

The Application of Maqasid al-Shariah in Islamic Finance

According to Ibn Ashur, *maqasid al-Shariah* (objectives of Shariah) is a term that refers to the preservation of order, achievement of benefit and prevention of harm or corruption, establishment of equality among people, causing the law to be revered, obeyed and effective as well as enabling the *ummah* to become powerful, respected and confident.

Hifz al mal (preservation of wealth) is one of the most important objectives of the Shariah. The Muslim jurists assert that the concept of *hifz al mal* goes beyond its literal meaning. It does not mean to preserve the wealth per se, but the concept also covers the encouragement to generate, accumulate, preserve as well as distribute the wealth in a just and fair manner.

The Shariah teachings emphasise strongly on preserving one's wealth. Hence, it has prescribed certain parameters such as for the ownership to be legally recognised and has outlined specific punishments for transgressing the right of others. For example, the Quran has explicitly described the punishment for theft without taking any consideration of the offender's gender. This can be found in Surah al- Maidah verse 38 whereby Allah has said,

"[As for] the thief, the male and the female, amputate their hands in recompense for what they committed as a deterrent [punishment] from Allah . And Allah is Exalted in Might and Wise."

Islam also emphasises on the aspect of a productive wealth creation which is in line with what Shariah has prescribed. This can be observed in Surah al- Baqarah verse 275 where Allah has said,

"Those who consume interest cannot stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity. That is because they say, "Trade is [just] like interest." But Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah. But whoever returns to [dealing in interest or usury] - those are the companions of the Fire; they will abide eternally therein."

Allah has also mentioned about this aspect of wealth preservation in Surah al- Jumu'ah verse 10, *"And when the prayer has been concluded, disperse within the land and seek from the bounty of Allah , and remember Allah often that you may succeed."*

The Prophet (Peace and Blessings Be upon Him) has also mentioned on this issue in His sermon to His companions. It was narrated by Al- Tirmidzi that the Prophet (PBUH) has once said: *"Let it be known that whoever becomes a custodian for the wealth of an orphan, it is upon him to trade the wealth as to avoid the wealth to be reduced by the paying of Zakat"*.

The above evidences from the Quran as well as the Sunnah clearly indicate that it is encouraged for the Muslim to continue expanding and increasing their wealth by participating in permissible economic activities such as engaging in lawful and permissible sale transactions so that one can fulfill his/her and his/her family's needs without transgressing the rights of other people. Despite

such encouragement of generating wealth, wealth creation should never be done at the stake of the one's faith by involving in *riba* activities and other forbidden activities. Islam places no blessing on such transactions. This is evidenced by the above verse that indicates the seriousness of *riba* prohibition are the exclamation on those who practice *riba* will not stand on their own unless being possessed by the Devil and they will claim that trading is similar to *riba* which contravenes with the command of Allah in allowing trade.

Nowadays, there are plenty of opportunities for one to engage in permissible business activities, be it small proprietary businesses up to the level of corporations. Besides creating wealth via direct engagement in businesses, wealth can also be created when one invests in Shariah compliant instruments that are offered in one's country such as investing in stocks, unit trusts, Sukuk or investing in investment accounts approved by the respective Shariah advisory councils.

Besides that, the Quran and Sunnah have also elaborated on the importance of wealth creation in Islam by setting the parameters on the responsibility of those who have adequate means to help those who are less fortunate. This can be observed through the encouragement to give *hibah* (gifts), alms and to give out the obligatory zakat to the rightful recipients which have been outlined by the Shariah law. The Quran has also stated the important principles in managing the wealth of a country whereby the responsible parties are required to ensure that its wealth is justly distributed among the citizens. To further emphasise on the importance of the wealth creation, Allah has explicitly prohibited the act of hoarding and monopolising the wealth of a nation in a way that will deny the needy of their rights to the wealth.

This is evident in Surah Al- Hashr verse 7 where Allah has said, *"And what Allah restored to His Messenger from the people of the towns - it is for Allah and for the Messenger and for [his] near relatives and orphans and the [stranded] traveler - so that it will not be a perpetual distribution among the rich from among you. And whatever the Messenger has given you - take; and what he has forbidden you - refrain from. And fear Allah; indeed, Allah is severe in penalty."*

In conclusion, the Islamic financial system- which is currently encapsulated in the form of Islamic banking and Takaful industry – is in line with the objectives of Shariah. This reality can be observed not only in the offered financing products but also in other products and services offered such as investment accounts, unit trusts and Takaful products. Despite being new to the banking industry, Islamic banking and Takaful industry is forecasted to continue thriving and improving while consistently upholding the objectives of Shariah.