

Purposes of Sharee'ah and its Relationship with the Financial Field

Abdel Wadoud Moustafa Moursi El-Seoudi, Amir Husin Mohd. Nor,
Ahmad Muhammad Husni, Anwar Fakhri Omar, Hayatullah Laluddin,
Ibnor Azli Ibrahim, Muhammad Adib Samsudin and Muhammad Nazir Alias
Department of Syariah, Faculty of Islamic Studies, Universiti Kebangsaan Malaysia,
43600 Bangi, Selangor, Malaysia

Abstract: What is meant by the objectives of Sharee'ah (Islamic revealed laws) is the results, effects and fruits that the religion aim to achieve and reach through the application of the rulings. Maqaasid is linguistically derived from the Arabic root qasd and maqсад and both of them are derived from the Arabic verb qasada which means adopting the straight, fair and moderate way. According to the technical meaning, Maqaasid Ash-Sharee'ah refers to the meanings and rulings that Lawgiver aims to achieve through His legislations and rulings which the mujtahid scholars derive from the religious texts. Objectives of Sharee'ah has a close relationship with the field of funds. Considering the objectives of Sharee'ah in the financial field in Islam does not differ from its status and ruling in all the other chapters of fiqh (Islamic jurisprudence). Also, juristic reasoning applies to both of them. The objectives that will be discussed in this research and its relationship with the field of funds are the objectives of the wise Lawgiver in the funds, i.e., what Allaah The Almighty wanted to be achieved from His words and rulings in the financial field in Islam. This research is talking about the objectives of Sharee'ah, its divisions, its close relationship with the field of funds as well as discussing the Islamic institutions represented in the Islamic banks and the extent of their achievement of the objectives of the Islamic Sharee'ah.

Key words: Islam, purpose of Sharee'ah, financial field, fiqh, qasd, mujtahid scholars

INTRODUCTION

Objectives of the Islamic Sharee'ah are divided into three main categories: General, specific and partial objectives.

General objectives: They are what we find that all or most of the chapters of Sharee'ah has paid attention to. The most well-known of their examples are the five necessities: Religion, life, procreation, intellect and property.

Specific objectives: They are the objectives that are related to a specific chapter or a collection of the chapters of the Islamic legislation divisions such as the objectives of the acts of worship, objectives of punishments, objectives of the family system, objectives of the public authorities and objectives of the financial rulings.

Partial objectives: They are the objectives of the partial religious rulings separately (Ar-Raysooni, 2007).

One religious ruling may have only one objective such as the command of calling to witness whose objective is to make the authentication that blocks

disputes. Furthermore, the religious ruling may have more than one objective such as the 'Iddah (waiting period) of divorce whose objective is to make sure whether there is pregnancy or not, secure house and alimony for the divorced woman, prevent husbands from starting divorce and perhaps Allaah will bring about after that a different matter. The same is applied to the prohibition of alcohol whose objective is to preserve minds and bodies and that performing acts of worship and obligations may not be neglected and relationships and dealings may not be corrupted. The religious ruling may have an original objective and another consequent such as the legal marriage; its original objective is to preserve procreation while its consequent objective is to achieve chastity, enjoyment, intimacy, affection, mercy, cooperation on fulfilling the matters of religion and that of the worldly life.

OBJECTIVES OF SHAREE'AH IN THE FINANCIAL FIELD

The one who first to care about this category of the special objectives was Ibn 'Aashoor in his book entitled, Maqaasid Ash-Shaaree'ah al-Islaamiyyah (Objectives of

the Islamic revealed laws). In it, he dedicated a chapter under the title of Maqaasid at-Tasarrufaat al-Maaliyah (Objectives of the financial actions) in which he said:

The religious objective regarding funds as a whole are five: Their circulation, clarity, preservation, stability and observing justice in them (Ashoor and At-Taahir, 1999)

After Ibn 'Ashoor, some other contemporary scholars have discussed this topic such as 'Abdullaah ibn Bayyah in his book entitled Maqaasid Ash-Sharee'ah wa Maraasid al-Waaq'aat (Objectives of religion and examinations of realities) in which he reviewed the five objectives that Ibn 'Ashoor had defined before. He supported, explained and commented on them. Then, he rewrote and rearranged them again saying:

If we want to arrange these objectives regarding the objective that is based on the value of the benefit, then the highest objective is; the first: earning and getting funds; the second: preserving funds that includes the objective of fairness that preserves funds against all forms from unfairness and oppression; the third: clarity and transparency; the fourth: the objective of exchange and circulation (Ibn-Bayyah, 2010)

Then, came Yoosuf al-Qaradaawi who wrote a book regarding this topic under the title of Maqaasid Ash-Sharee'ah bil Maal (Objectives of religion that are related to funds). He spoke in details and in a new way regarding the financial funds and their classifications. He reached 27 objectives distributed to 6 categories. They are as follows:

- Objectives of Sharee'ah that are related to the value of money and its status. It has three objectives: Explaining the status of funds and their importance; obligation of preserving them and warning against being tempted by them and practicing oppression because of them
- Linking funds and economy with faith and morals. It implies two objectives: Linking funds and economy with faith and devoted worship and linking them with morals and human noble values
- Objectives of Sharee'ah that are related to the production of funds. They are seven: Encouraging the production of funds; earning them through the permissible means; prohibiting the wicked earnings; obligating increasing funds through the permissible ways; prohibiting producing of what is harmful; securing the complete sufficiency of every individual; securing the self-sufficiency of the Islamic nation and obligating coordination among the different branches of production

- Objectives of Sharee'ah that are related to consumption of funds. They are four objectives: Allowing what is good; rationalizing consumption and spending; combating extravagance; preserving environment and its components
- Objectives of Sharee'ah that are related to trading funds. They include two objectives: Controlling the financial transactions by the rulings of Sharee'ah and trading money and not hoarding them
- Objectives of Sharee'ah that are related to distributing funds. They are eight objectives: Achieving fairness in distributing funds among the groups and individuals; letting the poor and weak to have ownership through obligating zakaah (obligatory almsgiving) and deeming it as one of the pillars of Islam; bridging gaps; respecting the private property of the funds; preventing the private property regarding the necessary matters for all people; applying the rule of solidarity in society; liberating humans from poverty and addressing the accidental problems and needs (Al-Qaradaawi, 2010)

The noble Quran has outlined three basic principles regarding the objectives of Sharee'ah that are related to funds. They are as follows:

- Funds should be a maintenance for the people and not to be something that develops carelessness of the foolish
- Funds should not be a perpetual distribution among the rich
- Avoiding oppression in the financial transaction (Al-Hussayen, 2004)

ISLAMIC FINANCIAL INSTITUTIONS AND THEIR APPLICATION OF THE OBJECTIVES OF SHAREE'AH

The term of Islamic financial institutions refers to the Islamic banks. There are many hopes pinned on those banks. There are some individuals expect that the Islamic banks will achieve the objectives of Sharee'ah as a whole, some others require them to build the Islamic economy and leading it; while, there is a third party calls upon them to achieve development and eliminate poverty among Muslims.

Researcher believe that most of those requirements are beyond the scope of the Islamic banks to achieve. Some of them are not included in the specializations of banks. They may be included in the specializations of the

governments and ministries of finance and economy or included in the specializations of the central banks. Amongst the problems that the Islamic banks confronts are that many of the possible solutions they have are either religious solutions that the law or the economical reality does not accept or the legal solutions that the religion or juristic reasoning does not accept (Ar-Raysooni, 2010).

It is worth mentioning here that the existing banking example and the idea of banks in its origin and philosophy is a non-Islamic idea. That is to say, it does not stem from the Islamic Sharee'ah, its objectives and basic rules. The current Islamic experiment aims at lightening the riba-based (Usury, interest, etc.) banking system and adapting it with the Sharee'ah and its objectives in the best way possible. Actually, this is a good thing; however, it cannot bear all those ambitious requirements and heavy burdens. It is not something natural that the Islamic banks be the main tool of the economical development. There should be some other institutions that stem from the core of the Islamic Sharee'ah and its objectives.

Let us take, for example, one of the objectives of Sharee'ah concerning funds. It is what can be called the hereafter-based investment of funds or worshipping Allaah The Almighty through funds. Now-a-days, economical and financial thought view that the funds that are not saved in banks and not included in investing activities are useless and suspended funds. This is really correct according to the perspective of the scholars of economy. However, saved funds do not stop nor pass, according to us, i.e., Muslims, necessarily through banks and usurious loans; rather, they may pass through other ways such as the loans that are not usurious nor the beneficial ones, i.e., the loans that are based on expecting reward (rewards of the hereafter).

We usually mention that Islam has prohibited riba because it implies oppression and exploitation. This is really an objective of the religion; however, the objective that is more important than this may be rarely mentioned, namely the wisdom of prohibiting riba whose objective is to make people invest and use their funds in some other ways which to make people give loans without riba. People cannot do without loans. Religion has closed before them the door of giving loans in return for riba and the result is that they are compelled and encouraged by religion to give loans away from riba.

When the religion closes a door, it opens many other doors. Its objective from this is to make people enter from the open doors and go on them. It does not aim at preventing them from entering from the closed door (of riba) only and then leave as they are hopeless, i.e., not entering from the door of riba is the half of the religious

objective and its completion is to enter from another door which is the door of transaction away from riba such as riba-free loans or what the jurisprudence scholars call al-Qard al-Hasan.

This example is like the prohibition of fornication. Amongst the objectives of prohibiting fornication is to derive people to the sole solution which is marriage. People (i.e., men and women) need; rather, they are compelled to satisfy their innate sexual desires while the door of fornication is completely closed, then there is nothing available for them except to enter from the door of marriage (Audah, 2007).

CONCLUSION

At the end of this research, researchers have reached several results. The most important of them are that the objectives of the Islamic Sharee'ah are divided into three main categories: General, specific and partial objectives. As for the general objectives, they are what we find that all or most of the chapters of Sharee'ah has paid attention to. The most well-known of their examples are the five necessities: Religion, life, procreation, intellect and property. As for the specific objectives, they are the objectives that are related to a specific chapter or a collection of the chapters of the Islamic legislation divisions such as the objectives of the acts of worship, objectives of punishments, objectives of the family system, objectives of the public authorities and objectives of the financial rulings. As for the partial objectives, they are the objectives of the partial religious rulings separately. Religious objectives of funds as a whole are five: Their circulation, clarity, preservation, stability and observing justice in them. Also, if we want to arrange these objectives regarding the objective that is based on the value of the benefit then the highest objective is: Firstly, earning and getting funds. Secondly, preserving funds that include the objective of fairness that preserves funds against all forms from unfairness and oppression. Thirdly, clarity and transparency. Fourthly, the objective of exchange and circulation. Objectives of Sharee'ah that are related to the value of funds are the obligation of preserving funds and warning against being tempted by them and practicing oppression because of them, linking funds and economy with faith and devoted worship and linking them with morals and human noble values, encouraging the production of funds, earning them through the permissible means, prohibiting the wicked earnings, obligation of increasing funds through the permissible ways, prohibition of producing what is harmful, securing the complete sufficiency of every

individual, securing the self-sufficiency of the Islamic nation and the obligation of coordination among the different branches of production.

ACKNOWLEDGEMENT

Part of this study is an outcome of research was conducted by using the research funding of the UKM-PP-05-FRGS0071-2009 Project.

REFERENCES

- Al-Hussayen, S., 2004. The Islamic Banks; its Requirements and Obligations. Publication of the Dalah of Blessing, Riyadh.
- Al-Qaradaawi, Y., 2010. Objectives of Religion that are Related to Funds. 1st Edn., House of Sunrise, Cairo, pp: 73-74.
- Ar-Raysooni, A., 2007. Theory of the Objectives of Religion According to Imaam Ash-Shaatibi. 5th Edn., International Institute of Islamic Thought, Cairo, pp: 19-20.
- Ar-Raysooni, A., 2010. Objectives of Religion and their Considerations in the Religious Edicts of the Islamic Financial Institutions. 1st Edn., Company of the House of the Consultation for the Financial Consultations, Doha, pp: 99-101.
- Ashoor, I. and M. At-Taahir, 1999. Objectives of the Islamic Religion. 1st Edn., House of Precious Matters, Amman, Pages: 172.
- Audah, J., 2007. Objectives of Religion and Issues of the Modern Age. Criterion Institution of the Islamic Heritage, London, pp: 33.
- Ibn-Bayyah, A., 2010. Objectives of Religion and Examinations of Realities. Criterion Institution of the Islamic Heritage, London, pp: 73-78.