MAQASID SHARIA IN TABARRU’ CONTRACT LAWS

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ABSTRACT
A Research related to maqasid sharia in the tabarru’ contract law had to be very seldom. With this research that examines two purposes, including, first, to determine the role of maqasid sharia in Islamic finance. Second, to determine the existence of maqasid sharia in tabarru’ contract laws. By using qualitative approach, the data for this study was obtained from relevant books, journals, and other academic materials and supporting documents. The results of this study show that there are many roles of tabarru’ contract, first, generally tabarru’at contract is reproduced considering that it contains several benefits. Second, tabarru’ contract is issued voluntarily without the slightest doubt because this contract is a good deed and generosity. Third, improving the means of organizing tabarru’ contracts according to the wishes of the donors. Fourth that donations should not be used as an excuse to waste other people’s money, ranging from the rights of heirs to the debts of people who are in debt. This study will contribute to the literature on maqasid sharia in tabarru’ contract laws and Islamic finance.

Keywords: Maqasid Sharia; Tabarru’Contract; Islamic Law
INTRODUCTION

Islam has an economic system that is fundamentally different from the current systems. It has roots in the Shari'a that shape the worldview as well as the goals and strategies (maqasid sharia). The goals that Islam wants are fundamentally immaterial. This goal is based on Islamic concepts of human happiness (falih) and a good life (hayatan thayyibah) which emphasizes the aspects of brotherhood (ukhuwah), socioeconomic justice, and fulfillment of human spiritual needs. This is due to the belief that mankind has the same position as God’s vicegerent on earth and at the same time as His servants, who will not be able to feel happiness and inner peace unless true happiness has been achieved through the fulfillment of material and spiritual needs.

The objectives of the Shari’a contain all that is needed by humans to realize falah and hayatan thayyibah within the limits of the Sharia. Imam Syatibi explained that there are 5 (five) forms of maqasid sharia or can be called kulliyat al-khamsah (five general principles). The five maqasids are protecting religion, protecting the soul, protecting the mind, protecting property, and protecting offspring. Every behavior that has the aim of fulfilling the five desires is maslahah and vice versa every behavior that eliminates the five desires is mafsadah. Therefore, all scholars agree that sharia was revealed to realize the five desires.

Maqasid sharia is a general goal to be achieved by sharia and applied in life. Maqasid sharia is one of the concepts that have an essential role in studying Islamic legislation. Because of the urgency of the role of maqasid sharia, legal theorists define maqasid sharia as a science that must be understood by every mujtahid who will perform ijtihad. The critical explanation in the theory of Maqasid al-sharia is to realize the benefit of every human being and avoid harm from them. Maqasid sharia is benefits, and benefits are Maqasid sharia

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1 M. Umer Chapra, Islam Dan Tantangan Ekonomi (Jakarta: Gema Insani, 2000).
2 Chapra.
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Therefore maqasid sharia are general shari'ah goals and have an important role in conducting the study of Islamic laws.

The practice of maqasid sharia has been implemented since the time of the Prophet Muhammad and his companions. Maqasid sharia continues to be developed by previous scholars such as Imam Ghazali, Imam al Razi, Imam al Amidi, Izzuddin bin, Abd al-Salam, Al Thufi, Ibn al Taimiyah, Ibn al Qayyim al Jauziyyah, and Imam Syatibi. Imam Syatibi specializes in his discussion of maqasid in the book al Muwafaqat is in chapter II. Until now, maqasid sharia has developed into an independent scientific discipline.

Maqasid sharia in ancient times discussed more matters of worship such as the work of al-Tirmidhi al-Hakim "As-Shalatu wa Maqashiduha" or the work of al- "Iz bin Abdussalam "Maqashidu al-Ibadah". Along with the development of the times, the science of maqasid shari'ah has now finally been widely used as a reference in a problem or contemporary issues. Besides that, Maqasid Sharia should also guide current muamalah issues whose cases are not found in the Al-Quran and Sunnah.

The scholars made a major contribution in implementing maqasid sharia, namely by explaining each law with its maqasid. Among them are At-Tirmidhi al-Hakim, Abu Mansur al-Mathuridi, Al-Qoffal al-Kabir, Abu Bakr al-Abhari, Al-Baqilani. These scholars not only explain every provision and law in the texts of the Qur'an and Al-Hadith but also explain the intent and purpose of Allah. behind the application of the legal provisions. In the following period, scholars began to explain maqasid sharia as a concept. This concept has become the basic foundation of maqasid sharia science which is used as a reference in implementing maqasid sharia. Among the scholars who contributed to this period were Imam al-Haramain, Abu Hamid al-Ghazali, Izzudin bin Abdu Salam and Ibn Taimiyah.

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Contemporary Islamic economics. According to ushul fiqh, knowledge of maqasid sharia is the main thing in ijtihad in answering various economic and financial life problems that continue to develop along with the times. The study of maqasid sharia in Islamic economics is an exciting topic. It is becoming a trend in the development of Islamic economics and finance, such as the realization of the Maqasid index in testing the performance of Islamic banks other institutions. Furthermore, maqasid sharia is a means of social control and socio-economy engineering to realize human benefit. More than that, maqasid sharia can provide a philosophical and rational dimension to sharia economic law products born in ijtihad activities.

In Islamic economics, there is a peculiarity in answering the problem of allocation and distribution of economic resources, namely the existence of the voluntary sector. This sector is a compliment and a consequence of sharia provisions regarding zakat, infaq, alms, waqf, and qardul hasan. Benevolence contract institutions are of two types. The institutions of Islamic obligatory and voluntary charities. Among the different forms and shapes of Islamic charitable institutions include Zakat, Sadaqah al-Fitr, Waqf, Qard Hasan, etc. These institutions are predominantly focused on fighting poverty, hunger, malnutrition, and other socio-economic deprivations. In addition, some of these institutions are meant to supply many necessities and essentialities of life.

The Islamic Research Institute (IRTI) in its 2015 annual report pointed out that the scope of Islamic social finance includes institutions that work with the Islamic tradition of financing humanity using instruments such as charity, sadaqah, and waqf. It also covers aid-based institutions such as qard (interest-free loan) and assurance (kafala), as well as microfinance institutions aimed at reducing poverty. Another instrument, Zakat can also be included to meet the most important needs of the poor, such as food, clothing, and shelter. So that zakat

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becomes an important factor in alleviating poverty. The objective of all the instruments is to enable these unfortunate classes to move to a better level so that they can turn into more productive citizens and make more meaningful contributions to economic life.

The institution of Waqf, for example, is envisaged to ensure the provision of all necessary services that are needed in the functioning of a society. Waqf aims to voluntarily bridge any existing gap in the sufficient supply of public goods. The role of Waqf in providing food, drinkable water, free education, and respectable employment is widely acknowledged throughout the history of the institution. Similarly, the role of Waqf has been significant in infrastructure development as well as in supporting the institutions of peace and justice among the societies.

In comparison to the function of Waqf, the role of Qard Hasan (interest-free benevolent loan) and other Shariah-prescribed charities is critical in supporting communities and societies voluntarily. The benevolent character of Qard Hasan, for example, facilitates financial help to the deserving entities without encumbering the recipient with the burden of interest. Finally, being obligatory upon the wealthy and privileged annually, the institutions of Zakat and Sadaqah al-Fitr ensure the mandatory redistribution of wealth among the underprivileged and deserving entities on an annual basis.

Tabarru' contract is a form of agreement or contract transaction that is non-profit (non-for-profit transaction) so that it cannot be used for commercial or business purposes, but to help each other for good. According to the Regulation of the Minister of Finance Number

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11 (Al-Ayubi & Herindar, 2022; Al-ayubi et al., 2022)
The main points of discussion in the tabarru’ contract are covering the first four forms, grants which include al-‘ariyah, al-qardh, wills. Second, ‘aqid which includes al-wakalah, al-hajru. Third, al-dain which includes al-hawala, al-kafala, al-Rahn, al-shulh, al-ibra’. Fourth, general which includes waqf, zakat, and alms. Thus, this study has two purposes, including, first, to determine the role of maqasid sharia in Islamic finance. Second, to determine maqasid sharia in tabarru’ contract laws.

METHODS

This research used qualitative methods and formal literature review to qualify as library research. The data for this study was obtained from relevant books, journals, and other academic materials and supporting documents. After the materials were collected, they were read and analyzed to obtain the research data. The data were then grouped and compiled according to the research questions. This data is presented in a narrative-descriptive manner using the data analysis

method introduced by Miles and Huberman, namely data reduction, data presentation, and conclusion drawing.

RESULT AND DISCUSSION

Maqasid sharia is used in determining ijtihad. According to Ibn Ashur, there is five basic capital ijtihad including:
1. Understanding the text linguistically by looking at the text from the point of view of language by adhering to the rules of language and understanding the arguments that support the text.
2. Looking for texts and arguments that allow for contradictions between the arguments (ta’arudl al-adillah) to make sure the text is safe from conflict, or if it is not possible, then one of the two is assigned.
3. Doing qiyas if a problem has not been stated in the Qur'an and al-hadith.
4. Conducting ijtihad in determining the law on a certain issue that has not been found before due to the absence of evidence for the existing text or the difficulty of doing qiyas.
5. Accept the text if it is impossible to understand the basis of the shariah of law, or the wisdom behind the sharia is not found.
6. Accept the text as it is if it is not possible to reveal the basis for the stipulation of a certain law and there is no wisdom found in it back to the law.

Maqasid sharia in Islamic Finance Based on a General Approach

Like the maqasid sharia principle, this system focuses on moral, ethical, social, and religious dimensions to ensure justice and equality for society. Therefore, in general, maqashid sharia in Islamic finance has the objectives of economic, financial, and business stability; ensuring fairness in business and finance; instilling the principle of justice, forming contracts or instruments in obtaining wealth and property;

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circulation of wealth in the financial system; protection and preservation of wealth; the right to own and acquire wealth; transparency in finance and business; Islamic finance documentation; development of wealth investment, preventing dangers and difficulties in finance and business.

Maqasid sharia in Islamic Finance Based on a Special Approach

In addition to the general approach, maqasid sharia also has a general approach based on a micro point of view relating to certain transactions. Maqasid sharia is highlighted based on different Islamic financial transactions. Related to this, Dr. Ahcene Lahsana then took a maqasid sharia approach by looking at the maslahah in considering a transaction, such as maqasid sharia on utilities and work; securities contracts; voluntary contracts; support transaction base; financial; Islamic banking; takaful; capital market; stock market; financial planning.

In Islam, every transaction must have a contract. The contract has worldly and hereafter consequences because it is based on Islamic law. The agreement that has been made has a responsibility up to yaumil qiyamah (Antonio, 2001), Starting with the existence of shigah, which is a form of a statement by forming a contract in Islamic commercial law. In this case, each party will convey their respective willingness to agree and accept the contract. The substance of this agreement is intended because, in Islam, the intention can change the applicable sharia rules.

Legal Basis of Tabarru' Contract

In the Qur’an, the word tabarru’ is not found, however, working together and helping each other is stated in the word of Allah: Q.S. Al-Maidah: 2. Meaning: and help you in doing good and piety, and do not help in committing sins and transgressions. And fear Allah, verily Allah is severe in punishment." (Q.S. Al-Maidah: 2)

In the tabarru’ "grant" contract, someone gives a grant that will be used to help other people who are affected by the disaster. Donating part of one’s property to help someone in the face of trouble is highly
recommended in Islam. In the view of Islam described in a narration, namely:

Meaning: "From Nu’man bin Basyir ra, Rasulullah SAW said, The parable of the Muslim brotherhood in love and affection between them is like one body. When one part of the body feels pain, it will be felt by other parts of the body, such as when you can't sleep or when you have a fever." (HR. Muslim).

Types of Tabarru' Contracts

There are 3 (three) forms of tabarru’ contracts, including the following:

1. Lending Money

Lending money is a tabarru’ contract because it is not permissible to overpay the loan we provide. After all, any excess without ‘iwad is usury. There are at least 3 (three) forms of tabarru contracts, as follows:

   a. Qardh is a loan that is given without requiring anything other than returning the loan after a certain period.
   b. Rahn is a loan that requires a guarantee in a particular form or amount.
   c. Hiwalah is a form of loan by taking over receivables from other parties.

2. Lend services

Lending services in the form of expertise or skills, including tabarru' contracts. There are 3 (three) types of loans, namely as follows:

   a. Wakalah: providing a loan in the form of our current ability to do something on behalf of another person. In this concept, what we do is only on behalf of that person.
   b. Wadi’ah: is a derivative form of wakalah contract, wherein this contract has been detailed/detailed about the type of maintenance and care. So that during the provision of services, they also act as representatives of the owner of the goods.
   c. Kafala is also a derivative form of the wakalah contract, which occurs on conditional wakalah.
3. Give something

In this contract, the actor gives something to another person. There are at least 2 (two) forms of this contract.

- Waqf is the giving and use of such gifts for the public and religious interests, and the gift cannot be given transferable.
- Hibah/charity is giving something voluntarily to others.  

Maqasid sharia is a general sharia objective and has a vital role in studying Islamic legislation. Maqasid sharia in Islamic finance bring justice and welfare to society and realizes the continuity of human life on this earth.

The general purpose of financial transactions in Islamic law, as explained by Ibn' Ashur (w.1973), identifies five maqasid, firstly, wealth circulation, secondly, transparency, third, preservation, fourth, strength endurance and sustainability, and fifths, equity. Other objectives include the transfer of ownership, the building of civilization, and the acquisition of wealth in a lawful manner.

The role of maqasid sharia in Islamic finance is as follows: first, to determine the parameters of benefits and harms, second, to understand the various levels, objectives of sharia, priorities and categories, third, examine the relationship between the two types of maqasid in which maqasid Muamallah must obey the maqasid of law givers to ensure consistency and sharia compliance in human activities, fourth, provide facilities for the muamalah legal reasoning process to be carried out, fifth, the reasoning that is carried out becomes a gateway analogy where sharia decisions can be extended to other cases based on the cause, sixth, as a parameter in assessing the hadith of ahad, seventh, as a general guideline and parameter for issuing appropriate resolutions for scholars in conducting ijtihad, eighth, to determine the meaning of the provisions of the Qur'an and Sunnah, ninth, a strong

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19 Mubarok and Hasanudin, *Fikih Mu‘amalah Maliyyah Akad Tabarru’*.
20 Al-ayubi and Halawatuddu’a, “MAQASID AL-SHARIA IN ISLAMIC FINANCE.”
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relationship between maqasid sharia, The principles of fiqh, and the rules of Islamic jurisprudence make maqasid sharia a macro discipline that links with other disciplines in Islamic science 22.

In Islamic economic literature, ownership contracts divided into two models, such as:

a. The transfer of ownership contract is accompanied by exchange and payment. This model is called an exchange and payment contract. This model is called an exchange contract (‘uqud al mu’awadat);

b. The transfer of ownership contract is not accompanied by any exchange and payment. Such a model is called a contract virtue (‘uqud al tabarru’at) 23.

The tabarru’ contract is based on sympathy between members of the nation, the tabarru’ contract also serves the meaning of brotherhood. Tabarru’ contract is a clear benefit of hajiyat, and the influence of beautiful Islamic morals. Through the tabarru’ contract, if you can deliver aid to people in need, provide a living for the needy, and uphold the many benefits of Muslims 24.

The maqasid of tabarru’at contracts are:

The first maqsad (objective): So that this tabarru’at is reproduced considering that it contains several benefits, both general and specific.

In addition, the stingy nature of the human soul can hinder the many benefits. There is much evidence that encourages tabarru’, and makes it a charity whose reward will not be cut off after death. In an authentic hadith, it is said:

وعنه قال: قال رسول الله صلى الله عليه وسلم: "إذا مات ابن آدم انقطع عمله إلا من ثلاث: صدقة جارية أو علم ينتفع به أو ولد صالح يدعو له" (رواه مسلم).

Abu Hurairah (May Allah be pleased with him) reported:

22 Al-ayubi and Halawatuddu’a, “MAQASID AL-SHARIA IN ISLAMIC FINANCE.”
24 M.A Ashur, Maqasid Sharia Al-Islamiyah (Yordania: Daar an-Nafais, 2001).
The Messenger of Allah (ﷺ) said, "When a man dies, his deeds come to an end except for three things: Sadaqah Jariyah (ceaseless charity); a knowledge which is beneficial, or a virtuous descendant who prays for him (for the deceased)." [Muslim].

Alms Jariyah and waqf at the time of the Prophet and his companions have been done a lot. Among them is Umar's charity, in which the Messenger of Allah has given a signal to him to issue the treasure as charity. Likewise, Abu Talhah al-Ansari's almsgiving was the order of the Prophet to him, and Uthman's alms with the well of Rumah. "Whoever buys a house well and then puts his bucket on it along with the buckets of the Muslims with good from it, then he will be in paradise." So Usman bought it and gave it to the Muslims. Likewise, Sa'ad bin Ubadah gave alms with his garden full of fruit for his dead mother. So, these alms are waqf that can be utilized by the Muslims with clear provisions. So there is no doubt that one of the purposes of the Sharia is to multiply the tabarru' contract 25.

Thus, waqf is a property of Muslims that continues to be sustainable when managed in a trustworthy and good manner, it will be useful for people in various aspects of life in realizing maqasid sharia. The history of Islam above has proven how waqf is a pillar of the development of Islamic civilization 26. Thus, excess wealth can be spent for the welfare of society in the form of Zakat, charity, and Waqf 27.

The second maqsad (objective): so that this tabarru' contract is issued voluntarily without any doubt because this contract is a good deed and generosity because in this contract someone spends some of his beloved property without expecting a reward in exchange for what has been issued.

So the party who performs this contract must purify the intent or purpose, namely to provide comprehensive benefits and abundant rewards. Therefore, among the wisdom of sharia (Allah) in the law of

25 Ashur.
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"tabarru" contracts is that the parties who are "tabarru" spend their wealth without being followed by regret until it does not bring harm to those who do good because of their goodness, which makes people afraid to do good. good, because one should not do good deeds with evil, as Allah SWT hints in his word in the letter al-Baqarah 233:

لا تضضا وبدية وليها ولا مولودة약 요님....

"... No mother should be harmed through her child, and no father through his child...." (Q.S. 2: 233)

So the comfort of the soul that is obtained from "tabarru" is more specific (preferred) than the pleasure of the heart from just a (commercial) exchange contract transaction. This means that the time limit required for this "tabarru" contract, after being planned and implemented, is wider than the time limit for the implementation of the (commercial) exchange contract.

As we know from the arguments in the sunnah, and the words of the scholars, in an authentic hadith it is stated:

واعان أبي هريرة قال: قال رسول الله ﷺ أي الصدقة أعظم أجرًا قال: "أن تصدّق وقتئverified1 بلا ثدي ولا يشترط في ثلمه إذا بلغت الحلموم فلت: لفلانا كذا ولفلان كذا وقد كان لفلان "

"Abu Huraira told that when a man asked God's messenger which sadaqa produced the greatest reward he replied, “That which you give when you are healthy and inclined to be mean, fearing poverty and hoping for a competence. Do not put it off and then say when you are about to die that you give such and such to so and so and such and such to so and so when it has already become the property of so and so”. (Bukhari and Muslim.)

This situation requires contemplation and determination without hesitation to a narrow point. The time limit for consideration is reached by one of two things, namely possession, and testimony. The requirement for ownership in "tabarru" is that it must be following this purpose, so that the "tabarru" contract is invalid except after the
completion of the surrender contract, unlike a (commercial) exchange contract 28.

Therefore, the occurrence of surrender before death is very important and the surrender made after death is a will. Imam Malik in the book al-Muwaththa of sayyidah Aisyah, as follows:

ولقد أبلغت يا أبا بكر الصديق كان نجيلا جاود عشرين وسقا من ماله بالغالبة فلما خضعت الوقفة قال والله يا نجيلا ما من الناس أحد أحب إلى قلبي بمثل ولا أعذر على فترات يغبيون وان كتب جذديك والاختتفيه كان كأنما هو اليوم مال وارث وانما هما أخوال وأختاك فاقتسموه على كتاب الله.

Malik related to me from Ibn Shihab from Urwa ibn az-Zubayr that A’isha, the wife of the Prophet, may Allah bless him and grant him peace, said, "Abu Bakr as-Siddiq gave me palm trees whose produce was twenty awsuq from his property at al-Ghaba. When he was dying, he said, 'By Allah, little daughter, there is no one I would prefer to be wealthy after I die than you. There is no one it is more difficult for me to see poor after I die than you. I gave you palm-trees whose produce is twenty awsuq. Had you cut them and taken possession of them, they would have been yours, but today they are the property of the heirs, and they are your two brothers and your two sisters, so divide it according to the Book of Allah.

As for the testimony of giving, it is the same as surrender in the origin of the implementation, and this is what Malik said which was taken from the hadith of Al-Nu’man bin Bashir in the sahihain. Al-Nu’man bin Bashir said:

حدثنا خالد بن عمر حدثنا أبو عوانة عن خصبة عن عمر قال سمعت النعيم بن بشير رضي الله عنهما - وهو على اليمين يقول أغطائي أبي غطائي فأجلان ثم أنذرهم بزن زواحا لا أرضى

28 Ashur, Maqasid Sharia Al-Islamiyah.
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Narrated 'Amir:
I heard An-Nu`man bin Bashir on the pulpit saying, "My father gave me a gift but `Amra bint Rawaha (my mother) said that she would not agree to it unless he made Allah's Messenger (ﷺ) as a witness to it. So, my father went to Allah's Messenger (ﷺ) and said, 'I have given a gift to my son from `Amra bint Rawaha, but she ordered me to make you as a witness to it, O Allah's Messenger (ﷺ)!' Allah's Messenger (ﷺ) asked, 'Have you given (the like of it) to everyone of your sons?' He replied in the negative. Allah's Messenger (ﷺ) said, 'Be afraid of Allah, and be just to your children.' My father then returned and took back his gift.".  

And this is clear evidence that it is considered invalid before the testimony is given, and clear evidence of the testimony of giving is from their knowledge, so Amrah determined that the testimony was for the Messenger of Allah.

It is known that the donor may be concerned about delays in acquiring wealth, so he deliberately testifies and then follows him in possessing his wealth, so this is sufficient for us in verifying the donation so that the donor becomes a place for what the donor contributed, and he owns it. And he has the right to claim his own according to the Maliki school. Many scholars, including al-Shafi`i and Abu Hanifah, have said that ownership is a condition for the validity of the tabarru' contract so that tabarru' will not occur if there is no ownership in it. In this case, it is an extension of the doer of good until he joins his word. The followers of the Hanafi school say that it is permissible to return a gift after it has been received by the recipient except in seven forms, and it is of this type.

29 Ashur.
As for those who say that tabarru' is valid only with words, among them are Imam Ahmad bin Hanbal, Abu Tsur, and Dawud Al-Dhahiri, as this is also attributed to Abu Yusuf, one of Imam Abu Hanifah's students, they treat tabarru' as they treat other contracts, and leaving the goodness contained that should not be narrowed down only to the owner, thus making others reluctant to do it, because with that there will be the potential for losing some great benefits. I don't think that the return of the gift from the father from his son except because so that they can immediately do tabarru' for their children without thinking for reasons of generosity, and he believes that his son's money is his money, so if he regrets giving it, then the Sharia gives breadth to take back the prize. Even so, the rights of parents are maintained because children do not become a barrier for their parents in doing good. The parents here include his mother, as long as his father is alive. A more detailed explanation is in the book of Fiqh.

As this is what we understand that the Sharia is very committed to preventing harm from anyone who wants to do good so as not to feel burdened by his goodness, with the aim of humans not being afraid to do good.

The third maqsad (objective) is to increase the means of organizing tabarru contracts according to the wishes of the donors. The purpose of this goal is usually if tabarru' has to be with wealth, it is heavy for everyone. Then it is permissible to share 'with another. Because tabarru' is the spiritual attitude of someone who is so noble and based on noble morals, although it does not guarantee that someone is free from miserliness. The act of being stingy is very dangerous, and the most severe danger is that which Allah (SWT) has mentioned in His word:

الشَّيْطَانُ يَعَدُّكُمُ الْفَقْرَ وَيُؤْمِنُكُمُ بِالْفَسَادَةِ وَيُرِيدُ لِيَمْنَكُمُ الرِّجْلَةَ وَيُعِيدُكُمُ الْمَغْفَرَةَ وَالْعَفَا وَالْغَضَبَةَ وَالْغَيْبَ ۖ يَا عِبَادِ اللَّهِ لاَ تُقَدِّسُواْ النِّعْمَةَ الَّتِي أُنْزِلَتْ عَلَيْكُمْ عَلَى الْعَقِلِ ۗ إِنَّ اللَّهًا يُعَلِّمُ وَهُوَ الْأَعْلَمُ الْبَصِيرُ

"Satan threatens you with poverty and orders you to immorality, while Allah promises you forgiveness from Him and bounty. And Allah is all-Encompassing and Knowing". (Q.S. 2: 268)
And the religious advice to be patient is as stated in the first maqsad (goal). All forms of breadth in carrying out various ways of tabarru' are to fulfill the first goal.  
Thus, waqf-based Islamic financial institutions can also be established to alleviate poverty by providing interest-free loans funded by Waqf capital.

The fourth maqsad (objective): That donations should not be used as an excuse to waste other people's money, from the rights of the heirs to the debts of the people who are in debt. In the past, the issue of the will was like a problem in inheritance, and because of that, they were more inclined to prevent it from being conveyed to relatives and more to give it to the leaders of the people because they wanted to be praised and traded. A Judge named Isma'il bin Ishaq said: "In the past, the ignorant people did not provide a living for their wives as we do now, nor do they provide for their daughters like we do now, because they may not know the laws. enforceable inheritance. Then after Allah SWT ordered a will for parents and relatives, and stipulates the law of inheritance, then the image of an ignorant will still linger in their minds. Therefore, the will is more specifically addressed to other than heirs and is made specifically for a third of the property, as stated in the hadith narrated by Sa'ad bin Abi Waqqash that the Messenger of Allah Sallallaahu 'Alayhi Wasallam said to him

Narrated Sa'd bin Abi Waqqash (RA):

30 Ashur.
I said, "O Allah's Messenger, I have wealth and no one to inherit from me except my one daughter. Shall I give two-thirds of my property as Sadaqah?" He replied, "No." I said, "Shall I give half of it as Sadaqah?" He replied, "No." I said, "Shall I give a third of it as Sadaqah?" He replied, "You may give a third as Sadaqah, which is still a lot. To leave your heirs rich is better than to leave them poor and begging from people." [Agreed upon].

And previously it has been discussed what Abu Bakr said to his daughter Aisha: "now the property is an inheritance (which must be divided)". We know that many people use wills and tabarru 'as intermediaries to change the law of inheritance to reduce the assets owed, assuming that it can free them from sinful acts because they replace goodness with goodness too. So as a form of preventing the formation of the tabarru' contract from being far from this intended purpose, and it is not enough just to testify in the context of preventing allegations of dissatisfaction because of the possibility that the tabarru' giver and the recipient conspired in the testimony with the fact that the goods given were in the power of attorney, the giver of tabarru', because the heirs and the debtor cannot get it. Thus the ownership in this purpose has no effect as stated in the second objective. From this, it is also known that Imam Malik's narration about the cancellation of waqf which is only intended for boys without daughters, because it is an act of the ignorance era, is more correct in terms of argument, even though its practice is only among followers of the Maliki school with the assumption haram or makruh, to practice the hadith narrated by Almughirah from Malik.

Therefore, it is forbidden for a sick person who is feared from the tabarru' contract, but he is not prohibited from transacting with other contracts such as buying and selling and others, because in buying and selling there is an exchange that is not in the tabarru' contract, then the assumption is that the tabarru' contract transaction of the sick person is valid.

Thus, Hibah (gift), Wasiyah (will), and Mirath are other economic tools in Islam, which play a very important role in directing wealth from

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32 Ashur, Maqasid Sharia Al-Islamiyah.
the rich to others. Hiba is a plain gift given during the lifetime of a person, whereas *Wasiyah* is a will where the donor grants wealth to someone after his/her death. There is a cap prescribed on *Wasiyah* to make sure that the rights of the inheritors are not compromised. It is important to mention that Islam recognizes the right of women in the wealth of their parents, husbands, and other relatives just like men 33.

**CONCLUSION**

Maqasid sharia is the main objective that must be achieved in Islamic Law and has a vital role in studying Islamic legislation. Thus, maqasid sharia has an important role in Islamic finance including:

First, to determine the parameters of benefits and harms, second, to understand the various levels, priorities, categories, and objectives of sharia, third, examine the relationship between maqasid muamalah and maqasid law to ensure consistency and compliance with sharia in human activities, fourth, to provide convenience for the process muamalah legal reasoning that will be carried out, fifth, reasoning that is carried out becomes an analogy gate where sharia decisions can be extended to other cases based on the cause, sixth, as a parameter in assessing the ahad hadith, seventh, as a general guideline and parameter for issuing appropriate resolutions for scholars in carrying out ijtihad, eighth, to determine the meaning of the provisions of the Qur'an and Sunnah, ninth, a strong relationship between maqasid sharia, The principles of fiqh, and the rules of Islamic jurisprudence make maqasid syariah a macro discipline that links with other disciplines in Islamic science.

The tabarru' contract is based on sympathy between members of the nation, the tabarru' contract also serves the meaning of brotherhood. Tabarru' contract is a clear benefit of hajiyat, and the influence of beautiful Islamic morals. Through the tabarru' contract, you can deliver aid to people in need, provide a living for the needy, and uphold the many benefits of Muslims.

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The legal maqasid of tabarru' contracts are: first so that this tabarru'at contract is reproduced considering that it contains several benefits, both general and specific. secondly, so that this tabarru' contract is issued voluntarily without the slightest doubt because this contract is a good deed and generosity. Third, improving the means of organizing tabarru’ contracts according to the wishes of the donors. Fourth that donations should not be used as an excuse to waste other people's money, ranging from the rights of heirs to the debts of people who are in debt.

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