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## The Concept of Taxes and Financial Performance in Islamic Law (Case Study at Medan Syariah BMT)

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**ABSTRACT:** This study aims to analyze the concept of tax and performance of Islamic banking using Maqashid Shariah Index. The concept of tax which is a burden will be analyzed from the aspect of Islamic law. Performance appraisal in Islamic banking is usually only seen from the measurement of financial performance. In this study the performance of Islamic banking will be measured in terms of its shari'a objectives using the maqashid shariah index concept which provides a broader and more effective maqashid shariah concept by dividing it into four objectives and eight elements. The object of the research conducted was Medan Syariah BMT. The type of data used is secondary data in the form of financial reports / annual reports obtained from research objects. The approach of this research is descriptive which refers to the analysis. The results of this study indicate that the term tax in Islamic law is known as the name Adh-Dharibah, which means it is a burden. It is called a burden because it is an additional obligation for assets after zakat, so that in its implementation it will be felt as a burden. In language and tradition, dharibah in its use does have many meanings, but the scholars use the phrase dharibah to refer to the assets collected as an obligation and become one of the sources of State income. By using maqashid shariah index, it can be concluded that the Medan Syariah BMT has the best performance of 46.22%

**KEYWORDS:** Tax<sup>1</sup>, Performance<sup>2</sup> and Islamic Law<sup>3</sup>

### I. INTRODUCTION

Islamic banking in carrying out its operational activities applies the principle of profit sharing and risk (profit and loss sharing). As part of the national banking system, Islamic banks have an important role in the economy. The role of sharia banking in Indonesian economic activities is not much different from conventional banking. The existence of Islamic banks is expected to encourage the economy of a country. The objectives and functions of Islamic banking in economy are, broad economic prosperity, full employment and optimum economic growth, socio-economic equity and equitable distribution of income and wealth, stability in value for money, mobilization and savings investments that guarantee fair returns and effective services (Setiawan, 2006).

The development of Islamic banking in Indonesia shows an increasing direction. This increase can be seen from several indicators, namely, assets, third party funds (DPK), and financing. Based on Bank Indonesia sharia banking statistics, it can be seen that the development of Islamic bank assets in November 2007 and 2008 were 0.82% and 9.76% respectively. But in December 2007 the development of Islamic bank assets reached 9.76%.

BMT Bina Mitra Mandiri is one of the Islamic financial institutions that earns income in the form of profit sharing received from debtors. With the existence of lending activities, the company also markets other financial institution products such as demand deposits, savings, deposits, remittances (transfers) and so forth. To find out more about the phenomenon of the development of BMT Bina Mitra Mandiri lending in the following table:

**Tabel 1. Composition of Assets, Third Party Funds, Profit and Profit Sharing  
At BMT Build Independent Partners (In Thousands of Rupiah)  
Periode 2013 – 2016**

Keterangan	2015	2016	2017	2018
Activa (Aset)	18,740,975	17,531,880	16,947,753	12,881,315
Mudharabah Savings	10,382,649	7,849,177	5,875,746	5,049,181
Mudharabah Deposits	5,147,500	5,949,500	8,489,500	6,866,500
Profit (Loss)	71,139	5,779	(612,232)	(1,919,447)
Sharing Results	895,146	754,141	743,589	684,889

Source, BMT Bina Mitra Mandiri, 2018



# 1<sup>st</sup> INTERNATIONAL HALAL CONFERENCE & EXHIBITION 2019

Based on these data, it can be seen that the problem that occurs is a decrease in profit sharing provided by BMT Mitra Mandiri each year where 2015 revenue sharing of 895,146 fell to 754,141 in 2016 and fell again in 2017 to 743,589, so for 2017 decline to 684,889. This decrease can of course be influenced by several factors including company assets, third party funds (deposits) originating from Mudharabah savings and deposits and profit (loss) of the company.

## II. LITERATURE REVIEW

### 2.1. Konsep Perpajakan Dalam Islam

In the *Al-Ahkam al-Sulthaniyah* book by Imam al-Mawardi, *kharaj* is translated by the word tax (land tax), while *jizyah* is not translated as tax, but is called *jizyah*. (Abu al-Hasan 'Ali Ibn Muhammad Ibn Muhammad Ibn Habib al-Basri al-Baghda, T.Th) But in the book *Sahih Abu Daud*, a *jizyah* collector was translated with a tax collector, whereas the one referred to was a *jizyah* officer. (Muhammad Nashiruddin al-Bani, 2005). In the book of *al-Umm* by Imam Syafi'i, *jizyah* is translated as tax (Imam Syafi'i, 2005).

This understanding is the reality of *dharibah* as a treasure that is collected compulsorily from the *rakyat* for the financing needs of the state. Thus, *dharibah* can be interpreted by tax (Muslim). We can use the term *dharibah* in terms of tax (tax), even though the term 'tax' (tax) comes from the West, because the reality is in Islamic economic systems

### 2.2 Islamic Bank

Islamic Banking or Islamic Banking is a banking system developed based on *sharia* (Islamic law). The effort to establish this system is based on the prohibition in Islamic religion to collect or borrow with interest or what is called *usury* as well as a prohibition on investment for businesses categorized as illegitimate, where this cannot be guaranteed by the conventional banking system.

According to Kasmir (2012), explains: Islamic banks are banks that operate by not relying on interest. Islamic banks or commonly referred to as interest-free banks, are financial or banking institutions whose operations and products are developed based on the *Qur'an* and the *Hadith* of the Prophet. In other words, Islamic banks are financial institutions whose main business is providing financing and other services in the payment traffic and the circulation of money that is operated in accordance with Islamic law. "

According to Mulyono (2006) "Sharia Banks are banks that operate in accordance with the principles of Islamic *Shari'a*, namely banks whose operations follow the provisions of the *Shari'a*, specifically concerning the procedures for *mu'amalat* in general".

### 2.3. Types of Islamic Bank Products

According to Mannan (2009) *Sharia* banking operational activities in carrying out its business activities there are several types including, p

#### 1. Al-wadi'ah (Savings)

Mannan (2009, p. 56) explains *Al-Wadi'ah*, known as deposit or deposit, is a pure deposit from one party to another, both individuals and legal entities that must be maintained and returned whenever the requester wants.

- a) Recipient recipients are called *yad al-amanah* which means trustworthy hands. The depositor is not responsible for any loss and damage that occurs in the safekeeping as long as it is not a result of the negligence or carelessness involved in maintaining the safekeeping of the goods.
- b) The use of deposit money must first ask permission from the owner of the money and with the note that the user of the money guarantees that the money will be returned in full. Thus the principle of *yad al-amanah* (trust hand) becomes *yad adh-dhamanah* (guarantor's hand).
- c) The consequences of applying the principle of *yad adh-dhamanah* the bank will receive all profits from the use of money, but on the contrary if a loss also has to be borne by the bank.
- d) In return for the funds owner, besides guaranteeing the security of money, he will also get other facilities such as incentives or bonuses for *wadi'ah* demand deposits. This means that banks are not prohibited to provide services for the use of money in the form of incentives or bonuses, with a note that without prior agreement both nominal and percentage and this is purely a bank policy as a user of money. The provision of services in the form of incentives or bonuses is usually used the term *nisbah* or profit sharing between banks and customers. Bonuses are usually given to customers who have a minimum average fund that has been set.



# 1<sup>st</sup> INTERNATIONAL HALAL CONFERENCE & EXHIBITION 2019

- e) In practice the ratio between banks (shahibul maal) and depositors (mudharib) is usually a bonus for wadiah demand deposits of 30%, a ratio of 40%, a matter of 60% for savings deposits and a 45% ratio, 55% for deposits.

## 2.4 Maqashid Syariah Performance

According to Ahmad (2007) Maqasid is the 'jama form of maqsud derived from the syllable Qas} ad which means to want or mean, Maqasid means things that are desired and intended<sup>30</sup>. Whereas Shari'ah in language means *الطريق الى الماء* means the road to the source of water, the road to the source of water can also be interpreted walking towards the source of life.

The concept of Maqasid Shari'ah according to al-Shatibi quoted by Mahmud Shaltut (2006, p. 87) says that Shari'at is: "Rules created by Allah SWT to be edited by humans in regulating relations with God, with good human beings Muslim and non-Muslim, nature and all life"<sup>20</sup>

Most researchers who take the theme of maqashid sharia agree to make decisions about the core of the objectives of sharia to be achieved in social life, namely creating prosperity (Jalb al-Masalih) and avoiding evil (Daral-Mafasid).

Maqashid sharia is defined as the purpose of the existence of Islamic law is for the good and welfare (maslahah) of mankind in the world and the hereafter. According to Mingka (2014), Maqashid Syariah means the objectives of sharia which are used to realize the benefit of human beings in the world and the hereafter. Whereas according to Wibowo (2012), the understanding of Al-Maqashid Al-Sharia is the goals and secrets that Allah swt put and contained in every law for the purposes of fulfilling the benefits of the Ummah.

Maqasid Shari'ah consists of 2 words namely *مقاصد* and *عقود الشرع*. Maqasid is the plural of what comes from fiil *قصد* which means to bring something, also means demand, intentional and purpose. Syari'ah according to language means the road to a source of water which can also be interpreted as a path towards the main source of justice.

According to Al-Shatibi in Maskuroh (2012) dividing maqasid into three levels, namely: maqasid daruriyat, maqasid hajiyat and ma-qasid tahsinat. He explained in more detail the five objectives (maqasid al-shari'ah), namely: (1) guarding religion (ifzal-din); (2) guarding the soul (hifzal-nafs); (3) keep mind (hifzal-'aql); (4) guarding offspring (hifzal-nasl); (5) maintaining property (hifzal-mall). In line with Al-Shatibi, Imam Abu Hamid al-Ghazali also described classifying the objectives of sharia (maqasid al-shari'ah) into five as above.

## 2.5. Principles - Maqashid Syariah Principles

Looking at the concept of maqasid al-shari'ah and maslahah above, the principles implied reflect how Islam emphasizes the importance of considering the public interest rather than mere personal interests. This concept provides a framework that can be adopted in making decisions and operational mechanisms for an institution, especially for companies that are committed to CSR. The concept of maqasid al-shari'ah also offers guidance for moral considerations for policy makers both managers and other stakeholders, especially in resolving conflicts that may arise in perceiving CSR. There are 3 objectives of sharia developed by Zahrah (1997) in Maskuroh (2012) entitled Usl al-Fiqh. In the study, he specifically classified the objectives of sharia into 3 different scopes, namely:

1. Tahdhib al-Fard (Individual Education)
2. Iqamah al-'Adl (Embodiment of Justice)
3. Jalb al-Maslahah (Community Welfare)

From some of the definitions above, it can be said that the performance appraisal of banks based on Al-Maqashid Al-Sharia must be in accordance with the three sharia objectives above. In Islam, these three targets to be achieved are known as Al-Maqashid Al Syariah or the achievement of sharia goals (Nurhayati et al, 2013). Maqashid sharia has a very important role in Islamic banking, namely to formulate macroeconomic policies (monetary, fiscal, public funding), create Islamic banking and financial products, and formulate regulations in banking and Islamic financial institutions (Maskuroh, 2012).

## III. RESEARCH METHODS

### Research Data

The definition of banking performance based on Al-Maqashid, namely the assessment of sharia banking operational activities must be in accordance with the objectives of sharia namely Tahdhib al-Fard (Individual Education), Iqamah al-'Adl (Embodiment of Justice) and Jalb al-Maslahah (Community Welfare). In Islam, these three targets to be achieved are known as Al-Maqashid Al



# 1<sup>st</sup> INTERNATIONAL HALAL CONFERENCE & EXHIBITION 2019

Syariah or the achievement of sharia goals. Measurement of performance using the Maqashid Al Sharia approach can be measured using several indicators as follows:

**Table 2. Operational Definition of Research**

Performance measurement based on Maqashid	Dimension	Element	Indicator
Guarding Religion	Compliance with <i>Syariah Muamalah</i>	There are no usury (interest) & unclean transactions, there are no gharar and cash transactions, there are no dhalim transactions	<i>Mudarabah Musharakah/</i> Total Pembiayaan
Keep the Soul	Cleanliness & Purity of Life	Zakat Performance dan Tax	Zakat/EBT
Keeping Intellect	Enhancement Education	Education & Training	Cost of education & Exercise /Total cost
Keeping assets	Sustainability of Assets	Long term financing	Long-term/Total financing

## Research methods

Data analysis technique uses descriptive method of accounting approach which is a method used by formulating attention to solving problems encountered, where data is collected, compiled and interpreted so that it can provide information about the recording, acquisition and classification of problems that exist within the company. The steps are as follows, p

1. Collect financial data related to research such as profit / loss report, balance sheet, tax report, asset and depreciation data and expense data.
2. Perform calculations on Maqashid performance indicators
3. Interpreting the calculations associated with the theory.

## IV. RESULTS & DISCUSSION

### Pajak Menurut Syariat

Etymologically, tax in Arabic is called the Dharibah, which comes from the word *رب يض , ضرب*, which means: obliging, determining, determining, hitting, explaining or imposing, etc..

In the Koran, the word root da-ra-ba is found in several verses, including QS Al-Baqarah (2): 61. :(Mumammad Fuad Abd al-Baqi, 2008)

والمسدكة الذلّة عليهم وضربت

*Then it was inflicted upon them contempt and humiliation.*

*Dharaba is a form of the verb (fi'il), while the noun form (isim) is dharibah (قبريض), which can mean load. Dharibah is isim mufrad (singular noun) with its plural form dharaib (بئارض). He is called a burden, because it is an additional obligation for property after zakat, so that in its implementation it will be felt as a burden (heavy picks). In the example of usage, the tax office is called masalahah adh-daraaib (بئارضلا ةحلسم)*

So, dharibah is a property that is collected compulsorily by the State in addition to jizyah and kharaj, even though both can be categorized as dharibah.

In the Al-Ahkam al-Sulthaniyah book by Imam al-Mawardi, kharaj is translated by the word tax (land tax), while jizyah is not translated as tax, but is called jizyah. (Abu al-Hasan 'Ali Ibn Muhammad Ibn Muhammad Ibn Habib al-Basri al-Baghda, T.Th) But in the book Sahih Abu Daud, a jizyah collector was translated with a tax collector, whereas the one referred to was a jizyah officer. (Muhammad Nashiruddin al-Bani, 2005). In the book of al-Umm by Imam Syafi'i, jizyah is translated as tax. (Imam Syafi'i, 2005).

### Opinions of the Ulama About Taxes

Are there Muslim obligations to property other than zakat? Answering this question, differences of opinion arise among the fukaha (Islamic jurists). Some argue that there is, and others argue that there is none. The following is a description of the two opinions.

#### The Ulama Who Argues That Tax Can Be

To meet the country's needs for various things, such as tackling poverty, collecting soldiers, and others that are not fulfilled from zakat and almsgiving, new alternative sources must emerge.



# 1<sup>st</sup> INTERNATIONAL HALAL CONFERENCE & EXHIBITION 2019

The choice of this tax obligation as a solution has spawned debate among Islamic jurists and economists, some say that the tax is permissible and vice versa. A number of Islamic jurists and economists who stated that the tax collection was permissible, among others:

Abu Yusuf, in his book *al-Kharaj*, mentions that:

All the *rashidins*, especially Umar, Ali and Umar bin Abdul Aziz reportedly stressed that taxes must be collected with justice and prosperity, not allowed to exceed the ability of the people to pay, not to make them unable to fulfill their basic needs on a daily basis. (Umar Chapra, 2002) Abu Yusuf supports the right of the ruler to increase or decrease taxes according to the capacity of the burdened people (Umar Chapra, 2002).

**Ibn Khaldun in his *Muqaddimah***, in a very good way reflected the flow of thought of Muslim scholars living in his day regarding the distribution of the tax burden evenly by quoting a letter from Thahir Ibn Husain to his son who became a governor in one of the provinces. Therefore, spread the tax to all people with justice and equality, the treatment of all people is the same and do not give an exception to anyone because of their position in society or wealth, and do not exclude anyone even your own friend or close friend or follower. And don't take taxes from people beyond the ability to pay.

**Abdul Qadim, in *Al-Amwal fi Daulah al-Khilafah*, said:**

Various expenditure posts that are not fulfilled by Baitul Mall are the obligations of Muslims. If the various needs of the expenditure posts are not financed, then there will be a danger for Muslims, even though Allah also obliges the state and the people to eliminate the harm that befalls the Muslims. If these conditions occur, the state requires Muslims to pay taxes, only to cover (lack of costs for) various needs and required expenditure items, without excessive.

## V. DISCUSSION

### **Tax is Allowed because of the Benefit of the Community**

If we follow the opinion of the cleric that is permissible, then the current tax is indeed already a duty of citizens in a Muslim country, arguing that government funds are insufficient to finance various "expenses", which if the expenditure is not financed, will cause harm. While preventing an evil is also an obligation, as the rules of *ushul fiqh* say: (Ali Ibn Muhammad al-Âmidi Abû al-Hasan, 1999)

واجب ف هو به إلا الواجب ي تم لا ما

Everything that cannot be abandoned for the sake of carrying out obligations other than must be with it, then something is also obligatory.

### **Maqasid Performance Analysis**

Based on the results of the analysis of research data, it can be explained the discussion of the research findings regarding the performance of Maqasid sharia in BMT Bina Mandiri Syariah Medan.

1) Maintaining Religion. Islam as a religion is considered to have universal and comprehensive nature because it regulates all aspects of human life starting from Aqeedah, Morals and Sharia. Sharia is a provision of Islamic law that regulates human activities which contain commands and prohibitions, both concerning the relationship of vertical interaction with God (worship) and horizontal interaction with fellow beings (*muamalah*). In carrying out social activities in *bermuamalah*, then there are several principles that must be held, so that the goal of sharia (*maqasid al-shari'ah*) is to achieve benefit for all parties (stakeholders) can be maintained. The *muamalah* principle prohibits the following elements<sup>43</sup>:

- a) Usury (an element of interest with all forms and types, both usury *rice'ah* and *fadl*)
- b) Zalim (an element which harms oneself and / or other people)

One form of injustice, is to give receivables to those in trouble by overloading them which would be burdensome Islam actually teaches to give respite to *mudrarib* (the people who are in debt) until they are even able to give relief in the form of freeing some or all of their debts.

2) Keeping the Soul

Islam teaches that humans have a soul that is clean of things that are defective / prohibited. One way to purify and cleanse the soul is by issuing *zakat*. The form of expenditure for the welfare of the community other than obligatory *zakat* is tax, although there are many differences between the two.

3) Keeping Intellect

What is meant to maintain the mind that is in line with the *maqasid al-shari'ah* is to nurture and increase concern for the problem of education.

4) Keeping offspring



Maintaining sustainability can be done by maintaining and improving health. And the fulfillment of health needs can be achieved if welfare in the form of income that meets the needs can be fulfilled.

#### 5) Maintaining Assets

One form of safeguarding property is in the form of investments that will bring benefits in the future, and insured so that the risk of diminishing / loss of property can be guaranteed. In the world of banking, safeguarding the assets and rights of customers in addition to the form of insurance (insurance) can also be seen in the form of a ratio of the acquisition / rights of depositors to operating profits.

## VI. CONCLUSION & SUGGESTION

### Discussion of the Concept of Taxes According to Islamic Views

Tax is indeed an obligation of citizens in an Islamic country, but the State is also obliged to fulfill two conditions (conditions):

- a. Acceptance of tax results must be seen as trustworthy and spent honestly and efficiently to realize tax goals;
- b. The government must distribute the tax burden equally among those who are obliged to pay it.

As long as the taxpayers do not have the guarantee that the funds they provide to the government will be used honestly and effectively to realize maqashid (the purpose of the Shari'a), they will not be willing to fully cooperate with the government in collecting taxes by ignoring any moral obligation to pay taxes.

### Discussion of Maqasid Performance

Maqasid sharia performance measured from several aspects of financing practices that generate revenue-sharing revenue must be known and matched with syara law 'to be able to assess whether the revenue-sharing income is in accordance with Islamic law.

Regarding the findings in the case study of Mandiri Syariah Bina Mitra, the author will highlight a number of matters relating to the mudharabah and musyarakah principles that are carried out at the Syariah Mandiri Bina Mitra which are then matched with the opinions of the Muslim scholars.

#### a. *Yadul Amanah*

The concept of mudharabah has the principle that capital managed by mudarib (worker) is a trustworthy yadul, meaning that it does not bear anything when the capital is lost, reduced or damaged unless it is caused by negligence. In this case there is no difference of opinion among the jurists. In each loan request for funds in mudharabah financing, the bank requires that assets be used as collateral by mudarib to further convince the bank of the honesty of mudharib. If the mudarib fails to return the borrowed capital in accordance with the agreed amount and time, the guarantee will be auctioned. If the guarantee value is greater than the value of the debt, the difference will be returned to the customer.

Bina Mitra Mandiri Syariah, which in this case is positioned as mudarib for depositing customers, is also a shahibul maal for those who need funds, taking collateral from mudharib to guarantee and account for the management of the funds of the customer, because the customer basically implements and entrusts funds in the Mandiri Syariah Partner Development on the basis of security motives, and so that the funds they have deposited are increased by being managed by the bank. Therefore, the bank as mudarib will try to improve and maintain the stability of the amount that will be shared with the depositors.

Based on the explanation above, the writer concludes that this practice is taking guarantees by the bank because Mudharib cannot refund mudaraba funds, has violated the principle stated earlier, namely positioning mudarib as a party that will not bear losses that are not caused by negligence. Transactions relating to the collateral collateral are categorized as fascic (damaged) transactions. In order for the mudharabah transaction to be categorized as a facade transaction, the consequence is that the transaction is canceled or the damaged condition is the necessity to provide a guarantee if the customer experiences a loss dispensed.

#### b. Profit sharing

There is no difference among the jurists about the rights of mudarib for the benefits of managing mudharib property. But they differed in opinion when the benefits would become the rights of mudarib. However, they did not differ from the opinion that the process of handing over the profits was made after the capital was handed over to the owners of capital.



In the case of mudharabah financing on BMT BMT, the management is required to pay installments from the capital borrowed based on the agreement in the contract periodically (at the end of each reporting month) regardless of the size of the installments. The installment consists of the loan principal plus the profit sharing obtained in accordance with the ratio specified in the contract. Even though as explained by the jurists that the provision of profits is only done when the capital has been returned to the owner of the capital so it is clear whether the mudaraba process is profitable or not. The income earned from this mudharabah financing, in Islamic view, is recognized when mudarib has deposited all of the capital borrowed. If there is an excess of the abovementioned capital, then the profit is recognized when the profit has been seen and calculated in accordance with the agreed ratio, so that there is a guaranteed guarantee that the income will be received. There is also an opinion stating that the income is recognized when the income has been realized in the form of cash delivered. The amount of the income is measured by the amount that will be or has been received by the bank after it has been calculated in accordance with the proportion of the profit determined in the contract. The implementation of profit sharing in BMT BMT, as stated above, has not yet been in accordance with the profit sharing required in Islam. This can be seen in the difference in the time of recognition and receipt of revenue sharing by Shahibul Maal. The bank receives the revenue-sharing income in installments along with the loan installments, and at the same time recognizes when the income has been realized, while Islam requires the distribution of profits to be carried out when the capital has been fully handed over to *shahibul maal*.

#### **c. Cost management**

A mudarib besides being entitled to a share of profits from the capital he manages, he is entitled to the cost of the management operation. Nevertheless the operational costs by the jurists were given strict limits. Costs that may be charged for mudharabah funds are costs incurred in connection with the management of mudharabah assets only. In addition, it is not permissible for a mudarib to impose it on mudharabah funds, such as the daily living, and so on.

Thus, the manager has the right to use business capital to finance various transaction needs. However, he did not have the right to get a salary as compensation for the capital development process including the salaries of employees who helped him because compensation would be obtained from the profits of the business. In other words, the shahibul maal, the bank, must take responsibility for all costs incurred as a result of transactions related to the management of mudharabah funds.

Mandiri Syariah Partner Development uses the revenue sharing method in calculating profit sharing that will be received from mudharib. If using the revenue sharing method, the bank obtains its share of the amount of income received by mudharib in that period before deducting the costs associated with managing the mudharabah fund concerned. By using the revenue sharing method, it illustrates that the mudarib bears the operating costs of the business which are deducted from the revenue sharing which is part of the mudarib after being distributed to the shahibul maal, so that it will reduce the amount of income that should be received. Thus, although the shahibul maal has received part of the profit share, and acknowledges the existence of income, the mudarib party still has the opportunity to experience losses, if the operational costs are greater than the income. This shows that the mudharib party fully bears the operational costs.

The explanation and explanation above led the writer to the conclusion that the use of the revenue sharing method in calculating revenue sharing has violated the principle of profit sharing that exists in Islam. This is based on the statements of the jurists that mudarib has the right to impose costs relating to the operation of the business on mudaraba funds, so Shahibul Maal must also bear the operational costs.

#### **d. Mudharabah atas Mudharabah**

An amil may not use mudharabah assets to other parties. If this is done, this is included in the category of exceeding limits. There is no difference in famous jurists that if an amil surrenders qiradh capital to another manager, he is obliged to bear it if he loses (Sayyid Sabiq, 1983).

In fact, BMT Establishes Syariah Independent Partners when distributing funds in the form of mudharabah financing to parties who need funds, the banking party has in fact sacrificed mudharabah assets. This can be seen from the contract agreed between the bank and the party that holds the funds and the contract agreed between the bank and the party that needs funds. The contract established with the fundraiser is a mudharabah contract, wherein the funder acts as shahibul maal and the bank acts as mudarib. The contract stipulated by the party requiring the funds is also a mudharabah contract. In this case the bank acts as Shahibul Maal and the party that needs funds acts as mudarib. As for the



# 1<sup>st</sup> INTERNATIONAL HALAL CONFERENCE & EXHIBITION 2019

funding provided to parties who need funds are funds originating from the fund growers. Thus, this practice is included in the practice category of using mudharabah assets.

Thus, if the manager experiences a loss, the loss may not be borne by the first capital owner (customer or investor). So, the loss is fully borne by the bank. Likewise, the loss may not be borne by the manager if the loss is not caused by his negligence.

The BMT's attitude towards mudaraba on mudaraba is included in the category of exceeding limits and if it continues to do so, consequently any loss from the management of the property may not be delegated to the owners of capital as stated by Ibnu Rusydi in the previous discussion. In practice, BMT BMT does not impose losses from the management of mudharabah assets to its customers, but the BMT BMT steps that reduce the mudharabah assets remain in the category of exceeding limits so that they are not in accordance with Islamic sharia.

The implementation of the four points that the author found above that are not yet in accordance with Islamic sharia are inseparable from the influence of the capitalist system applied in Indonesia. Related to the concept of yadul amanah in mudharabah, the capitalist system indirectly forces someone to distrust others. In capitalism, a success is seen from the material. Benchmarks for seeing someone are based on matter. So that someone wants to work together is also based on material. The same is true of banking. In this case the banks want to provide mudharabah financing because the bank has predicted the amount of profit to be earned, so that the bank will automatically take mudharabah guarantees when the mudarib loses. This shows that the standard used by banks to provide mudharabah financing is based on material rather than a belief system as required in Islam.

In terms of profit sharing, Bina Mitra Mandiri Syariah receives monthly revenue sharing in installments. The method used to obtain this profit uses revenue sharing where the bank does not share the costs of managing the mudharabah. Mandiri Syariah Partner Development runs this because Bina Mitra Mandiri Syariah is required to provide profit sharing to depositors every month. As is known, in the majority, the motives of customers in depositing funds in Islamic banks are not solely because the Islamic bank implements Islamic sharia, but they only want to make a profit and do not want to suffer losses. This is also an impact of the capitalist system that makes people only oriented to the material by finding the maximum profit with the smallest risk.

The existing Islamic banking cannot be said to be ideal because most of its operational activities, especially in mudharabah and musyarakah financing, are still affected by capitalist rules. Islamic banking can be said to be ideal if it is in an Islamic economic system. The Islamic economic system will be able to materialize with the political economy of Islam applied by Islamic governments.

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