



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

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ABSTRACT

Purpose: The Paper is to study the Restukturization 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 restructuring during the pandemic from the point of view of *maqasid al-syar'iyah*. 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'ah* 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 Shari'ah*, a paradigm developed through mitigating financing risks and the *Magashid As-Shari'ah* 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

¹Deepak Varshney et al., "Impact of COVID-19 on Agricultural Markets: Assessing the Roles of Commodity Characteristics, Disease Caseload and Market Reforms · Wholesale Prices and Trade · Market Reforms · Government Policy JEL Classification O13 · Q02 · Q18 · L78," *Indian Economic Review*, 2020, <https://doi.org/10.1007/s41775-020-00095-1>.

²Gerard McCann and Chrispin Matenga, "COVID-19 in the Global South," in *COVID-19 and Global Inequality* (Bristol University Press, 2020), 161.

³ (Thaha 2020:147)

⁴M. Ilham Ramadhan Avisena, "Pertumbuhan-Ekonomi-Saat-Ini-Terendah-Sejak-Krisis-Moneter," *M. Ilham Ramadhan Avisena Mediaindonesia.Com*, 2020.

⁵Husen Miftahudin, "72,6% Pelaku UMKM Terdampak Pandemi" (jakarta, n.d.).

⁶Nuno Fernandes, "Economic Effects of Coronavirus Outbreak (COVID-19) on the World Economy," *Full Professor of Finance IESE Business School Spain*, 2020, 17.

⁷Dyah Satya Yoga Agustin Ni Wayan Suarmini, Siti Zahrok, "Peluang Dan Tantangan Peran Perempuan," *Prosiding SEMATEKSOS 3 "Strategi Pembangunan Nasional Menghadapi Revolusi Industri 4.0,"* 2018, 151.

⁸Pushakar Dubey and Kailash Kumar Sahu, "MSMEs in COVID-19 Crisis and India 's Economic Relief Package : A Critical Review," no. August (2020): 1.

production and demand for consumption and investment⁹, 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 2019¹⁰, 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%¹¹, 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 2019¹², including *Sharia* banking¹³. 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

⁹I L O Monitor, . “Current Situation: Why Are Labour Markets Important?,” no. March (2020): 2, <https://gisanddata.maps.arcgis.com/apps/opsdashboard/index.html#/bda7594740fd40299423467b48e9ecf6>.CEPR.<https://voxeu.org/content/economics-time-covid-193>See for example UNCTAD,<https://unctad.org/en/pages/PressRelease.aspx?OriginalVersionID=548>.

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

¹¹Amin Jan et al., “Alignment of Islamic Banking Sustainability Indicators with Sustainable Development Goals: Policy Recommendations for Addressing the COVID-19 Pandemic,” *Sustainability* 13, no. 5 (2021): 2.

¹²Abdul Qoyum, “Maqasid Ash-Shari’ah Framework and the Development of Islamic Finance Products: The Case of Indonesia,” *Tazkia Islamic Finance and Business Review* 12, no. 2 (2018): 10.

¹³Rofiu Wahyudi, “Analisis Pengaruh CAR, NPF, FDR, BOPO Dan Inflasi Terhadap Profitabilitas Perbankan Syariah Di Indonesia: Studi Masa Pandemi Covid-19,” *At-Taqaddum* 12, no. 1 (2020): 13, <https://doi.org/10.21580/at.v12i1.6093>.

people will remain in poverty¹⁴. The study¹⁵ 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 (Statistik Perbankan 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 Indonesia¹⁶.

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 products¹⁷. Economic recovery program is carried out by restukturization of financing and guarantee of financing in the business world. Interesting to research from the point of view of the study of *ushul fiqih* with the *maqashid al-syar'iyah* approach, the purpose of *Maqosid Syar'iyah* is to seek benefit in all segments of human life¹⁸.

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*, *ijarah* with various forms of this agreement, *sharia* banks are not impossible to avoid financial by referring to the *Peraturan* Bank Indonesia or PBI, No

¹⁴rina Anggraini, "Kebijakan Moneter Sebagai Upaya Penyelamatan Perekonomian Ditengah Pandemi Corona Virus Disease-19" 1, no. November (2020): 80–97.

¹⁵Muhamad Nafik Hadi RYANDONO, Muafi MUAFI, and Agung GURITNO, "Sharia Stock Reaction Against COVID-19 Pandemic: Evidence from Indonesian Capital Markets," *The Journal of Asian Finance, Economics, and Business* 8, no. 2 (2021): 709.

¹⁶Mardhiyatur Rosita Ningsih and Muhammad Syarqim Mahfudz, "Dampak Pandemi Covid-19 Terhadap Manajemen Industri Perbankan Syariah: Analisis Komparatif," *Point* 2, no. 1 (2020): 1–10, <https://doi.org/10.46918/point.v2i1.576>.

¹⁷A Benamraoui, "The World Economy and Islamic Economics in the Time of COVID-19," *Journal of King Abdulaziz University: Islamic Economics* 34, no. 1 (2021): 67.

¹⁸Ahmad Ropei, "Formulasi Hukum Perlindungan Hak Kekayaan Intelektual Dalam Kerangka Maqoshid As-Syari'ah," *Jurnal Hukum Ekonomi Syariah* 4, no. 02 (2020): 171.

13/23/PBI/2011¹⁹, *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 general²⁰.

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 to²¹ that financing becomes important because it can increase the accelerator of business improvement. How restructuring conducted by banks in the face of

¹⁹BI 2011)

²⁰(Adawiyah 2020, 62)

²¹Endah Robiatul Adawiyah, "Kolaborasi Lembaga Keuangan, Pemerintah Dan Perusahaan Dalam Meningkatkan Peran Koperasi Karyawan Industri Sebagai Alternatif Solusi Dalam Pembangunan Sektor Ekonomi Indonesia," *Profit: Jurnal Kajian Ekonomi Dan Perbankan Syariah* 4, no. 1 (2020): 35.

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 study²², 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 financing²³, 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 study²⁴ 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 restructuring as an effort to deal with problem financing restructuring of financing as an effort to deal with problem financing²⁵, restructuring as an effort to maintain stability in increasing NPF or Non-performing Financing which will affect the balance sheet portfolio²⁶, Restructuring of financing will have an impact on the liquidity of *Sharia* Banks²⁷. The study²⁸ showed problematic financing into mediation that affects the financing of *Masyarakah* to

²²Mochammad Ilyas Junjuna et al., "A Comparative Study on Financial Performance between Islamic and Conventional Banking in Indonesia During the COVID-19 Pandemic," *Muqtasid: Jurnal Ekonomi Dan Perbankan Syariah* 12, no. 2 (2021): 82.

²³Mohammad Abdullah, "Analysing the Moral Aspect of Qard: A Shariah Perspective," *International Journal of Islamic and Middle Eastern Finance and Management*, 2015.

²⁴Rosyid Nur Anggara Putra, "Karakteristik Pembiayaan Dan Non Performing Finance Perbankan Syariah 2015–2018," *MALLA: Journal of Islamic Banking and Finance* 3, no. 1 (2019): 1.

²⁵Trisadini Prasastinah Usanti, "Restrukturisasi Pembiayaan Sebagai Salah Satu Upaya Penanganan Pembiayaan Bermasalah," *Perspektif* 11, no. 3 (2006): 258–81.

²⁶Bekti Widyaningsih, "Efektivitas Restrukturisasi Pembiayaan Akibat Peningkatan Npf (Non Performing Financing) Sebagai Upaya Menjaga Portofolio Neraca Laba Rugi Pada Bank Syariah Mandiri Dan Bri Syariah Jombang" (IAIN Tulungagung, 2019).

²⁷Abdul Kholiq and Rizqi Rahmawati, "Dampak Implementasi Restrukturisasi Pembiayaan Terhadap Likuiditas Bank Syariah Pada Situasi Pandemi Covid-19," *El-Baraka: Journal of Islamic Economics and Business* 3, no. 2 (2020): 282–316.

²⁸Aditama Dewantara and Anton Bawono, "Influence Analisis Of Mudharabah, Musharakah, And Murabahah Financing To Profitability Of Sharia Commercial Bank In Indonesia 2016-2019 With Non Performing Financing As Intervening Variable," *Islamiconomic: Jurnal Ekonomi Islam* 11, no. 2 (2020).

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

MATERIALS AND METHODS

Financing Restructurization

Financing according to Dadang Husen²⁹, 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 Endah³⁰, as a credit transaction between banks with customers in terms of meeting money needs³¹, 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 restructuring is an effort made by banks in helping their customers when they have difficulty returning loans. The legal basis of financing restructuring can be seen in government policy through the Regulation of the Financial Services Authority³², regarding economic stimulus and how countercycals deal with the impact of the Covid-19 pandemic, the implementation of financing refers to law no. 13 of 2008³³No. 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 Restructurization³⁴ 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

³⁰Endah Robiatul Adawiyah, "Konsep Dasar Pembiayaan Dalam Bisnis," in *Manajemen Bisnis Kontemporer: Prinsip Dasar Dan Aplikasi*, ed. GCaido, 1st ed. (Yogyakarta: Diandra Kreatif/Mirra Buana Media, 2020),h. 61,

³¹Soemitra, "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 Restrukturisasi Pembiayaan," *Www. Bi.Go.Id*.diakses 28-Januari 2022

Metodologi

This research uses qualitative methods with a library study approach. According to Boghan and Taylor³⁵ 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'iah*. 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'iah* in financing restructuring.

RESULTS AND DISCUSSION

Harmonization of syar'iah policy with maqashidsyar'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-Syatibi³⁶ 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 *Maslahah* can be seen in Q.S.Al-Hajj: 78³⁷

هُوَ اجْتَبَاكُمْ وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ

“He has chosen you and God has not narrowed you in matters of religion.” In Q.S. Al-Anbiya; 107³⁸

³⁵D. M. A. Lexy J. Moleong, *Metodologi Penelitian Kualitatif*, 38th ed. (Bandung: PT. Rosda Karya, 2018), 4.

³⁶Asy-Syatibi, *Al-Muafaqad Fi Ushul Al-Syari'ah*, Jilid 2 (Kairo: Mustafa Muhammad, n.d.), II/ 9.

³⁷Dkk A. Soenarjo, *Al-Qur'an Dan Terjemahnya* (Jakarta: Depertemen Agama RI, 2005), 523.

“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 Rasulallah but also there is grace in the treatises he teaches, namely grace in the texts of shari'ah that teach tawhid, worship, and ahlak, with guidance about the truth of error, the guidance of error, and the benefit of the treasury.

The benefit is based on hadis Nabi³⁹

عَنْ أَبِي سَعِيدٍ سَعْدِ بْنِ مَالِكِ بْنِ سِنَانِ الْخُدْرِيِّ رَضِيَ اللَّهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: (لَا ضَرَرَ وَلَا ضِرَارَ) حَدِيثٌ حَسَنٌ رَوَاهُ ابْنُ مَاجَهَ، وَالدَّارِقُطَنِيُّ وَعَبْدُ اللَّهِ بْنُ مَسْعُودٍ، وَرَوَاهُ مَالِكٌ فِي الْمَوْطِئِ مُرْسَلًا عَنْ عَمْرِو بْنِ يَحْيَى عَنْ أَبِيهِ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَأَسْقَطَ أَبُو سَعِيدٍ، وَلَهُ طُرُقٌ يَفْقَهُ بَعْضُهَا بَعْضًا⁴⁰

“From Abu Sa'ad bin malik bin Sanaan al-khudzariy 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 'alaihiwasallamamursal for aborting Abu Sa'id. This hadith has several paths that strengthen each other.“⁴¹

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 *musbab* during the time of caliph Umar, saw many *qur'anic* memorizers who died after the battle of *yamamah*⁴². Decisions that provide *maslahat* 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-Syathibi⁴³ Dividing the level of *maslahah* into three, namely *dharuriyah*, *hajiyyah*, 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.

³⁹Nurol Aen Djazuli.I, *Ushul Fiqh; Metodologi Hukum Islam*, pertama. (Jakarta: PT. Raja Grafindo Persada, 2000), 182.

⁴⁰Al-imam Yahya bin Syarifuddin Nawawi, *Matan 'arba'in Nawawiyah:Fi Al-Hadist Shabih Nabawiyah* (Indonesia: Syarikat maktabah Madaniyyah, 272AD),. 67.

⁴¹Dakwahstudio, “Hadis Ke 32 Larangan Membahayakan Diri Dan Orang Lain,” <https://Haditsarba'in.Com/Hadits/Larangan-Membahayakan-Diri-Dan-Orang-Lain/>, 1. diakses 5 februari 2022.

⁴²Ahmad Sanusi., *Ushul Fiqih* (Jakarta: Raja Grafindo Persada, 2015), 79–80.

⁴³Asy-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 Hajjyah 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 *tahsin* share complementary to the two previous needs, as a perfecting of life⁴⁴. 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 restructuration of financing during the pandemic, in ahkam's estimate

The legal basis of financing restructuration can be seen in government policy through the Regulation of the Financial Services Authority(POJK) No 11/POJK.03/2020⁴⁵, regarding economic stimulus and how counter cycals deal with the impact of the Covid-19 pandemic, the implementation of financing refers to⁴⁶ No 21 chapter 36 year 2008 and (PBI) Peraturan Bank Indonesia No 10/18/PBI/ 2008⁴⁷ and Indonesian bank circular Number10/34/Dpbs/2008 about the restructuration 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/2011⁴⁸ 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*⁴⁹, Character as the nature or personality of the customer, Capacity about how the customer's ability

⁴⁴ Januari, *Pemikiran Ekonomi Islam: Dari Masa Rasulullah Hingga Masa Kontemporer*, 239.

⁴⁵(POJK) No 11/POJK.03/2020), Tentang Restukturisasi Keuangan Saat Pandemi.” www.ojk.go.id, 2020.

⁴⁶R I Undang-Undang, “Undang-Undang Nomor 13 Tahun 2008 Tentang Perbankan Syariah,” Jakarta (ID), 2008.

⁴⁷(PBI) Peraturan Bank Indonesia No 10/18/PBI/, “Peraturan Bank Indonesia No 10/18/PBI/ 2008 Tentang Restukturisasi Pembiayaan,” www. bi.go.id., 2008.

⁴⁸BI, “Peraturan Bank Indonesia (PBI), No 13/23/PBI/2011.”

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'ah* in the restructuration of financing while maintaining the principle of compliance with the *shari'ah* is by paying attention to the *fatwas* of the *Shari'ah* Ulema Council, supervision carried out by DPS or the *Shari'ah* 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 Syar'iyah* 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 restructuration 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 ذُو عُسْرَةٍ فَنَظِرَةٌ إِلَىٰ مَيْسَرَةٍ , وَأَنْ تَصَدَّقُوا خَيْرٌ لَّكُمْ أَنْ كُنْتُمْ تَعْلَمُونَ .

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.*”

عَنْ ابْنِ مَسْعُودٍ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ مَا مِنْ مُسْلِمٍ بَقِرَ صُ مُسْلِمًا قَرَضًا مَرَّتَيْنِ إِلَّا كَانَ كَصَدَقَتِهَا مَرَّةً

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. Ibnu Majah no 2421⁵¹ book Ahkam; ibnu Hibban dan Baihaqi⁵². In another hadith narrated the

⁵⁰Mujamma'almaalik fadh li thiba al-mushaf asy-syarif medinah Munawwaroh, “Al-Qur'an Dan Terjemah,” *Al-Qur'an Dan Terjemahnya* (Jakarta: Yayasan penyelenggara penterjemah Al-qur'an, 1990), 70.

⁵¹Kitab Hukum-hukum, “Hadis Ibnu Majah No 2421,” n.d., <https://www.hadits.id/hadits/majah/2421>.

prophet's hadith narrated by Al-Thabrani in al-Kabir and al hakim in al-mustadrak⁵³.

روى ابن عباس أن النبي صلى الله عليه وآله وسلم لما أمر بإخراج بني النضير جاءه ناسٌ منهم، فقالوا: يا نبي الله، إنك أمرت بإخراجنا ولنا على الناس ذبُونٌ لم تحل، فقال رسول الله صلى الله عليه وآله وسلم: ضَعُوا وتَعَجَّلُوا (روه الطبرني والحاكم في المستدرک وصححه)

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 Rasulallah said "give leniency and charge faster" then Rasulallah 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

الأصل في المعاملة الإباحة إلا أن يدل دليل على تحريمها

"The law of origin of muamalah can be until there is a pretext that forbids it"⁵⁴

الأصل في الأشياء الإباحة حتى يقوم الدليل على تحريمه

"Basically, a law is okay unless there is a proposition that prohibits it"⁵⁵

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

⁵²Muhammad Syaafi'i Antonio, *Bank Syariah: Dari Teori Ke Praktik* (Jakarta: Gema Insani, 2001), 132.

⁵³Fatwa 47/DSN-MUI/II/2005, "Fatwa No 47/DSN -MUI/II/2005 Tentang Penyelesaian Pembiayaan Murabahah Bagi Nasabah Yang Tidak Mampu," dsnmui.or.id, 2005.

⁵⁴H A Djazuli, *Kaidah-Kaidah Fikih* (Jakarta: Prenada Media Grup, 2019), 10.

⁵⁵H A Djazuli, *Ilmu Fiqh: Penggalan, 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 (Restrukturing)

Providing relief to those who have receivables and seeking *maslahat* between the two parties as part of the efforts to restructure problematic financing in financial institutions, financing restructure 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 (*tijarri*) and non-profit (*Tabarru*) for profit or *tijarri* in the implementation using *mudharabah* contracts, *musyarakah*, buying and selling *murabahah*, *istisna*, *salam* and *ijarah*, while for non-profit or *tabarru* using *zakat*, *sodaqoh*, *infak*, *waqf* and *qordul hasan* contracts⁵⁶.

In its implementation restructure is carried out with a cut of i bill stipulated in fatwa no. 46⁵⁷, restructure 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 47⁵⁸, 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 obligations⁵⁹

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

⁵⁶Danes Quirira Octavio Agus Saur Utomo, Novita Kusuma Maharani, "Financial Determinants Of Qardhul Hasan Financing Growth: Evidence From Islamic Banks In Indonesia" 3, no. 1 (2015): 38, <https://doi.org/https://doi.org/10.14421/grieb.2015.031-03>.

⁵⁷(DSN-MUI/II 2005)

⁵⁸47/DSN-MUI/II/2005, "Fatwa No 47/DSN -MUI/II/2005 Tentang Penyelesaian Pembiayaan Murabahah Bagi Nasabah Yang Tidak Mampu."

⁵⁹Jaih Mubarak and Hasanudin, "Pengurusan Dana Haji Dan Status Dana Calon Haji Daftar Tunggu," *Al-Iqtishad: Jurnal Ilmu Ekonomi Syariah (Journal of Islamic Economics)* 5, no. 1 (2013): 27.

presence of payment delays and rescheduling of murabahah bills stipulated in the fatwa no 48⁶⁰ and fatwa no 04⁶¹.

Some cases of restructuring 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'iahmaqasid 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 restructuring 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 restructuring 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 *maslahat* between the two parties as part of the efforts to restructuring problematic financing in financial institutions, financing restructuring 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.

⁶⁰(48/DSN-MUI/II/2005), Tentang Penjadwalan Kembali Tagihan Murabahah.” dsnmui.or.id, 2005. Diakses 25 Januari 2022

⁶¹(04/DSN-MUI/IV/2000), Tentang Murabahah. dsn.go.id, 2020. © 2020 Dewan Syariah Nasional - Majelis Ulama Indonesia.

⁶²Syafiq M Hanafi, “Financial Risk Management In Syariah Contracts: A Review of Current Literature” XXXVII, no. 1 (2013): 50.

⁶³Monzer Kahf, “Maqasid Al Shari ’ Ah in the Prohibition of Riba and Their Implications for Modern Islamic Finance,” *IJUM International Conference on Maqasid Al Shari’ah*, 2006, 13.

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

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