Financing Restructuring During the Covid-19 Pandemic: The Tadhbiq Ahkam Paradigm

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ABSTRACT

Purpose: The Paper is to study the Restucturization Of Financing During The Covid-19 Pandemic: Maqashid Paradigm As-Syar’iyah

Design/Method/Approach: This research uses qualitative methods with a library study approach. In analyzing the position of financing restucturization during the pandemic from the point of view of maqasid al-syar’iab. The instruments used in research are observations and documentation of the sources of books, books, journals, and other sources related to them. The collected data is analyzed with reduction stages, catalytic unit displays, verified and concluded.

Findings: The discussion is considered important because by digging from the point of view of muamalah fight in terms of Magashid Syari’ab so that the discussion specifically becomes the first two discussions.

Originality/Values: The results of the study showed first the causes and reasons for implementing the decision to limit financing with Magashid Shar’iab, a paradigm developed through mitigating financing risks and the Magashid As-Shari’ab paradigm in legal protection based on the benefits that should beiyat [primary needs].
INTRODUCTION

The Covid-19 pandemic that occurred in the world gave birth and left various problems, short-term and long-term problems were felt in all sectors. Today the Covid-19 pandemic has become an important issue for countries in the world, including Indonesia. This condition can be identified from the fact that the impact of the Covid-19 pandemics with the lockdown policy and the implementation of the PSBB will not only have an impact on health but all sectors are affected, including economics problems, this is also expressed by Deepak Varshney¹, Chrispin Matenga² also reveals that a series of problems will have short-term and long-term implications for economic development. In the first quarter of 2020 economic growth in several of Indonesia's trading partner countries grew negatively: Singapore -2.2, Hongkong -8.9, the European Union -2.7, and China decreased to minus 6.8.³ Indonesian BPS data experienced minus 5.32% in the second quarter of 2020 and the highest negative growth from 1999⁴.

According to Ventjen Rahardjo, executive director of the National Committee for Islamic Economics and finance (KNEKS, 72.6 percent of MSME players were affected by the pandemic⁵. This event affects supply and demand simultaneously⁶. Another impact of workers who were laid off and forced to be laid off, more than 1.5 million, of this amount, 90 percent were laid off and 10 percent were laid 1.24 million people were formal workers and the remaining 265,000 informal workers⁷, the worst-hit MSMEs or micro, small and medium business sector in India⁸, decreased supply of goods and services

³(Thaha 2020:147)
⁵Husen Miftahudin, “72,6% Pelaku UMKM Terdampak Pandemi” (jakarta, n.d.).
production and demand for consumption and investment, the decline in economic development in the real sector affects financial sector, especially in financing, restrictions on activities hamper production and distribution, so that productive, consumptive and investment financing spontaneously causes stagnation for small companies or micro-businesses with small asset capabilities and minimal risk control, creates problematic financing for financial institutions with an increase in the amount of financing risk and will affect spirit on the stability of financial institutions.

The condition of Islamic banking before the pandemic experienced an increase of 5% a year from OJK from 93,713 in 2016 and 171,270 in 2019 and financing total in 2016 of approximately 466 rose to 4,561 in 2019, the conditions of sharia financial institutions before the pandemic experienced simultaneous growth.

The stability of the sharia financial services industry in 2019 reported that in 2013-2018 there was an increase in CARG banking growth of 7,1%, sharia finance grew by 7,4 %, and deposits grew by 7,2% unlike during the covid-19 pandemic, which has experienced a global economic recession, the banking sector with its financing experienced a long polemic.

The banking system in Indonesia is one of those affected in addition to the health sector; conventional banks decreased in the first quarter of 2020 and exceeded the decline in the first quarter of 2019, including Sharia banking. Covid-19 has a significant impact on the development of the world. The World Bank says that the impact of the Covid-19 pandemic on the economic sector will stop businesses. The World Bank also estimates for businesses, including

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10 OJK Indonesia, “Statistik Perbankan Syari’ah” (Departemen perijinan dan informasi Perbankan, 2020), 9.


people will remain in poverty\(^{14}\). The study\(^{15}\) showed bad news about the Indonesian capital market after it was announced by WHO about the covid-19 pandemic as a global pandemic on March 11, 2020.

The Covid-19 pandemic is a challenge for businesses, including the banking financial services industry. Based on Sharia banking statistics in January 2020, the number of Sharia Commercial Bank Office networks is 1,992 branches spread across various regions in Indonesia dominated by Java Island. In the line with most areas found Covid-19, namely Java Island (StatistikPerbankan Syariah, Januari 2020). This indicates that most sharia bank officers are in the red zone, the level of distribution of the Sharia banking industry in Indonesia\(^{16}\).

Various policies are carried out as an alternative solution to rise in the face of the impact of the pandemic after New Normal with the hope of the disconnection of the spread of covid-19 and the nation's economic growth can bounce back, Sharia finance and economy provide many solutions from the impact of COVID-19 on the economy through its main principles and investment products\(^{17}\). Economic recovery program is carried out by restrukturization of financing and guarantee of financing in the business world. Interesting to research from the point of view of the study of usbul fiqih with the maqashid al-syar\’iyyah approach, the purpose of Maqosid Syar\’iyyah is to seek benefit in all segments of human life\(^{18}\).

Sharia banks as financial institutions that serve to collect and distribute funds to people in need, activities to raise funds are carried out in various forms such as saving deposits current accounts, or deposits, while the distribution of funds or financing can be done by financing using sharia principles such as mudhrabah, Masyarakat, Murabaha buying and selling, greetings and Cristina, ijaroh with various forms of this agreement, sharia banks are not impossible to avoid financial by referring to the Peraturan Bank Indonesia or PBI, No


Sharia banks will not be separated from financial risks such as financing risks, market risks, liquidity risks, operational risks, legal risks, reputational risks, strategic risks, compliance risks, yield risks, and investment risks.

Financing is a transaction based on agreements and agreements related to the fulfillment of consumer, product, and investment needs between customers with the bank and non-bank institutions within a certain period and the distribution of certain benefits and rewards to improve economic well-being both personal, organizational, and the public in general.

Financing risk can occur if the customer fails to pay the refund, caused by internal and external factors of the customer, internal bank factors can occur due to the negligence of the bank or the customer, the bank's negligence can occur in the analysis of customer needs, the presence of certain party pressures and the orientation of program or target achievements, while negligence from the customer can occur if the customer management fails in conducting managerial finance, lack of experience and customer analysis even occur fraud by other parties can trigger the emergence of problematic financing while external factors can arise because of natural conditions such as natural disasters that can happen at any time, the power of disasters that damage productions facilities or damage the management order, even the existence of government policies can decrease the ability of customers in fulfilling their obligations to pay to finance.

One of the efforts to minimize the impact of the risk of losses from financing in the UUS and BUSS, financing can be categorized as problematic if there is a delay in payment of principal and profit-sharing, receivables are not paid so it is considered necessary to negotiate and carried out with the approval of financing for customers who experience a decrease income and decrease inability to meet obligations and still have business prospects after the restructuring period.

With various forms of agreements in financing that can be adjusted to the needs of customers, facilities in the process of financing analysis, according to that financing becomes important because it can increase the accelerator of business improvement. How restructuring conducted by banks in the face of

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19 BI 2011
20 (Adawiyah 2020, 62)
Problematic financing is sometimes adjusted to the problem of the cause or characteristics of the customer’s business and the characteristics of the form of financing to help customers complete their obligations and the risk of bank losses can also be resolved.

Pandemic conditions resulted in fluctuations in financial ratios, both conventional and shari'ah, in the study, showing that the financial ratio condition of shari'ah banks is less healthy in terms of average return on assets, equity, and financing to deposit ratio. One of the risks that are often faced by banks is non-performing financing, in his research in Jordan in 2014 at the bank showed Cordial Hasan financing had a low risk of default of up to 1% compared to a non-performing ratio of 5.6%. While in the study on 11 buses in 2011-2016 alone pointed out that the financing of qordul hasan and musyarakah did not show its effect on NPF and the positive effect was mudharabah financing while the negative effect was murabahah financing. This leads to there will always be problematic financing in various schemes, this requires a policy that is preventive and curative as a form of anticipation.

The restructuring review that the author found around financing restucturization as an effort to deal with problem financing restructuring of financing as an effort to deal with problem financing, restructuring as an effort to maintain stability in increasing NPF or Non-performing Financing which will affect the balance sheet portfolio, Restructuring of financing will have an impact on the liquidity of Sharia Banks. The study showed problematic financing into mediation that affects the financing of Masyarakat to

profitability. It is considered important to conduct research on how restructurization in the study of *tadbiqahkam* and its implementation. It is suspected that it not only contains elements of compliance with legislation, but contains elements of *shari‘ab* compliance in achieving *maslahat*.

**MATERIALS AND METHODS**

**Financing Restucturization**

Financing according to Dadang Husen\(^\text{29}\), is one of the three functions of the bank in channeling excess funds to customers to increase production and business. While commercial bank financing, according to Endah\(^\text{30}\), as a credit transaction between banks with customers in terms of meeting money needs\(^\text{31}\), financing as one of the functions of financial institutions is reviewed from the services of financial providers. Providing consumer fulfillment in financing consumptive, productive, and investment needs, and meeting customer needs in saving assets into investment value.

BI Regulation number 13/9/PBI/2011, in article 1 paragraph 7 states that financing restukturization is an effort made by banks in helping their customers when they have difficulty returning loans. The legal basis of financing restucturization can be seen in government policy through the Regulation of the Financial Services Authority\(^\text{32}\), regarding economic stimulus and how countercycicals deal with the impact of the Covid-19 pandemic, the implementation of financing refers to law no. 13 of 2008 \(^\text{33}\), No. 21 article 36 of 2008 and (PBI) Bank Indonesia Regulation No. 10/18/PBI/2008, "Bank Indonesia Regulation No. 10/18/PBI/2008 concerning Financing Restukturization\(^\text{34}\) which is amended by BI regulation number 13/9/PBI/2011, in article 1 paragraph 7 which states that financing restructuring is an effort made by banks in helping their customers when they have difficulty returning loans and circular letters of Bank Indonesia Number 10/34/Dpbs/2008 concerning restructuring of financing in BUS and UUS, in addition to the conditions of the Covid-19 pandemic in Indonesia, Many financings are constrained by returns, in POJK No. 11/POJK.03/2020

\(^{29}\) Dadang Husen Sobana, “Manajemen Keuangan Syariah” (CV. Pustaka Setia, 2018), h 267


\(^{31}\) Soemitra,” Bank Dan Lembaga Keuangan Syariah”, 2017, h. 29

\(^{32}\) (POJK) No 11/POJK.03/2020 ) diakses 28 januari 2022

\(^{33}\) “Undang-Undang Nomor 13 Tahun 2008 Tentang Perbankan Syariah,” *Jakarta (ID)*.

\(^{34}\) (PBI) Peraturan Bank Indonesia No 10/18/PBI/, “Peraturan Bank Indonesia No 10/18/PBI/ 2008 Tentang Restukturisasi Pembiayaan,” *Www. Bi.Go.Id.* diakses 28-Januari 2022
Metodologi

This research uses qualitative methods with a library study approach. According to Boghan and Taylor\(^\text{35}\) stated that qualitative research is a research procedure that produces descriptive data in the form of written or spoken words and observable behavior. In analyzing the position of financing restructuring during the pandemic from the point of view of *maqasid al-syar'i ah*. The instruments used in research are observations and documentation of the sources of books, books, journals, and other sources related to the them. Data collected, presented and analyzed with reduction stages, verified and concluded with conclusions through the method of *ushul fiqih*, analysis of *abkaminstimbat*, relating to the causes and conditions of application of *maqashid al-syar'i ah* in financing restructuring.

RESULTS AND DISCUSSION

Harmonization of syar'iah policy with maqashidisyar'iah approach using tadhbiqahkam

Economic policy in the fulfillment of the needs of human life aims at the benefit of mankind; this is in accordance with the purpose of *shari'ah*. According to Al-Syatibi\(^\text{36}\) revealed that the purpose of *shari'ah* is the benefit of mankind. The policy of *shari'ah* contains an element of benefit which is interpreted as everything related to the fulfillment of human needs of life. Al-syatibi further classifies the five elements that must be maintained to realize the benefit of determining policy, namely: soul, reason, descendants, and property.

Policies that look at the side of legal actions that contain benefits and tranquility and avoid damage to humans personally and society in meeting their primary, secondary and tertiary needs with the aim of maintaining religion, soul, reason, ancestry, and property.

The legal basis for determining policies containing elements of *Maslahab* can be seen in Q.S.Al-Hajj: 78\(^\text{37}\)

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	ext{"He has chosen you and God has not narrowed you in matters of religion." In Q.S. Al-Anbiya; 107}\]


And we do not send you, but to (be) mercy to the universe.

The verses explain the nature of basic grace is not only grace in Rasulullah but also there is grace in the treatises he teaches, namely grace in the texts of shari'ah that teach tawhid, worship, and ahklak, with guidance about the truth of error, the guidance of error, and the benefit of the treasury.

The benefit is based on hadis Nabi[^39]:

"From Abu Sa’ad bin Malik bin Sanaa al-khoudzriy said Rosulallah S.A.W. "Do not get yourself and cannot fade others" Hadith narrated ibn majah and Ad-dzaraquthniy and others with a continuous sanad. Narrated also by Malik in al-Muawatha’ from Amr bin Yahya from his father from the Prophet shallallahu ’alaihi wasallam as 'alatibiwasallamamursal for aborting Abu Sa'id. This hadith has several paths that strengthen each other."

This hadith forbids mankind to cause distress for itself as well as for others. The benefit, in this case, is certainly something that does not contradict the teachings of Islamic shari'ah, in fulfilling human needs. The reason for reason in the writing of the Qur'an in one mushap during the time of caliph Umar, saw many qur’anic memorizers who died after the battle of Yamamah[^42]. Decisions that provide maslabat for the ummah, because the survival of humans is limited in age while the reduction of the memorizers of the Qur'an will result in the scarcity of reference sources in the pronunciation of the Qur'an.

Elimination of difficulties aimed at meeting human needs. Al-Syahthibi[^43]:

Dividing the level of maslahah into three, namely daruriyah, hajiyah, and tahsiniyah. The need for i as a human living need that is essential in maintaining human survival, so it is mandatory in its fulfillment, because if the daruriyah is not

[^38]: A. Soenarjo. Dkk., Al-Qur’an Dan Terjemahnya., 508.
[^43]: Asy-Syatibi, Al-Muafaqad Fi Ushul Al-Syari’ah, 25.
fulfilled then basically the benefit of the world and the afterlife will not be achieved.

The needs of Hajjiyah are everything that becomes the primary needs of human life to create happiness and well-being, and avoiding squalor both in the world and in the afterlife. While the needs of _tabsin_ share complementary to the two previous needs, as a perfecting of life. In fulfilling these needs, the actions carried out based on the benefit are based on the purpose of the _shari’a_. Everything that contains efforts to maintain the purpose of _shari’a_ (Religion, soul, descendants, reason, treasure, and soul) including _maslahah_. Including the policy of restukturization of financing as a form of benefit in avoiding difficulties for customers who are affected by disasters.

The process of restructuring of financing during the pandemic, in _ahkam’s_ estimate

The legal basis of financing restructuring can be seen in government policy through the Regulation of the Financial Services Authority (POJK) No 11/POJK.03/2020, regarding economic stimulus and how counter cycals deal with the impact of the Covid-19 pandemic, the implementation of financing refers to No 21 chapter 36 year 2008 and (PBI) Peraturan Bank Indonesia No 10/18/PBI/ 2008 and Indonesian bank circular Number10/34/Dpbs/2008 about the restructuring of financing in BUS and UUS, In the circular number 10/34/Dpbsin article 1 point 1 number 4 explained the application of the principle of financing restukturization, namely the principle of prudence, the principle of Shari’ah, Accounting Principles, Circular Letter No 13/18/Dpbs/2011 about circular distribution no 10/34/Dpbs/2008.

First, the principle of prudence is carried out by banks in several stages, first before resting with the analysis of customer benefits to pay off their financing with several stages methods of analyzing character, capital, collateral, and business prospects, secondly, by looking back at the principle of knowing customers, and third, the application of the 5C principle to customers, namely: _Character, Capacity, Capital, Collateral and Condition of Economic_ as the nature or personality of the customer, Capacity about how the customer's ability

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44 Janwari, _Pemikiran Ekonomi Islam: Dari Masa Rasulullah Hingga Masa Kontemporer_, 239.
49(Muhammad 2000:261)
to run a business to return financing, capital is interpreted as the capital needed to be able to run his business, Collateral by assessing the guarantee provided by the customer and the condition of the future business situation in seeing market opportunities.

Second, the principle of shari'ab in the restructuring of financing while maintaining the principle of compliance with the shari'ab is by paying attention to the fatwas of the Shari'ab Ulema Council, supervision carried out by DPS or the Shari'ab Supervisory Board both through opinions and fatwas, restukturization of financing in the position of the Covid-19 pandemic based on the mursalah community in the maqasid Syariyah approach in maintaining a property or Hifzulmaal and maintaining the Soul or Hifzul Nafs, the government's determination to restrict activities with PSBB and Lockdown during the Covid-19 pandemic as part of maintaining the soul to avoid the spread of the virus, and in maintaining economic losses, there are several policies for customers as communities and MSME actors who are mostly affected by cash assistance to survive and be able to rise again with its business activities while for financial institutions and customers together the form of maintaining a property or hifzulmaal is with a policy of restructuring of financing both production, consumption, working capital, and investment.

The law of handling financing or receivables in Islam refers to letters Al-Baqarah ayat 280⁵⁰:

وَإِنْ كَانَ نَذُو عُسْرَ ةٍ فَنَظِرَةٌ إِلَى مُيِّسَرَ ةٍ , وَأَنْ تَصَدْقُوا خَيْرًا لَّكُمْ أَنْ نَكُنْ نَظِمَهُ مُلْكًا .

Meaning: “And if (the person in debt) is in trouble then give a grace period until he gets spaciousness, and if you make it better for you if you know (Q.S.Al-baqarah: 280), in the interpretation of this verse explains how the person who has difficulty paying and paying off debts is mandatory by giving tough until the person can pay his debts and there is circumcision which is worth the goodness of almsgiving and abundant rewards when giving up some or all of them. in addition in the hadith, the Prophet explained the reward of almsgiving.”

Ibn Mas’ud narrated that the Prophet (SAW), said “It is not a Muslim (they) who lends Muslims (others) twice unless the other is (worth) alms” H.R. Iblu Majah no 2421⁵¹ book Akham; ibnu Hibban dan Baihaqi⁵². In another hadith narrated the


prophet's hadith narrated by Al-Thabrani in al-Kabir and al hakim in al-
mustadrak\textsuperscript{53}.

Ibn Abas narrated that when the Prophet ordered to expel the Children of Nadhir, some of them came saying "O Prophet of Allah, you have commanded to expel us while we have receivables to those who are not yet due" then Rasulullah said "give leniency and charge faster" then Rasulullah said "give leniency and charge faster."

The verses of the Qur'an and the hadith can be seen to be an obligation and the sunah gives relief to receivables that cannot afford to pay it in their true circumstances with a mechanism that does not bring usury to seek benefit, in muamalah can also refer to qowaidfikhiyah mentioned the law of origin

\textit{The law of origin of muamalah can be until there is a pretext that forbids it}\textsuperscript{64}

الأصل في المعاملة الإبداية لا أن يعذّر ليلى على تحرمه

\textit{Basically, a law is okay unless there is a proposition that prohibits it}\textsuperscript{65}

Looking at the basis of the source of the qur'an law, \textit{hadith} and \textit{qowaid} Fiqhiyah in \textit{muamalah}, that no proposition prohibits the restructuring of financing, even ordered and recommended, at the practical level financial institutions carry out stages in restructuration, namely:

Rescheduling, the scheme offered is the first delay in the principal of the loan, the rescheduling of the principal payment of the loan, the second the delay in the principal payment with the addition of margins

Realignment (Reconditioning), with the scheme of delaying the remaining principal, by PBI no. 14-15/PBI/2012, classifies the criteria for the

\textsuperscript{52}Muhammad Syaafi’i Antonio, Bank Syari’ah: Dari Teori Ke Praktik (Jakarta: Gema Insani, 2001), 132.
\textsuperscript{54}H A Djazuli, Kaidah-Kaidah Fikih (Jakarta: Prenada Media Grup, 2019), 10.
\textsuperscript{55}H A Djazuli, Ilmu Fiqh: Penggalian, Perkembangan, Dan Penerapan Hukum Islam. Edisi Revisi (Prenada Media, 2021), 10.
quality of financing carried out by the debtor, among others, current criteria, thus attention, not smooth, doubtful, and stuck

Re-settlement (Restukturasi)

Providing relief to those who have receivables and seeking maslahat between the two parties as part of the efforts to restructuration problematic financing in financial institutions, financing restructuration schemes carried out by the relaxation of obligation payments both ratio and principal, the extension of the return period and the adjustment of ratio during relaxation. This model is carried out to relieve debtors for several reasons, one of which is the Covid-19 disaster, which is guaranteed in POJK No. 11/03/2020, as a national economic stimulus.

To protect socially just economic activities and fair prosperity, economic activities must be balanced between profit (tijari) and non-profit (Tabarru) for profit or tijari in the implementation using mudarabah contracts, musyarakah, buying and selling murabahah, istisna, salam and ijarah, while for non-profit or tabarru using zakat, sadaqoh, infak, waqf and qordul Hasan contracts.

In its implementation restructuration is carried out with a cut of i bill stipulated in fatwa no. 46, restructuration with the conversion of contracts that are motivated by very heavy inability such as murabahah can be applied qordul Hasan contract, which is contained in the fatwa number 47, determination of qordul Hasan financing there is a return obligation according to the time of the agreement, there are real costs as administration, there are guarantees when needed, there are voluntary additions that are not promised and if there is incapacity until the time then LKS may eliminate some or all financing obligations.

Qordul Hasan has a strong potential for social and for financial institutions because it contains an element of flexibility in use, and restructuration in the

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57 (DSN-MUI/II 2005)
presence of payment delays and rescheduling of murabahah bills stipulated in the fatwa no 4860 and fatwa no 0461.

Some cases of restructuration are widely applied to murabahah contracts because debt-based contracts are increasingly in demand compared to financing contracts with profit-sharing schemes62; supervision of shari'ah compliance is a highlight in maintaining the purpose of the syar'iah maqasid which is a condition with moral and ethical standards, in the practical order there is a gap between debt-based financing contracts such as murabahah with the use of money that is not by the purpose of using money in the contract.63

CONCLUSIONS

Restukturization of problematic financing in seeking benefit between the two parties becomes mandatory and becomes a circumcision based on the character of the financing, the maslahah approach in maintaining hipzul maal is part of the syar'iah maqasid in meeting the needs of squander, primary and tertiary under the principles of shari'ah. The restructuration scheme containing the maslahah mursalah for both parties by not violating the law of the ministry of wisdom is the addition of a tenor containing an element of riba called faskh al dain or qaib al-dain, the existence of compensation from restructuration with the addition of the number of receivables beyond the real cost for operational.

The problematic financing faced by banks requires the right solution from various points of view of studies, legal approaches, BPI, as part of compliance with regulations, and the compliance of shari'ah regulated in fatwas with the tadhbiq ahkam approach. Providing relief to those who have receivables and seeking maslabat between the two parties as part of the efforts to restructuration problematic financing in financial institutions, financing restructuration schemes carried out by the relaxation of obligation payments both ratio and principal, the extension of the return period and the adjustment of ratio during relaxation. This model is carried out to relieve debtors for several reasons, one of which is the Covid-19 disaster, which is guaranteed in POJK No. 11/03/2020, as a national economic stimulus.

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