



Maqashid Syariah as a Foundation Social Based Crowdfunding (Comparison of Indonesian and Malaysian Sharia Economic Law)

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Abstract: Maqashid Sharia, which is the purpose and basic principle of Sharia, serves as a moral and ethical foundation in the development of various economic activities. The method used is a qualitative approach to explore the relevance of Maqashid Syariah in Social Based Crowdfunding contracts. This method was chosen to obtain an in-depth understanding of the concept of Maqashid Syariah and its application in the context of Islamic economic law in Indonesia and Malaysia. Based on the analysis conducted, it can be concluded that Maqashid Syariah has significant relevance as a foundation in Social Based Crowdfunding contracts in Indonesia and Malaysia. Maqashid Syariah, which focuses on achieving the goals and benefits of society, can ensure that every Crowdfunding transaction is not only financially beneficial, but also in accordance with sharia principles. Social Based Crowdfunding based on Maqashid Syariah is able to answer the needs of the community by providing access to financing for beneficial projects, such as social, education, and health. This approach also promotes justice and equality in resource distribution, reduces inequality, and supports small entrepreneurs who need support. Agreements structured based on Maqashid Syariah principles emphasise the importance of transparency and accountability, so that all parties involved can be held accountable for their roles and contributions.

Keywords: *After-Sales, Dispute Resolution, Legal Protection.*

1. Introduction

In the growing digital era, the phenomenon of Crowdfunding has become one of the alternative methods of fundraising, especially among people who want to support social projects or small businesses. Social Based Crowdfunding, as a form of Crowdfunding, offers a platform for individuals and groups to contribute financially to initiatives that have a positive social impact (Izza, 2018). However, in a legal context, clear regulation and adherence to sharia principles are crucial, especially in countries that adhere to sharia economic law such as Indonesia and Malaysia. Maqashid Syariah, which are the basic objectives and principles of sharia, serve as a moral and ethical foundation in the development of various economic activities (Sidiq, 2009). Maqashid Syariah aims to protect and promote the interests of mankind, focusing on five main aspects namely the protection of religion, soul, mind, offspring, and property (Maruf, 2024).

In the context of Social Based Crowdfunding, the application of Maqashid Syariah principles is important to ensure that all transactions and contracts are not only sharia-compliant, but also contribute to the welfare of society at large. This study aims to analyse the relevance of Maqashid Syariah as a foundation in Social Based Crowdfunding contracts, with an emphasis on comparison of Islamic economic law in Indonesia and Malaysia. By understanding how the two countries apply Maqashid principles in the

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practice of Crowdfunding, it is hoped that deep insights will be gained into the alignment between sharia objectives and existing financial innovations (Rachmawati & Nor, 2021). Through this approach, this research will also explore the challenges and opportunities faced in the implementation of Social Based Crowdfunding based on Maqashid Syariah, as well as provide recommendations for better policy development in the context of Islamic economic law (Izza, 2018).

2. Materials and Methods

The research used a qualitative approach to explore the relevance of Maqashid Syariah in Social Based Crowdfunding contracts. This method was chosen to obtain an in-depth understanding of the concept of Maqashid Syariah and its application in the context of Islamic economic law in Indonesia and Malaysia (Soerjono et al., 2003). This research is descriptive analytical, where researchers will describe the concept of Maqashid Syariah and its analysis in the practice of Social Based Crowdfunding, and compare its application in Indonesia and Malaysia. The approach used is a case study, focusing on several Social Based Crowdfunding platforms operating in both countries. This approach allows researchers to understand how the Maqashid Syariah principles are implemented in real practice (Sunggono, 2003).

Data were collected through a literature study that examined secondary sources such as books, journal articles, and legal documents related to Maqashid Syariah, Islamic economic law, and the practice of Social Based Crowdfunding in Indonesia and Malaysia. Conducting interviews with legal practitioners, academics, and Crowdfunding Platform managers to explore their views on the relevance of Maqashid Syariah in Crowdfunding contracts (Sugiyono, 2011). Observe the practice of fundraising through Crowdfunding Platforms based in both countries to understand the implementation of Maqashid principles in these activities. The collected data will be analysed qualitatively using content analysis techniques. The researcher will identify key themes that emerge from the data and compare the findings from both countries to see the differences and similarities in the implementation of Maqashid Sharia in Social Based Crowdfunding contracts. To ensure the accuracy and validity of the data, the researcher will triangulate by comparing information from various sources, both from literature studies, interviews, and observations. This aims to obtain a comprehensive perspective on the topic under study. Based on the results of the analysis, the researcher will draw conclusions regarding the relevance of Maqashid Syariah in Social Based Crowdfunding and provide recommendations for policy development and better practices in the context of Islamic economic law in Indonesia and Malaysia.

3. Results and Discussion

3.1 *The Concept of Maqashid Sharia in Sharia Economic Law*

Maqashid Sharia comes from the word "Maqashid" which means purpose or intention, and "Sharia" which refers to Islamic law. In general, Maqashid Sharia can be interpreted as the purpose and intention of Islamic law which aims to achieve good and prevent damage in human life. Maqashid Sharia is not only related to worship, but also includes social, economic, political, and cultural aspects, so that it becomes the basis for all forms of human interaction and activities. Maqashid Sharia is a basic goal and principle that aims to protect the interests of mankind in various aspects of life, including the economy. In the context of Islamic economic law, Maqashid Sharia is the foundation for every transaction and contract, ensuring that economic activities not only comply with sharia norms, but also support the welfare of society. The five main aspects of Maqashid, namely the protection of religion, soul, mind, offspring, and property, provide

a framework for analysing the application of sharia principles in Social Based Crowdfunding.

Although the concept of Maqashid Sharia is widely accepted, some modern scholars encourage its development to be more responsive to the current global context, including environmental issues, human rights, and global economic justice (Kuti & Madarasz, 2014). Thus, the application of Maqashid Sharia in Sharia Economic Law not only provides guidance on what is allowed or prohibited, but also ensures that economic activities reflect the fundamental values of Islam that bring benefits to individuals and society as a whole.

3.2 The Relevance of Maqashid Sharia in Sharia Economic Law

Maqashid sharia has a very important relevance in the context of Islamic economic law. Maqashid sharia provides strong ethical guidance in every economic activity, thus encouraging economic actors to act fairly, transparently, and responsibly (Yuswanto & Rachmania, 2019). This creates a healthier and more sustainable business climate. The main objective of Maqashid Sharia is to achieve the welfare of mankind and prevent all forms of damage, both in spiritual and material aspects (Akbar, 2020). Islamic economic law based on Maqashid Sharia is oriented towards achieving the welfare of the people (Novitarani, 2018). Every economic transaction must provide benefits to society, not only to certain individuals or companies. Maqashid Syariah aims to prevent losses in economic transactions (Ilmalana, 2020). This is seen in the regulation that prohibits practices that can harm one party, such as Riba, Gharar (uncertainty), and fraud (Kamali & Hashim, 1999). The application of Maqashid Syariah encourages innovation in the development of products and services that are in accordance with sharia principles, so as to fulfil the needs of modern society without neglecting values.

The relevance of Maqashid Syariah in the Social Based Crowdfunding contract lies in its aim to provide social benefits without causing negative impacts such as exploitation or uncertainty. Social Based Crowdfunding should be designed to provide tangible benefits to the beneficiaries and in accordance with the objective of Maqashid Sharia, which is to maintain the welfare of society holistically. Agreements such as grants, Qardh Hasan, and waqf applied in Social Based Crowdfunding also ensure that there is no element of speculation or exploitation which is against Maqashid Syariah.

3.3 Implementation of Maqashid Syariah in Social Based Crowdfunding

The implementation of Maqashid Syariah in Social Based Crowdfunding in Indonesia can be seen through how sharia principles are applied to achieve the main objectives in Maqashid Syariah, namely protecting religion (Hifz Ad-Din), protecting the soul (Hifz An-Nafs), protecting the mind (Hifz Al-Aql), protecting offspring (Hifz An-Nasl), and protecting property (Hifz Al-Mal). In the context of Social Based Crowdfunding, this goal is reflected in several aspects (Rifqi & Thahir, 2019):

Shariah Compliance: Crowdfunding platforms must ensure that the activities and projects being funded are in accordance with Shariah principles. This means that the project must not violate Islamic laws, for example not funding haram businesses such as Riba, gambling, or industries prohibited in Islam. The application of Shariah-compliant contracts such as Wakalah (representation), Qard (interest-free loan), or hibah (gift) should also be considered.

Economic Justice (Hifz al-Mal): Shariah-based crowdfunding aims to promote equitable distribution of wealth and reduce socio-economic disparities. With Social Based Crowdfunding, people in need of funds for social or humanitarian purposes can access them without the pressure of interest or oppressive lending systems, thereby safeguarding the economic well-being of society in a fair manner.

Social Welfare (Hifz an-Nafs): Social Based Crowdfunding based on sharia aims to protect human life and provide convenience for people who need financial assistance, such as health funds, education, or for other social interests. This is in line with the Maqashid Shariah's objective to protect people's lives and welfare.

Transparency and Trust (Hifz al-Mal): The implementation of Shariah in Social Based Crowdfunding also requires transparency in the collection and distribution of funds. Social Based Crowdfunding platforms must be clear about the allocation of funds, so that donors can see how their contributions are used, which in turn builds trust and accountability.

Ta'awun (mutual aid) principle: The concept of Ta'awun which emphasises mutual aid and solidarity in society is highly relevant to Social Based Crowdfunding. It reflects the Maqashid Shariah objective of protecting the lives and well-being of the community collectively, ensuring that people in need can be helped fairly and quickly.

Avoiding Gharar and Maisir: In Maqashid Shariah, transactions that contain elements of uncertainty (Gharar) and gambling (Maisir) are prohibited. Shariah-compliant Social Based Crowdfunding avoids these elements by ensuring that the fundraising process is clear, without any speculation or excessive risk that could harm donors or fund recipients.

Based on these principles, Social Based Crowdfunding in Indonesia can be an effective tool in realising social justice, supporting the welfare of the people, and carrying out the mission of Maqashid Syariah in the economic and social life of the community. The application of Maqashid Syariah in Social Based Crowdfunding contracts in Indonesia and Malaysia shows similarities and differences. In both countries, Crowdfunding Platforms endeavour to ensure that funded projects contribute to larger social and economic goals, in line with Maqashid principles (Wheat, 2013).

In Indonesia, several Social Based Crowdfunding Platforms such as Kitabisa.com and BenihBaik.com emphasise transparency, accountability and public participation in fundraising, in line with the protection of wealth and life. However, challenges arise in terms of regulation and compliance with sharia principles, with some projects not fully meeting the Maqashid Syariah criteria. In Malaysia, platforms such as MyStartr and PitchIN integrate sharia elements more firmly, with many of them providing sharia-compliant funding options. The emphasis on Shariah compliance in Malaysia is seen in stricter regulations and support from Islamic financial institutions, as well as encouraging fundraising that is not only financially beneficial but also Shariah Maqashid compliant.

3.4 Comparison between Indonesia and Malaysia

Although Indonesia and Malaysia share similar values in the application of Maqashid Syariah, differences in the regulation and practice of Islamic economic law are key factors affecting the implementation of Social Based Crowdfunding. Malaysia has a more established regulatory framework for Shariah-based Crowdfunding, with a

supervisory agency that specifically regulates this activity (Securities Commission Malaysia, 2015). In Indonesia, regulations are still in the development stage, and many platforms operate without clear guidelines on sharia compliance. Malaysians tend to understand and pay more attention to sharia aspects in investment and fundraising compared to Indonesians. In implementing Maqashid Syariah in Social Based Crowdfunding, there are challenges that need to be overcome, including lack of understanding, there are still many platform managers and communities who do not fully understand Maqashid Syariah and its implications in Crowdfunding practices (Koswara, 2018). Inadequate regulations, in Indonesia, inadequate regulations can lead to legal uncertainty and risks for donors and fund recipients.

There are opportunities that can be utilised, such as increased education by raising awareness and understanding of Maqashid Sharia can help encourage public participation in Sharia-based Crowdfunding. Platform Innovation, the development of a more innovative and sharia-compliant Social Based Crowdfunding Platform can attract more investors and donors, and strengthen the social impact generated. The relevance of Maqashid Syariah as a foundation in the Social Based Crowdfunding contract shows that sharia principles can not only be integrated in legal aspects but also play an important role in shaping ethical and sustainable economic practices. The application of Maqashid Syariah in the implementation of Social Based Crowdfunding in Indonesia and Malaysia illustrates the potential synergy between financial innovation and sharia objectives, which can be optimised through better regulation and increased public awareness.

In the Indonesian context, the regulation on Shariah Crowdfunding is governed by the Financial Services Authority (OJK) and DSN-MUI institutions, which ensure that every transaction in the Crowdfunding Platform must comply with Shariah principles, including transparency, fairness, and social responsibility, moreover it also provides guidelines to regulate the transactions involved in Crowdfunding to be in line with the Maqashid Syariah principles. Whereas in Malaysia, the regulation of Shariah-based Crowdfunding is also regulated by Bank Negara Malaysia and Securities Commission Malaysia. Malaysia has a more structured approach through the development of Fintech and regulations that support Islamic Crowdfunding Platforms. The implementation of Maqashid Syariah in Malaysia is stronger due to a more comprehensive legal framework and stricter supervision of Crowdfunding Platforms.

The Legal Comparison in Indonesia tends to focus on OJK regulations and the development of DSN-MUI fatwas, with a still developing implementation in fully integrating Maqashid Syariah in the operations of Crowdfunding Platforms and Malaysia has more mature regulations and is supported by more established Islamic financial institutions, with clearer integration of Maqashid Syariah in its regulatory framework.

Social Based Crowdfunding in these two countries can be seen from the perspective of Islamic economic law as a tool to achieve sustainable social welfare. The importance of Maqashid Syariah as a basis in Crowdfunding contracts is to ensure that the economic activities undertaken are not only financially beneficial, but also fulfil the sharia objectives for the benefit of the people. Overall, Maqashid Syariah is highly relevant as a foundation in Social Based Crowdfunding contracts in Indonesia and Malaysia, as it helps to maintain the integrity of the transaction, protect the rights of donors, and ensure

that the purpose of fundraising is in accordance with sharia principles for the benefit of society.

4. Conclusions

Based on the analysis conducted, it can be concluded that Maqashid Syariah has significant relevance as a foundation in Social Based Crowdfunding contracts in Indonesia and Malaysia. Maqashid Syariah, which focuses on achieving the goals and benefits of society, can ensure that every Crowdfunding transaction is not only financially beneficial, but also in accordance with sharia principles. Social Based Crowdfunding based on Maqashid Syariah is able to answer the needs of the community by providing access to financing for beneficial projects, such as social, education, and health. This approach also promotes justice and equality in resource distribution, reduces inequality, and supports small entrepreneurs. The Maqashid Shariah-compliant agreements emphasise the importance of transparency and accountability, so that all parties involved can be held accountable for their roles and contributions.

To optimise the application of Maqashid Syariah in Social Based Crowdfunding, the following suggestions need to be considered. First, stakeholders in Indonesia and Malaysia need to develop regulations that clearly regulate the aspects of Maqashid Syariah in the practice of Social Based Crowdfunding, so as to protect the rights of all parties involved and ensure compliance with sharia. Secondly, it is important to educate the public on the Maqashid Syariah principles in Social Based Crowdfunding so that more individuals and organisations understand and apply this concept in their daily practices. Third, encouraging collaboration between Islamic financial institutions, government agencies, and Crowdfunding platforms to create an ecosystem that supports the development of Maqashid Sharia based Crowdfunding. Fourth, further research on the implementation and impact of Shariah-based Social Crowdfunding in the community is needed to provide deeper insights into the effectiveness and challenges faced. Thus, the application of Maqashid Sharia in Social Based Crowdfunding not only strengthens the legal and ethical aspects, but also makes a positive contribution to sustainable and equitable economic development.

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