia Banking Law and Bank Indonesia Regulations as the implementing regulations will have effective behavior, as well as the DSN-MUI fatwa.

The elucidation of Article 2 of the Sharia Banking Law explains that business activities based on sharia principles include business activities that do not contain elements of usury, maisir, gharar, haram and zalim. Riba is the unauthorized addition of income (vanity), among others, in the exchange transaction of similar goods which are not the same as quality, quantity, and delivery time (fdhl), or in borrowing and borrowing transactions that require the Facility Recipient Customer to return the funds received over the loan principal due to running. time (nasi'ah). Maisir is a transaction that is dependent on an uncertain and chancy condition. Gharar is a transaction whose object is prohibited in sharia, and wrongdoing is a transaction that causes injustice for other parties.

Observing the elements of sharia principles, shows that Islamic economic activities are carried out to achieve good and happiness both for themselves and for others and not only for the benefit of the world but also for the sake of the hereafter. The ultimate objective of Sharia economics is to achieve al-falah (Rahman, 2017). One of the means to achieve al-falah is through social justice. Therefore, economic activities in Islam are carried out not only for profit, but it must be able to bring prosperity to the community (in general). In the economic sense therefore, what the sharia stands to achieve is to eliminate all forms of economic evils such as poverty, unemployment, underemployment etc. from the society and on the other hand to provide adequate and accessible incentives for all members of the society to enjoy the available resources in the society and achieves a prosperous living (Lamido, 2016).

Commercial activities and social activities in the Sharia Economics cannot be separated from one another to achieve prosperity and happiness in the world and hereafter. This is also reflected in Islamic financial institution. Characteristics of sharia financial institutions are the integration of commercial finance and social finance. Islamic financial institutions are not only profit oriented, but also have an objective to achieve mutual prosperity which contains values of help. Social finance includes zakat, infaq, sodaqoh, and waqf, while commercial finance includes all business activities that can generate profit. Social finance when integrated optimally with commercial finance will generate enormous potential in supporting development and improving people's welfare, but currently in Indonesia the management is not optimal yet.

One type of Sharia financial institution is Sharia banking. Sharia banking in Indonesia is specifically regulated in Law No. 21 of 2008 concerning Sharia Banking (Sharia Banking Act). Sharia bank is implemented based on justice values as outlined in the Islamic teaching (Tahir, 2017). Islamic banking is anything that concerns Bank Syariah, including institutions, business activities, as well as ways and processes in carrying out its business activities. One of the considerations for the establishment of legislation that specifically regulates sharia banking in Indonesia is that in line with Indonesia's national development goals to achieve a just and prosperous society based on economic democracy, an economic system is developed based on

the values of justice, togetherness, equity and benefits which is in accordance with sharia principles. Islamic banking in Indonesia has three principles in carrying out its business activities namely sharia principles, economic democracy and prudential principles.

Economic democracy is a sharia economic activity that contains the values of justice, togetherness, equity, and benefit. The precautionary principle is the Bank's management guidelines that must be adhered to in order to realize a healthy, strong and efficient banking in accordance with the provisions of the legislation.

Islamic banking has a strategic role in the national economy as mandated in Article 3 of the Sharia Banking Act, namely that Islamic banking aims to support the implementation of national development in order to improve justice, togetherness and equality of people's welfare, in achieving the objectives of supporting the implementation of national development, Islamic banking still adheres to the Sharia Principles as a whole (kaffah) and is consistent (istiqamah). It is interesting to investigate about what is the challenges for Indonesia Sharia Banking with regard to integrating commercial finance and social finance in order to improve justice, togetherness and equity of people's welfare as mandated in the Banking Law. Moreover, based on data from the Indonesia Waqf Board (BWI) the potential for waqf money itself in Indonesia can penetrate range Rp. 188 trillion/year, which the collection must be through Sharia Banking as Sharia Financial Institution-Recipient of Money Waqf (LKS-PWU).

RESEARCH METHODOLOGY

This research was engaging a normative juridical approach with the specifications of analytical descriptive research. The study was conducted on secondary data consisting of primary, secondary and tertiary legal materials. This research will examine the integration of commercial finance and social finance, especially in Sharia banking in Indonesia along with its challenges. The specification of analytical descriptive research is by making systematic depiction of facts including the description of applicable regulations.

This research was conducted with a normative juridical approach which was conducted by examining library data or secondary data which were obtained from libraries and related institutions that are competent with this research. As a normative legal research conducted research on secondary data in the form of primary legal materials, secondary legal materials, and tertiary legal materials (Mamudji, 2006).

In this research, the legal aspects of social finance and commercial finance of Islamic banking will be examined, especially regarding legal issues that have been identified. The specifications of this research are analytical descriptive, namely making systematic descriptions of facts including the description of the applicable regulations. Thus, this study will illustrate various legal problems obtained through an inventory of positive law, the discovery of legal principles and legal findings in concerto regarding the challenges of sharia banking in the integration of social finance and commercial banking of Islamic banking which aims to obtain a comprehensive and systematic picture through an analysis process. by using legal regulations, legal principles and legal understanding regarding Islamic banking and money waqf.

This research will be carried out through library research to obtain data which will then be strengthened with data from interviews. Data collection techniques in accordance with the research phase above are by conducting document studies on national legal instruments that have direct links to Islamic banking and money waqf.

DISCUSSIONS

The purpose of the shari'a in muamalat transactions is to create the well-being of humankind by balancing the wealth distribution of rich and poor wealth equally and equitably. As a maqasid of sharia that determines that the shari'a is intended to realize the benefit of human beings in the world and in the hereafter and the laws are prescribed for the benefits of slaves. The Maqasid of Sharia is all the purpose of the laws that God Almighty has commanded His servant, none other than to create favor.

Maqasid consists of the elements of dharuriyyat (primary), hajjiyyat (secondary), tahsinggat (tertiary) encompassing preserving the religion (al-din), preserving the soul (al-nafsh), nurturing (an-nash), and maintaining the mind (al-aql). Maqasid muamalat and urgency in economic ijtiḥad and closely related to the principle of maqasid ie hifz al-mal (guarding property).

Maqashid muamalat has 5 (five) objectives, namely the maximum trading (rawaj) of property intended to be traded so that the wealth becomes developed, clarity (Wudhuh) means that the property is intended to be managed transparently and accountably, guarding (Hifz) means property as a safekeeping item directed to Allah in order to be maintained and spent in shari'a, the provision (tsabat) of the purpose of property is intended to arouse a high work ethic in developing it in ways that are legal and lawful, and justice (adl) means property must be managed fairly without tyrannizing others.

Islamic economics, which is part of the economic system, has values that focus on amar ma'ruf and nahi mungkar (ordering/doing what is right and leaving what is forbidden) (Mardani, 2011). Islamic values are a collection of Islamic principles, principles and teachings as human guidance in carrying out their lives (Arifin, 2007). These values are interrelated to form a unified whole, including Islamic economic values. These values become the source of the highest values (grundnorm) and have philosophical and universal traits unearthed from the sources of Islamic law, namely the Qur'an, sunnah and ijtiḥad.

There are three basic principles in Islamic economic philosophy, namely the first principle that explains that the world and all its contents, including the universe belongs to Allah SWT and walks according to his will, both principles that explain that Allah SWT is the creator of all living things in this universe, the consequence arising from this is that all living things must submit to him, the principle which explains that faith in the Day of Judgment will affect the mindset and behavior of human economy (Ghofur, 2008).

One of the pioneer reasons of the establishment of Sharia banking in Indonesia was due to the insistence of the people's need for financial institutions that were free from the practice of usury. The increase of public awareness about the illegitimacy of usury practice, encouraged the Indonesian Ulama Council (MUI) to form a working team for the establishment of Sharia banks in Indonesia by 1990, the result was the establishment of the first Sharia bank in Indonesia, namely Bank Muamalat Indonesia (BMI) which its establishment was ratified in 1991 and was officially operating in 1992, whereas at that time there was no legal which specifically regulating Sharia banking in Indonesia. At that time, the regulation of Sharia banking still referred to the provisions of Article 6 of Law No. 7 of 1992 concerning Banking which determines that banks can carry out business activities based on the principle of profit sharing. Regarding to this Law, was also given the opportunity for the banking industry to conduct banking business activities whose operational system was based on the principle of profit sharing (profit and loss sharing)

which became the legal basis for the establishment of Sharia banks or Sharia banks in the future (Usman, 2012).

The implementation of a dual economic system in Indonesia was responded with a positive reaction from the businessmen in the country, as evidenced by the emergence of Islamic financial institutions in the form of Islamic banking financial institutions and non-Islamic financial institutions that continued to increase from year to year. After the establishment of Bank Muamalat Indonesia as the first Islamic banking as well as the first Islamic financial institution in Indonesia, other sharia financial institutions emerged including Bank Syariah Mandiri which was the first Islamic bank owned by the government.

The establishment of PT. Bank Muamalat Indonesia is the starting point for the implementation of the dual economic system in Indonesia, namely the conventional economic system and the syariah economic system, although until now there is no legal umbrella as *lex generalis* against Islamic economic activity in general in Indonesia. Legislative provisions that have been promulgated are still partial provisions in certain areas of sharia economy such as Law No. 21 Year 2008 About Sharia Banking (hereinafter written Sharia Banking Law), Law No. 38 of 1999 on Zakat (hereinafter written Zakat Law), Law No. 41 of 2004 on Waqf (hereinafter the Law of Waqf, Law No. 19 Year 2008 on State Sharia Securities (hereinafter written SBSN Law), and Law No. 7 of 1989 on Religious Court as amended by Law-Law No. 3 of 2006 on the Amendment to Law No. 7 of 1989 on Religious Courts (hereinafter the Law of Religious Courts).

Islamic banks can be defined as a financial institution that abides by shariah principles in all of its activities through its role as a financial intermediary between savers and investors, provides banking services within the framework of legitimate contracts, and achieves a balance between economic and social return (Alharbi, 2015). Sharia banking bases its activities on the basis of sharia principles that are in accordance with the *maqasid al-shariah* which aims to create human goodness. Therefore, *Maqasid al-shariah* means the objectives of Shariah (Lahsasna, 2013). In generating positive impacts to the society, the Sharia social finance and its instruments must be utilized in protecting and preserving the *Maqasid al-shariah* (Zain, 2017) Sharia banking is universal which is established to support national development that can improve justice, togetherness and equal distribution of people's welfare. Therefore, Sharia banking is formed not only in countries that are predominantly Muslim, but also in countries with a small percentage of Muslim population. At present many countries have developed a sharia financial system, even though the country has a majority of not Muslim population, such as some European countries which e.g. United Kingdom which is now become the center of world sharia economics studies, and Australia (Ascarya, 2016).

Sharia banking has a strategic role in the national economy; therefore Sharia banks must be able to continue to maintain their health by complying with sharia principles, national rules and international standard. International standards are issued by international Islamic financial institutions such as the Islamic Financial Services Board (IFSB), Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), and International Islamic Financial Market (IIFM). IFSB is an international standard setting organization that promotes and enhances the soundness and stability of the Islamic financial services industry by issuing global prudential standards and guiding principles for the industry, broadly defined to include banking, capital markets and insurance sectors. The objectives of the IFSB include promoting, disseminating and harmonizing best practices in the regulation and supervision of the Islamic

financial services industry. The IFSB will serve as an association of central banks, monetary authorities and other institutions that will be responsible for the regulation and supervision of the Islamic Financial Industry. The AAOIFI is an Islamic International autonomous nonprofit making corporate body that prepress accounting, auditing, governance, ethics and shariah standards for Islamic financial institutions. The IIFM will create the financial instrument and maintain an active market for about 200 Islamic banks and financial institutions around the world. The instrument will be endorsed by the IIFM's Islamic Shariah Committee.

Islamic economic and financial developments not only cover commercial aspects, but also include social aspects (such as zakat, infaq, waqf and microfinance), where both aspects are inseparable and/or there is no dichotomy. In the Islamic economic system, Islamic finance is not only about commercial finance, but also includes social finance with the same goal, namely to achieve *falah* (prosperity in the world and the hereafter). Islamic socio-economic institutions such as zakat, waqf (endowment) and other Islamic philanthropic mechanism are designed to create a well-balance economic system which is fair and just to society. These instruments and approaches are designed for the sustainable socio-economic advancement of a society and cover allocation, production, circulation and re-circulation of resources (Thamina, 2017).

Sharia financial institutions have two roles at once, namely as a business entity and a social institution. As a business entity of Islamic financial institutions, it serves as an investment manager, investor, and service. As a social institution of Islamic financial institutions, it serves as a social fund manager for the collection and distribution of zakat, infaq and *sodaqoh* funds. Sharia banking as a business entity has an intermediary function that performs profitable business activities and as a sharia banking social entity carries out social functions as an institution of *baitul mal* and social fund collectors derived from money waqf, as stipulated in article 4 of the Sharia Banking Act.

Currently the regulatory and supervisory authority of Islamic banking in Indonesia is the Financial Services Authority (OJK), while in the other hand one of Bank Indonesia (BI) authorities to regulate and supervise social finance, hence the integration of commercial finance and social finance in Sharia Banking involves these two authorities. Coordination between OJK and BI is required in optimizing the integration of commercial finance and Islamic banking social finance as well as other related institutions such as the Indonesian Waqf Board (BWI), and other zakat management institutions

Sharia banking as an intermediary institution connects parties who experience a lack of funds with those who have a surplus of funds. Funds collected in savings products, especially those stored with investment purposes, distributed to parties who need it through a financing mechanism with the principle of profit and loss sharing. In addition, as a bearer of social functions, Sharia banking acts as an institution of *Baitul Mal* and Sharia Financial Institution-Recipient of Money Waqf (LKS-PWU).

Baitul Mal is a financial concept which its activity is to manage non-profit (social) funds that are sourced from Zakat, Infaq, *Sodaqoh* (*alm*) and Waqf (endowment) or other halal sources such as *hibah* (grant). *Baitul Mal* is normally known as a charitable institution. This point is true because presently *Baitul Mal* role is more prominent in terms of providing assistance and charitable contributions and donations to the public. Zakat management in Indonesia is specifically regulated in Law No. 23 (Laws, 2011) concerning the management of zakat; the law provides a definition of zakat, infaq and *sodaqoh* (Taufiq & Ghafar, 2012).

Article 1 Point 2, 3 and 4 The Understanding of Zakat Management mentions that zakat is a property which must be issued by a Muslim or business entity to be granted to those entitled to it in accordance with Islamic law. Infact is a property issued by a person or entity outside of zakat for general benefit. Alms are a property or non-property issued by a person or business entity outside zakat for general benefit. The fundamental difference of the three types of social funds is the law when someone is issuing them. Zakat is mandatory for every Muslim, both individuals and legal entities in accordance with the provisions of Islamic Law, zakat is issued to be given to mustahik, while Infaq and sodaqoh are assets issued outside of zakat for public benefit. The difference between infaq and sodaqoh is located on the object, infaq is only in the form of assets while alms can be in the form of assets or non-assets.

Zakat management in Indonesia aims to improve the effectiveness and efficiency of services in the management of zakat and to increase the benefits of zakat to realize community welfare and poverty reduction. As explained in the legal explanation of Zakat Management, in order to increase the effectiveness and effectiveness, zakat must be managed institutionally in accordance with Islamic law, trust, benefit, justice, legal certainty, integrated, and accountability so as to increase effectiveness and efficiency service in the management of zakat.

Sharia social banking functions as Baitul Mal institutions only receive funds derived from zakat, infaq, sodaqoh, hibah or other social funds and channel it to zakat management organization, other social funds are defined as including bank receipts from the imposition of sanctions on customers (ta'zir). So that the management authority of social funds is in the hands of zakat management organizations, Sharia banking is only act as the recipient. Institutions that are authorized to carry out the national zakat management based on the Law on Management of Zakat and Government Regulation No. 14 (Laws, 2014) concerning the Implementation of Law No. 23 of 2011 concerning Zakat Management is the National Zakat Agency (BAZNAS) which is a nonstructural government institution that is independent and responsible to the president through the minister.

Likewise, in the management of cash waqf. Waqf is one of the scope of Islamic economy which has great potential in the welfare of the people. Endowments specifically set out in the Law of the Republic of Indonesia No. 41 of 2004 concerning Waqf (Waqf Law). Article 1 Paragraph 1 of the Waqf Law states that Waqf is a wakif legal act to separate and/or surrender some of his property to be used forever or for a certain period of time in accordance with his interests for the purposes of worship and/or general welfare according to sharia. Jumhur Ulama provides a definition of waqf, namely holding an object that can be used, while a fixed asset is not lost and reduced, because the benefit is taken as long as the use of the property is permitted according to Islamic law. Waqf property includes movable objects and immovable objects. One form of waqf property in the form of moving objects is money. As the purpose of waqf is to utilize waqf property in accordance with its function, it is necessary for Nazhir who is professional in the management of money waqf, so that the usability of the money continues to grow and is able to provide maximum benefits. Nazhir is the party that receives waqf property from waqif to be managed and developed according to its designation. Article 2 Government Regulation No. 42 of 2006 concerning the Implementation of Law No. 41 of 2004 concerning Waqf (hereinafter written PP Waqf) determines that Nazhir includes individuals, organizations or legal entities. Both individuals, organizations or legal entities must be registered with the Minister and Indonesian Waqf Board (BWI) through the local Religion Affairs Office (KUA).

The consideration of the establishment of Indonesian waqf law is that waqf institutions as religious institutions that have economic potential and benefits need to be managed effectively and efficiently for the sake of worship and to promote public welfare. That waqf is a legal act that has long lived and carried out in the community, whose arrangements are incomplete and still spread in various laws and regulations, so that based on these considerations it is deemed necessary to establish waqf laws in Indonesia.

BWI is an independent State institution established under the Waqf Act. This body was formed in order to develop and advance the representation in Indonesia. BWI is here to foster Nazhir so that waqf assets are managed better and more productive so that they can provide greater benefits to the community, both in the form of social services, economic empowerment and public infrastructure development. BWI and Bank Indonesia and the Islamic Development Bank have formally formulated and launched the Waqf Core Principles (WCP) at the annual IMF-World Bank event in Bali in October 2018. This is a strategic step that aims to improve the governance of Nazir institutions so that these institutions can manage the assets of waqf and distribute the results better. The main objective of these principles is to realize credible waqf management while increasing the role of the waqf as a financial instrument in Muslim countries.

Throughout the history of Islam, endowments have played a very important role in developing social, economic and cultural activities of the community. A research by M.A. Mannan entitled Structure Adjustment and Islamic Voluntary Sector with Special Reference to Awqaf in Bangladesh published by IDB Jeddah in 1995, showing that "*money waqf*" is also known in Islam. This procedure was known in the Ottoman period and also in Egypt. Even so, the use of money waqf as a financial instrument is truly an innovation in Islamic public finance. Money Waqf opens a unique opportunity for the creation of investments in the fields of religion, education and social services.

One of the new arrangements in the waqf law is regarding the allotment of waqf property not solely for the benefit of religious and social facilities but also directed to promote public welfare by realizing the economic potential and benefits of endowments. This allows the management of waqf property to enter the area of economic activity in the broadest sense as long as the management is in accordance with the principles of sharia management and economics. One of the waqf assets based on the waqf law is money. In general, money in Islam is a medium of exchange or transaction and a measure of the value of goods and services to facilitate economic transactions (Soemitra, 2010). In the Islamic financial system, money is recognized as having a function as a medium of exchange for transactions of goods and services, wealth storage for both transaction/investment motives and precautions, but the motive for speculation is rejected in Islam because money is not a commodity, a unit of account, and installment payment standard. As stipulated in the waqf law, money is classified as property that has long-term durability and/or long-term benefits and has economic value according to sharia which wakif can represent.

Article 28 of the Waqf Law stipulates that waqf can grant movable objects in the form of money through sharia financial institutions appointed by the minister. What is meant by Islamic financial institutions in this article is the Indonesian legal entity engaged in Islamic finance. Islamic financial institutions can be divided into two, namely depository syariah financial institutions (sharia depository financial institutions) called sharia bank financial institutions and non-depository sharia financial institutions called non-bank Islamic financial institutions. Non-bank financial institutions include capital markets, money markets, insurance companies,

pension funds, venture capital companies, financing institutions, pawnshops, and micro-Islamic financial institutions.

As stipulated in Law No. 41 of 2004 concerning Waqf, Sharia banking only acts as a Sharia Financial Institution-Recipient of Money Waqf (LKS-PWU) who received money waqf funds from waqif by issuing cash waqf certificates and giving the waqf funds to Nazhir who was appointed by the waqif. Waqf is a waqif law act to separate and/or surrender some of his/her property to be used forever or only for a certain period of time in accordance with its interests for the purposes of worship and or general welfare according to sharia. Over decades, waqf played significant role to the social and economic development of Muslim society (ummah). Money as one type of endowments can be represented through Sharia financial institutions. Evidence from the delivery of the money waqf is in the form of a money waqf certificate. Government Regulation No. 42 of 2006 concerning the Implementation of Law No. 41 of 2004 concerning Waqf provides a definition of money waqf certificates namely the proof of letter issued by the Sharia Financial Institution to Waqif and Nazhir regarding the surrender of money waqf. Placement of waqf money through LKS-PWU is intended as a deposit (wadi'ah). Furthermore, Nazhir can manage it by considering the will of the waqif and if any, also with the recommendation of the investment manager. Comparison between current provision and proposed model of integration of commercial finance and social finance on sharia banking. This can be illustrated as per Figure 1 & Figure 2 below:

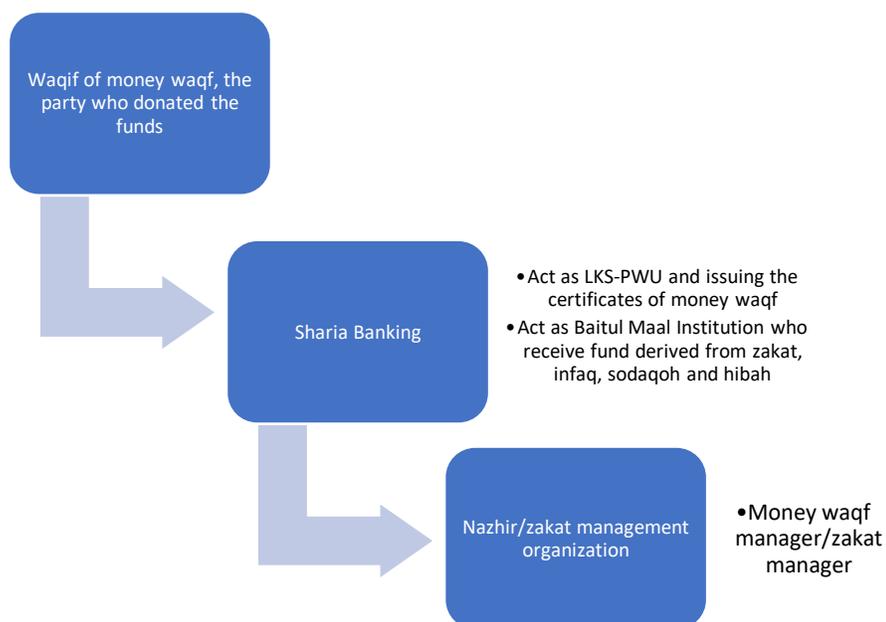


Figure 1
CURRENT PROVISIONS

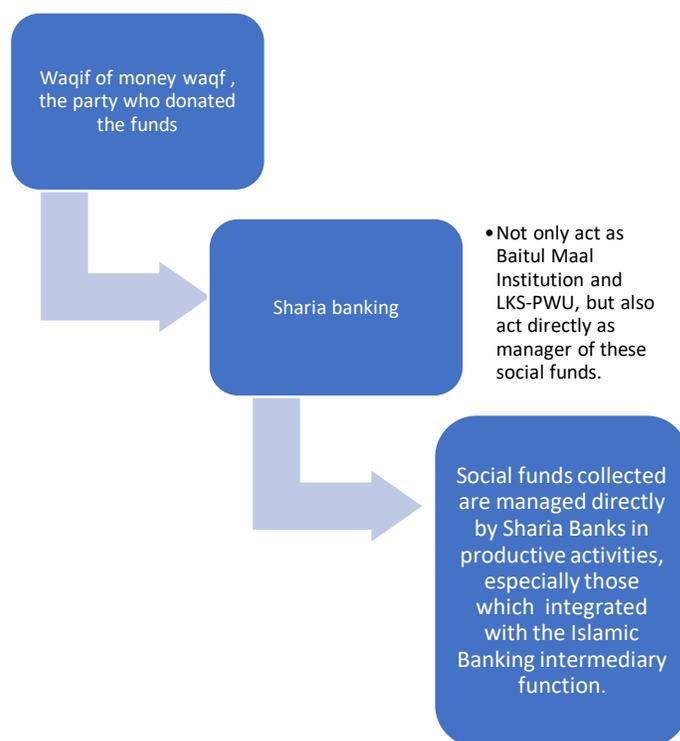


Figure 2
PROPOSED MODEL

The role of Sharia banking is very strategic in the national economy and has a very strategic potential in managing social funds for the sake of achieving people welfare. One of banks examples that have optimized the integration of commercial finance and social finance are Social Islamic Banks, Ltd. (SIBL) in Bangladesh. SIBL is an extraordinary banking model, the aim is to eliminate poverty and empower families through social investment based on participatory economic systems. Targeting poverty, SIBL is indeed a concept of 21st century participatory three sector banking models in one (Jafril, 2009). In the formal sector, it works as an Islamic participatory commercial bank with human face approach to credit and banking on the profit and loss sharing. It has a Non-Formal banking sector too with informal finance and investment package that empowers and humanizes real poor family and create local opportunities and discourages internal migration. The bank has another sector to monetize the voluntary sector and management of waqf, mosque properties and has introduced cash waqf system for the first time in the history of banking. In the formal corporate sector, this bank, among others, offers the most up-to-date banking services through opening of various types of deposit and investment accounts, financing trade, providing letters of guarantee, opening letters of credit, collection of bills, leasing of equipment and consumers durable, hire purchase and instalment sale for capital goods, investment in low-cost housing and management of real estate, participatory investment in various industrial, agricultural, transport, educational and health projects and so on.

Voluntary banking uses waqf model and sharia grammen models which is supported by waqf fund, non-formal banking using grammen sharia models and individual models for micro-enterprises, while corporate banking provides ordinary banking products and services. SIBL

develops a model in which cross-subsidies and low-cost financing occur for micro-enterprises. It is a challenge in Indonesia to make Sharia banking able to optimize its function in integrating the commercial and social economy especially in producing money waqf so that the results can improve the welfare of the people at large, so that Sharia banking does not only act as recipients of social funds but also act as manager at the same time. With the existence of regulatory and supervisory authorities, new rules and supported by ideas, this waqf bank can be a driver of economic development, especially the inclusive economy.

CONCLUSION

The challenge for Indonesian Islamic banking in integrating commercial finance and social finance is to optimize the integration of social functions and the intermediary function of Sharia Banking, where Sharia Banking is not limited to act as Baitul Mal institution and Sharia Financial Institution-Recipient of Money Waqf (LKS-PWU), and handed over of its management to zakat and waqf institution, but also given the authority to act as direct manager of community's social fund.

Ideally, the related institutions in commercial finance and Sharia Banking social finance such as OJK, BI, BWI, zakat management institutions and related ministries make clear guidelines in terms of coordination, so that the integration of social finance and commercial banking of Islamic banking can be optimally performed, for example with the establishment of a waqf bank that is considered to be an economic driver, especially an inclusive economy.

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