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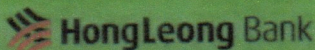


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## **Analysis of the Global and Islamic Financial System: (A Maqashid Shariah Approach)**

Zaenuddin

Lecturer at Department of Economics Islamic University Sultan Agung Semarang

Bedjo Santoso

Lecturer at Department of Economics Islamic University Sultan Agung Semarang

Nunung Ghoniyah

Lecturer at Department of Economics Islamic University Sultan Agung Semarang

### **Abstract**

Global financial market as official current system has mechanisms, procedures and transactions in is different with Islamic financial system. The most study in these issues focused in the weaknesses and supremacy of the both system. It is therefore this study aimed to analyze and evaluate the system based on the maqashid syariah point of view. This research is qualitative used secondary data and focus to deductive descriptive method. Data were collected from some sources. Data collection techniques were interview to key person, and observation. The results revealed that global financial system cannot be able to serve masalah in the maqasdhid syariah darruriyyah. Besides that, the system do not address to the justice, stability and welfare issues.

Keywords: Islamic Financial Markets, Islamic financial System, Islamic Economic System, Maqasid al Shari'ah.

## INTRODUCTION

Global Finance has grown rapidly, but besides it has superiority also so much more weaknesses which is not comply to Muslims life i.e. *riba*, *gharar*, and *maysir*. Some scholars postulated that advantage of global financial system it is deals to economic growth, but not for justice and stable financial system (Meera, 2013).

Critics and evaluation the current system in form of research, seminars, symposiums and summits have been done frequently, however the opinions still pros and cons. The research regarding the weaknesses of the capital market has been done by Condro, Murtiyani, (2015) however still in general in nature.

Hence, this study aims to elaborate in detail to close the existing gap. The offered research gap in this study included exploring the phenomenon, which is continuing to study in more detail on the study that has been conducted by the research Murtiyani (2015) and then analyzed by *maqashid syariah*.

## RESEARCH OBJECTIVE AND METHOD

The purpose of this paper is to analyze the global financial system applications, the analysis includes the global financial system weaknesses. In addition, in terms of *syariah maqashid dharurriyyah* point of view Also was used to Evaluate the current system. Basically, the study is qualitative secondary data is used and focus to deductive descriptive method. Data were collected from some sources include interviews to key persons, data is secondary, and observation. Besides that, this research used library research and previous study.

## THE MECHANISM OF GLOBAL FINANCIAL SYSTEM

In this section will describe some issues such as; the operation, mechanism, and procedure global financial system and its most weaknesses. Besides that, also discuss little bit differences Islamic financial institutions (IFIs) and conventional system. In short, the differences of IFIs and conventional system can be described as follows:

Table 1: Mismatch IFIs and Conventional System

	Goal	Modus operandi	Dealing with Riba	Incentives
Conventional	To make commercial gain	Loan 'taking' and giving.	Yes	Yes
IFIs	To make profit	Qard al Hasan	No	No
		Profit sharing activity	No	Profit sharing

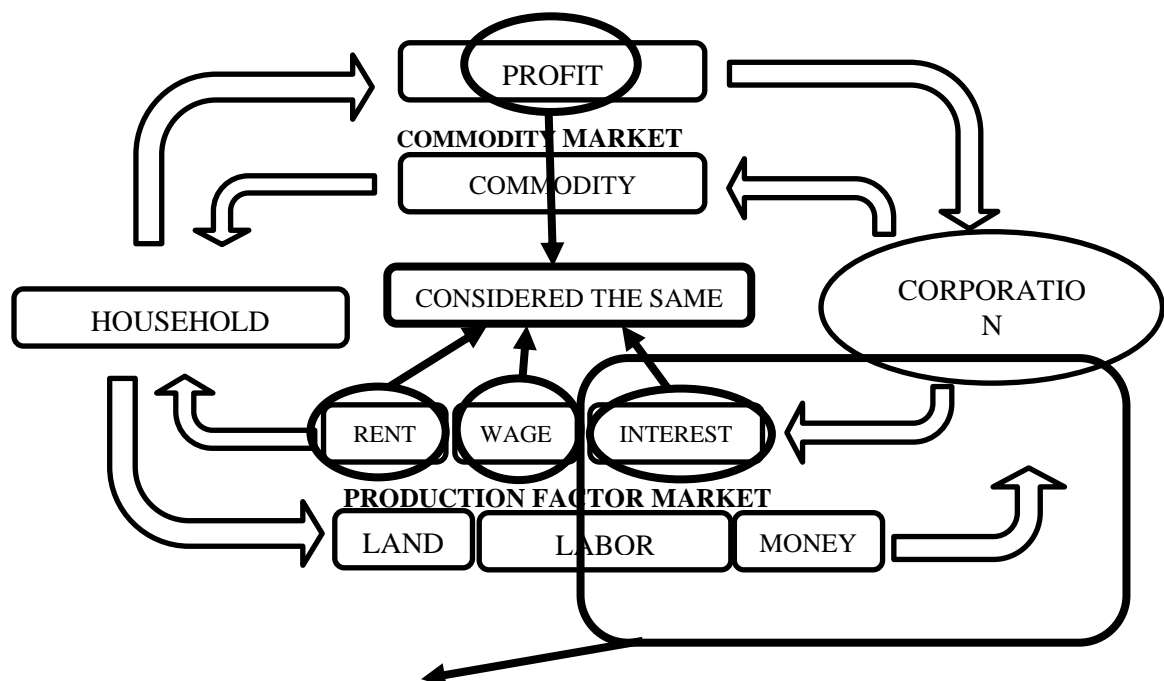
Source: Al \_Islamy (2015).

From the operational side of both systems have the same goals that aim to make commercial gain. However, Islamic Financial Institution (IFI) was not allowed to take or leave flowers. Besides the advantages that justified by sharia are those that contain risks and IFI encourage good business *shirkah* or *qirad* models.

In addition, the capital markets and financial markets transaction financial between the owners of capital (*shahibul maal*), corporate issuers as a fund manager (*musyarik*), and managers of the company and the board of commissioners is more merely cost-benefit considerations.

Secondly, in the conventional models do not happen the screening process of the products offered when it will be listing on the stock exchange. It is important to ensure that companies issuing shares do not produce goods that are contrary to Sharia principles. For example; types of business activities that are contrary to Sharia principles i.e. Gambling and games are classified as gambling or trading prohibited, Conventional financial institutions (usury), including conventional banking and insurance, manufacturers, distributors, as well as food and beverage vendors are forbidden, manufacturers, distributors, and / or provider of goods or services that damage morale and harmful. In addition, companies engaged in the production of liquor, pork and any business associated with pigs; conventional financial services such as banks and insurance; the entertainment industry, such as casinos, gambling, prostitution, pornographic media; etc. Regarding the mechanism, procedure and how the current financial system work, it will describe this matter. The explanation includes capital market and financial market operations in Figure 1 to 5. The concept of capital market is the development of a mechanism of financial markets. While the financial markets is a fundamental concept in the free market mechanism. The general concept of capital markets developed in Indonesia led to a major component in the mechanism of capital markets that source of funding companies and investment vehicles. Source of corporate funding and investment vehicle components include conventional and Islamic. In the mechanism of sharia investment vehicles include stocks, bonds, asset-backed securities and mutual funds.

**Fig. 1: Flow Diagram of the Free Market Mechanism**

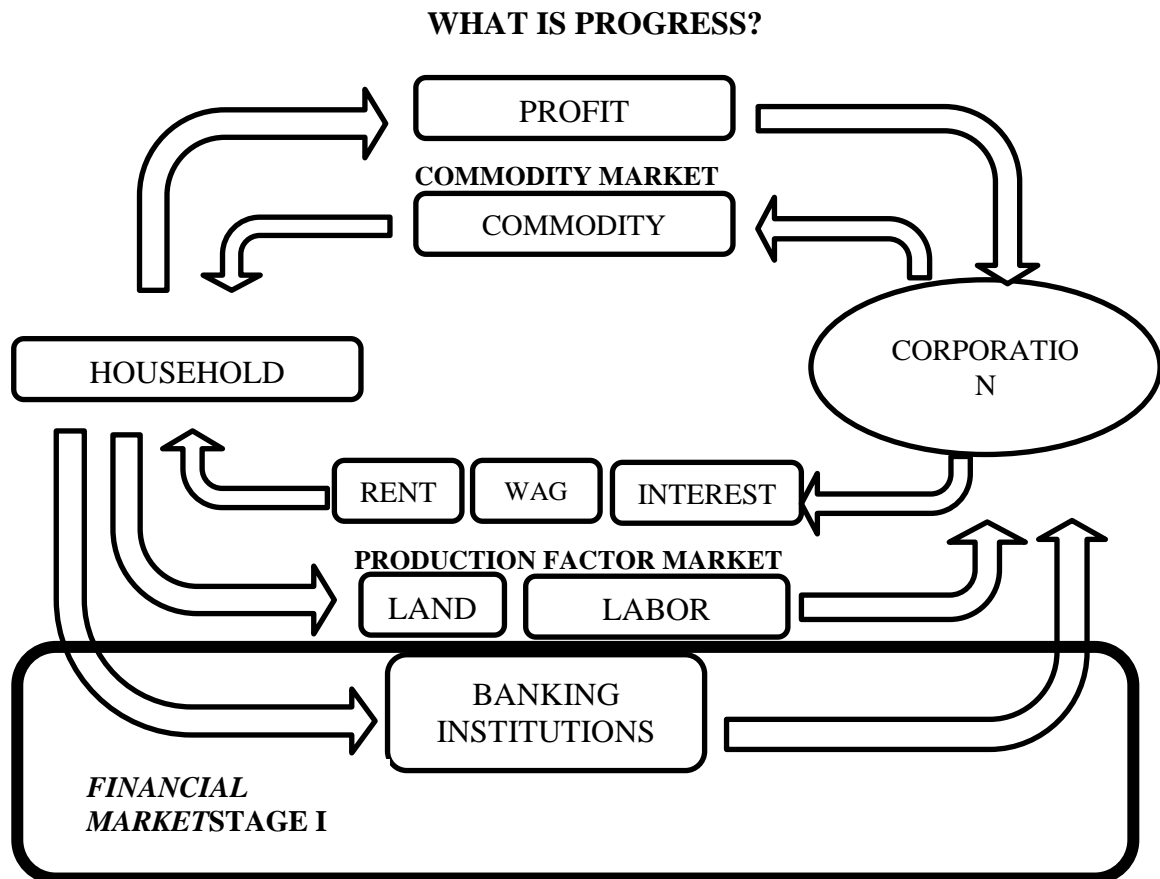


**GROWING INTO FINANCIAL MARKETS**

Source: Edited from Murtiyani, 2015

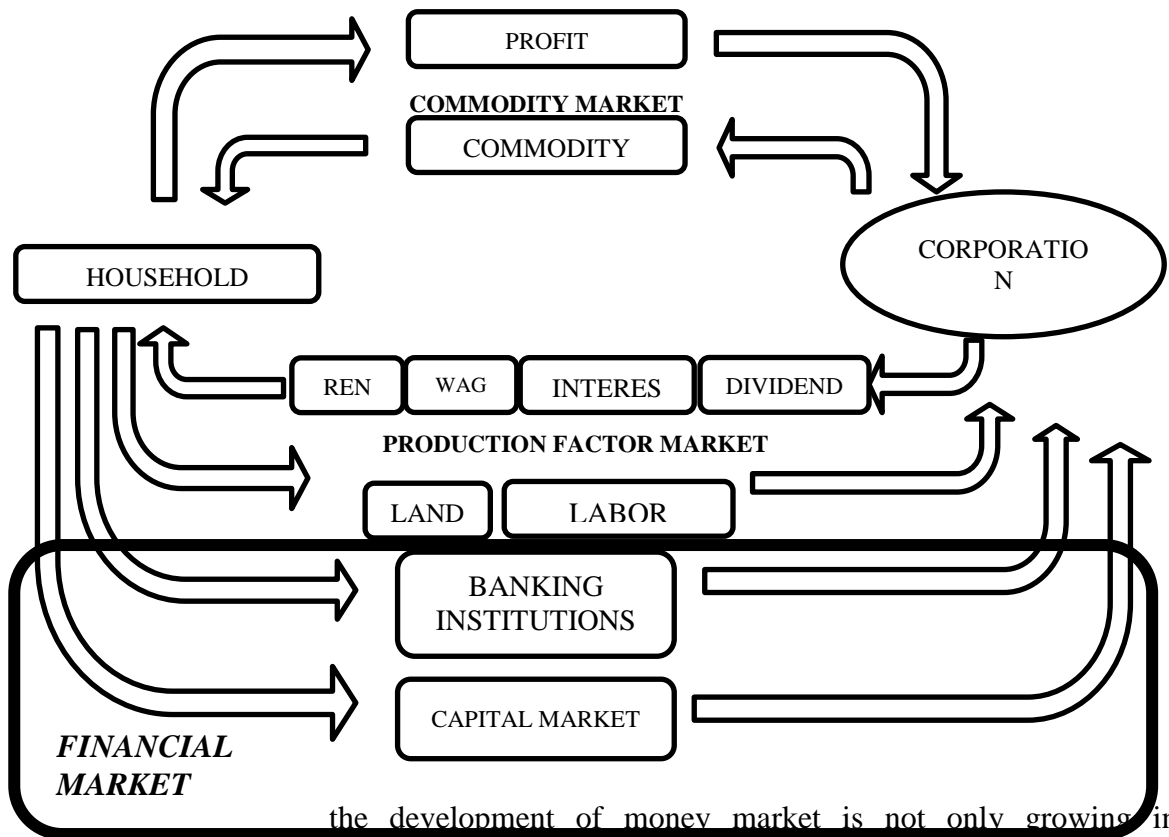
In transactions between the household sector with companies using production factor (land, labor, money) that generates rent, wages and interest. Those three things (rent, wages and interest) is considered part of the profit. From these explanations, money production factors which generate interest will develop into the financial markets which in turn will bring the developmental stage of the first phase of financial markets.

**Fig.2: Developments in Financial Markets (Stage I)**



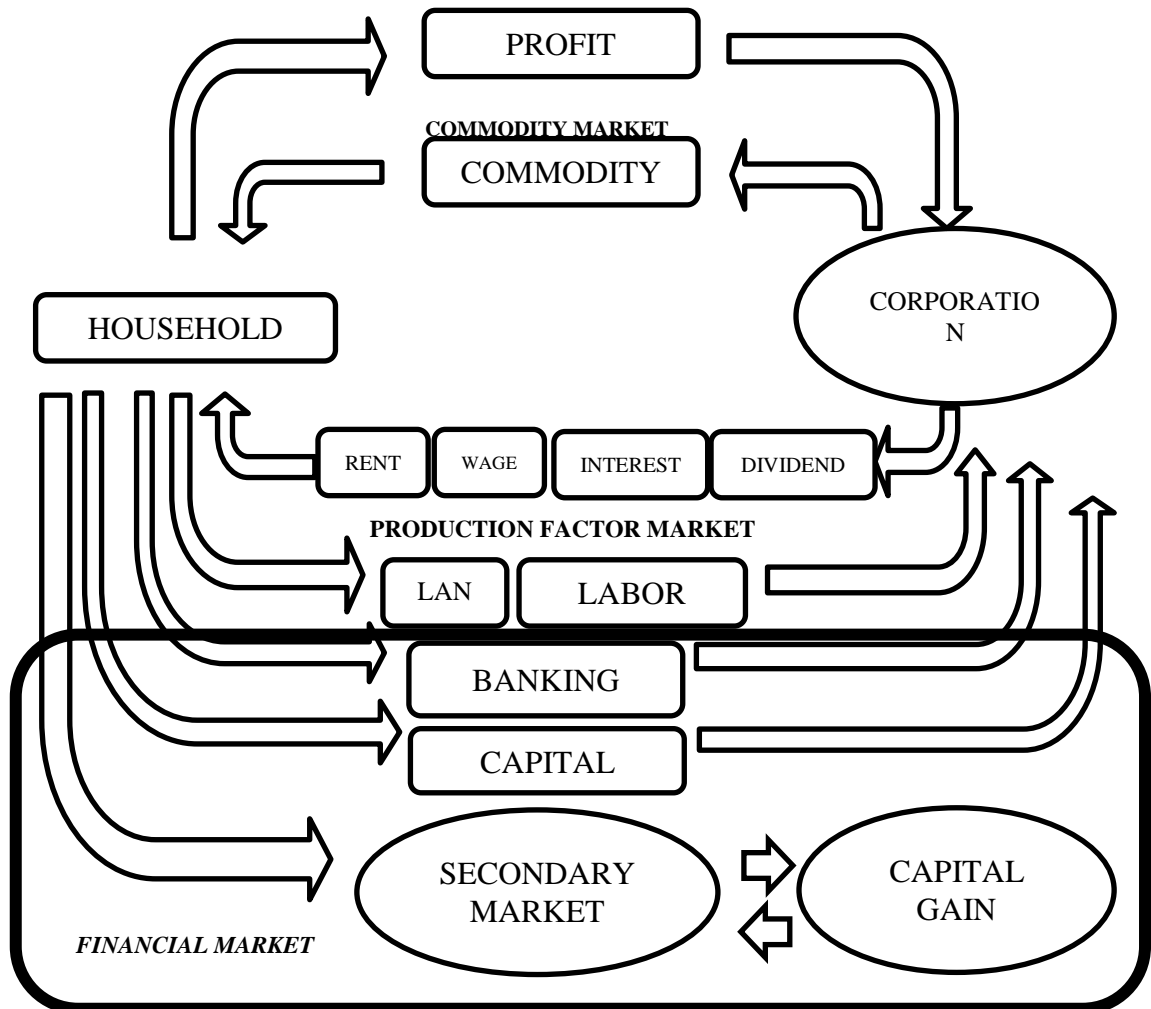
Conventional banking system based on interest is the result of the first phase of financial market developments are driven by the emergence of banking institutions. Conventional banking system included in the transaction *ribawi* because based on the interest that is additive (*ziyadah*) on the use of cash in money market transactions.

**Fig. 3: Financial Market Development Mechanism (Stage II)**



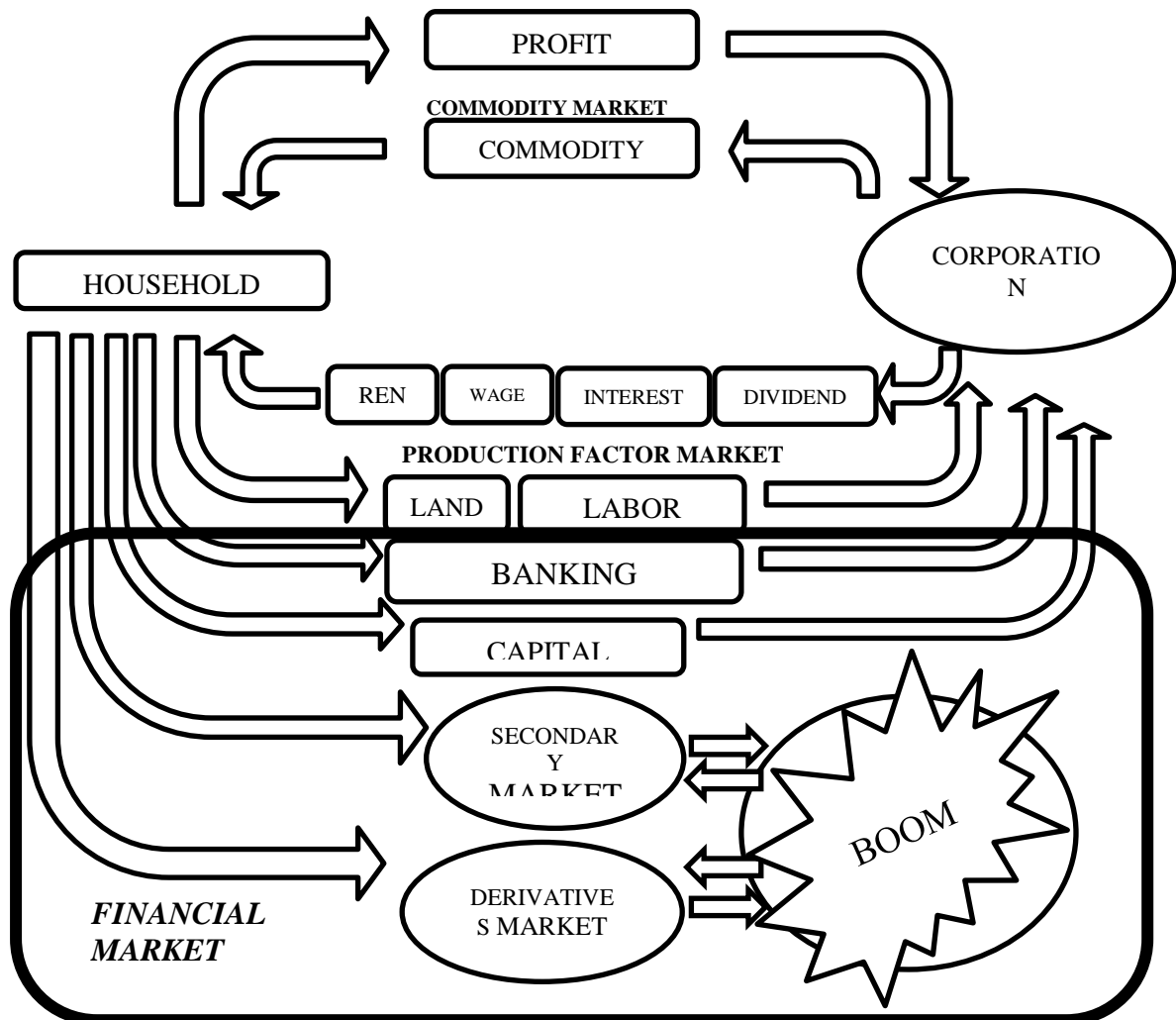
the development of money market is not only growing in  
 mechanism, but also emerging and developing capital market  
 institutions. The company's interests with the investors who invest funds accommodated  
 by capital market institutions, with the aim of which is none other than to obtain  
 dividends are distributed from the company's profits. The company's profits will be  
 greatest if flow of rotation funds from the household sector to company is still in this  
 financial mechanisms.

**Fig. 4: Developments in Financial Markets (Stage III)**



Secondary markets that make up the capital gain is the financial market developments arising from capital market mechanism. The flow of funds between the investors in the household sector which is formed in secondary market will be even greater because it gives the advantage between the parties transacted on the secondary market, these funds are short term and uncertain (speculation). If this mechanism is allowed to proceed continuously will result in capital fund is not spinning and used for operations, but spun in a circle of speculation in secondary market.

**Fig. 5: Developments In Financial Markets (Stage IV)**



The imbalance between the value of money in circulation, currency debasement and inflation that led to the prolonged economic crisis is the impact of financial market developments that further strengthen on speculation and not on the real business sector which will result in an increase in speculative derivative transactions. Growing financial system today is the capitalist system that is more favorable capital owners who play their funds in secondary market and the derivatives market. The emergence of *Riba*, which *Nashi'ah Riba* and *Riba Fadl*, as well as emerging *Gharar* and *Maysir*/speculative gambling is a direct result of secondary market application and derivatives market.



## MAQASHID AL-SHARI'AH

The main objective in Islam is to protect the right in all aspect of every individual or it is known as maqashid al-shari'ah or the objective of Islam. Dusuki and Abozaid (2007) stated that the concept of maqashid al-sharia reflects the comprehensive view of Islam. Islam integrates code of life and its goal encompasses to the whole life, individual and society; in this world and the hereafter. Thus, it has to be understood as a whole picture of Islam (in Dusuki, 2009). Maqashid al-shari'ah concept proposed by Imam Al-Ghazali in 1111. Al-Ghazali stated that the maqashid al-shari'ah is to promote welfare of the ummah (Meera and Larbani, 2009 and Jauhar, 2009). Al-Ghazali, the clarified into five elemets; (i) Safeguarding of life, (ii) sovereignty, (iii) Safeguarding of faith , (iv) Safeguarding of intellect , and (v) Safeguarding of wealth.

Concerning to concept of usury (riba) in the recent monetary system might not be segregated. There are two group of proponents:

1. Once group argued that it is impossible to eliminate the interest rate element from the economics sciences, including finance study. In this case, Kayadibi (2011) delineated that the pro-riba groups believed that riba is the fundamental of global economic system due to it compensates a person's consumption today for some potential benefit in the future. Rationally, interest indeed has to be existed in the economy.
2. The second group is those who against this thought are judged as an irrational and undeveloped class. Many research proved that what is happening crisis today is triggered by the existence of interest rate in the monetary current system.

The supporter the second opinion, Meera and Larbani (2004) showed that loans are non-repayable in aggregate due to interest portion that must be paid back along with the principal. By the interest rate involvement in the economy, it is therefore, the objective of sharia (maqashid al-sharia) will not be achieved.

In addition, the purpose of Islamic law is to be a mercy for the worlds (Al-Anbiya: 107).

The targets of Islamic law:

1. Tazkiyatun nafs (purification of the soul) so that all Muslims as a source of good not badness for the environment (Al-Ankabut: 45). This can be reflected in the worship performed well. For example, prayers in congregation has the function of cleaning psyche of society, both individually and society, the pilgrimage to contain public order (at Tanzhim al ijtima'iy), zakat containing ta'awun (social solidarity) between the rich and the poor.
2. Qaiman bil qisth (justice) in Islamic societies (Al Maidah: 8). In this case it is fair in all fields including legal, judicial and testament. In Islam there are no classes of society, all have the same status in the sight of Allah.
3. Maslahah (benefit) in this case the law in Islam either refer to the Qur'an or hadith has benefits overall. Also related to the public interest for many people.

Basically, maqashid Syariah / Maslahah divided into five areas: preservation of religion, life, property, intellect and descent.

1. Faith (Dīn) , in the presence of religion containing elements of humanity, man becomes higher degree than animals (Al Baqarah: 256).
2. Life (Nafs) (al nuhafazhah ala an nafs), including the right to maintain respectable, actions hurt others, dignity and prevent from doing qadzaf (accused of fornication) and others.

3. Maintaining Reason – Aql (al muhafazhah ala al aql), keeping the sense to refrain from actions that cause damage and no longer useful to others.
4. Maintain prosperity – Nasl (ala al muhafazhah a nasl), keeping the human lineage remains to be the best. In this case that parents educate their children to either not be vandal.
5. Maintain Property – maal (al muhafazhah ala al mal), so that assets owned by humans is used in accordance with the Islamic Shari'a. Not to do actions that harm others associated with the property.

Maqashid Shariah (Benefit) in the top five in terms of who has the level of (dignity), namely:

1. Dignity dharuriyat (primary), it includes in all things, including people, in preserving limbs. Basically, avoid activities that result in not maintaining one of the five main things that are included in dharury (principle).
2. Dignity hajjiyat (secondary), is not intended to maintain the fifth one, but rather to eliminate masyaqaat, narrowness or ihtiyath (beware) against five of these things.
3. Dignity tahsinat or kamaliyat (complementary), not in order to realize the five main things above or within the framework ijtiyath, but rather to maintain and protect it. Basically in this case is not directly related to the specific object but rather on maintaining the integrity. Examples of issues related to female offspring are prohibited from using the jewelry out in the middle of the road (An Nur: 31).

While divided into three kinds, namely:

1. Maslahat are required by Allah Almighty for His servants. Divided into fadhil (main), afdhal (most important) and mutawassith (middle).
2. Maslahat who sunnah syar'i to his servant for good
3. Maslahat mubah is not rewarding.

In Islam there are known as adh dharurah tubihu al mazhurat which means a state of emergency could lead to the permissibility grabbed prohibited items. In this case even required to do not violate the rights of others or may not include actions that the promised reward when faced with patience (Al-Baqarah: 173). Basically Allah did not create taklif that man alone cannot do it (Al-Hajj: 78). Prophet Muhammad explained that persecute yourself with worship is not required by Islam and heavy taklif impossible can be done continuously and sometimes even cannot afford to do. There are some basic law used in this case,

1. Adh dharar yuzalu, the danger that must be eliminated
2. Yudfa Asyaddu adh-dhararyn, rejected more severe hazard by choosing lighter
3. Daf u adh dharar Muqaddam jalb ala al mashalih, avert danger interesting precedence over welfare

In conclusion, these 5 basic elements of maqashid shariah cannot be separated each other as it is a unity. If one of these 5 elements is harmed, it will affect another elements and the maqashid al-sharia will never be attained. Thus, the concept of maqashid al-sharia is a very crucial and it should be understood by any moslem, include the government, scholars, and academician . In this regard the renowned Muslim economist, M. Umer Chapra states: 'The maqāsid al- Shari'ah is everything that is needed to realize falah and hayat tayyibah; and faith is the most important ingredient for human well-being. It puts human relations on a proper foundation, enabling human beings to interact with each other in a balanced and mutually caring manner to help ensure the well-being of all. It also provides a moral filter for allocation and distribution of resources in accordance with the dictates of brotherhood and socio-economic justice,

and a motivating system that brings biting power to the goals of need-fulfillment and equitable distribution of income and wealth. Without injecting the dimension of faith into all human decisions, ...it may not be possible to realize efficiency and equity in the allocation and distribution of resources, to minimize macroeconomic imbalances and economic instability, or to overcome crime, strife, tensions and the different symptoms of anomie’.

## ANALYSIS AND DISCUSSION

In *maqashid shariah* research is divided into three Dimentions: *dharuriyyah*, *Hajiyah*, and *tahsiniyyah*, while in terms of *dharuriyyah* is divided into:

1. Maintain faith - religion ability; *hifdzu al diini*, guarantee the protection and safety of religion.
2. Maintain life - mental Ability; *hifdzu al nafsi*, safeguards and physical safety of residents from physical acts outside the law.
3. Maintain reason -Intellect Ability; *hifdzu al aqli*, guarantee the protection and safety of intellectual development
4. Maintain prosperity ability; *hifdzu al nasli*, guarantee the protection and safety of the family and descendants.
5. Maintain property ability; *hifdzu al maali*, guarantee the protection and safety of property and property rights, in addition to that in this case added.
6. The ability to maintain the stability of economy and justice; the ability to realize the economic life of a fair and stable.

Then, the conventional financial assessment of the *maqashid shariah* in *dharuriyyah* perspective shown in the following table:

Table 2:

No.	Aspects	Comment
1	Ability to maintain Religion	Unable *****
2	The ability to keep the Soul	Unable *****
3	Ability to maintain Intellect	Unable ****
4	The ability to keep descendants	Not optimal ***
5	The ability to keep possessions	Not optimal **
6	The ability to realize a fair and stable economy	Unable *

### **The ability to realize a fair and stable economy\* :**

1. Mechanisms in capital market transactions, for example, from the Islamic principles *muamalah* not perfect because the transaction agreement between the Board of Commissioners with the Board of Directors along with the staff who run their business has not been implemented. So when the owners of capital (third party) are doing a partnership agreement is clear the transaction.
2. Cases in Indonesia, for example, capital market mechanisms including Islamic capital market has been formed from the start through Bapepam (Capital Market Supervisory Agency). Based on the existing Capital Market mechanisms will impact on other transaction mechanisms in the Islamic capital market as well. For example, a transaction mechanism based on equity (equity financing), derivatives transactions, and debt financing i.e. Sukuk. These transactions also develop without considering the transactions were perfect.

3. In the conventional system of adherence to the principles of sharia tend to be dubious and have not been applied in full in transactions in the Islamic Capital Market.
4. It should be made a fundamental change in the system of agreements / *aqad* in a Limited Liability Company (PT), i.e. profit sharing. Since. the mechanism of buying and selling shares in the company is now likely controlled by the owners of capital, being a manager is only determined by salaries, operational costs.
5. In capital markets, the transfer of capital by selling shares to other parties in an unspecified time an act of violation of Islamic rules. According to the concept of Islamic economics equity participation agreement existing agreements regarding the investment period, the profit sharing ratio and the total capital to be transferred. Buying and selling shares on the secondary market without having unspecified period of time is a form of speculation and uncertainty in the capital itself. Obscurity in this transaction are not allowed in Islamic economy because it creates obscurity in the results, in management and in determining the Company's operating results.
6. In the current capital market there is no agreement in term of investment and revenue sharing business, because it causes the action of buying and selling shares in accordance with the wishes of the owners of the funds through brokers in order to obtain the difference between the purchase price and the selling price of the shares. This is called the act of speculation, because there is no clear term of the investment, and the profit sharing ratio between the management company by the owners of capital.
7. In the money market, all the elements are still based on interest benchmark; whereas the prevailing interest now is included usury was *riba* is forbidden in Islam.
8. Some proponents postulated that, the current financial system based on interest has the weakness inherently which trigger economic crisis potentially (Meera & Larbani, 2013). During the implementation period ( 1942 – 2015) happened six generation of crisis and 97 local crises (Santoso, B. 2015).

#### **Ability to maintain Faith - Religion \*\*\*\*\***

Elements *maqashid syariah* in keeping religion is an element of the conclusion of *hifdz al-nafs al-'aql, al-nasl, al-mal and al-bi'ah*. Because if people are not awake soul, intellect, lineage, property and their environment, then they will not be able to keep his religion well. Pillars of faith and Islam cannot stand up properly.

#### **The ability to Life - Soul \*\*\*\*\***

Commands (*fard kifayah*) to purify the soul can be achieved through economic system that is not usurious, because if in the manufacture, transport and distribution financed under the element of *riba* then it will be difficult to purify the soul needs *tahsiniyah*, to purify the soul related to livelihood and income. Besides, sufficient income is also associated with social and economic responsibility. According to al-Shiddiqy (2004), the purpose of Islamic economics, among others: (1) meet the needs of a person with a simple life; (2) meet the needs of families; (3) long-term needs; (4) provide for the family left behind; (5) provide social assistance and donations in the way of Allah. And this is in line also with the opinion of Ibn Sina. Per capita income will either be able to realize the welfare of society.

#### **Ability to maintain reason-Intellectual \*\*\*\***

The command to change the mindset lifestyle moderation in consumption will shape economic players and smart consumers, by being able to differentiate between want (*rughbah* / lust) and need (Hajjah) will create peace alive. So the mindset of satisfaction (utility) can be replaced with the concept of welfare (*maslahah*) and growth. All of which will be easily achieved if smoking inside usury, and the fierce competition that is not reassuring. So that mindset and thoughts about the economic concept that upholds pro-growth, pro-poor, pro-jobs, pro-environment and also an economic concept that upholds justice. Furthermore, we will realize the economic life of welfare, business and entrepreneurship can be driven properly.

#### **Ability to maintain Prosperity \*\*\***

Building a family economy that began with the implementation of the concept of kosher and Thoyib nafaqah that can help realize good offspring. A harmonious life in the community will ensure the realization of a family environment and a harmonious society that is not pro on crime, oppression and chaos. Even a life full competitive stress will be difficult to realize a life based on cooperation and brotherhood.

#### **The ability to maintain Property \*\***

Treasure the core for economic activity Islam, the experts maqashid put treasure as the core problem maqashid Islam which became the basic guarantee given to mankind, both individuals and groups. Islam is very concerned with the gift economy with the instrument zakat, waqf and donation. If it can be developed, the property will be fully developed *maslahah*. Command possessions invest in a good way. Manan 2004 says that if one does not take advantage of his property for investment, then it will lose a quarter within 12 years because of inedible zakat. And if they manage investments in the real sector rather than on sectors usury then his wealth will grow well and will benefit others.

#### **The ability to achieve justice**

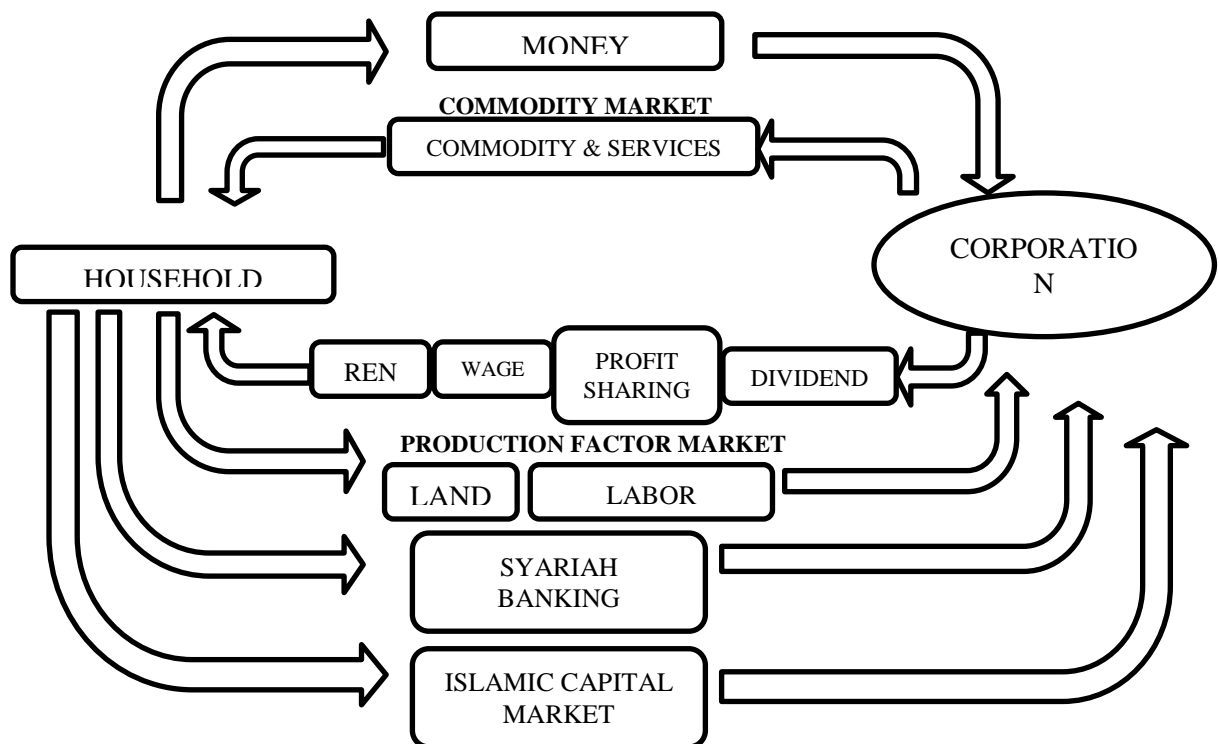
As outlined above that usurious system cannot guarantee justice and economic stability. In the aspect of justice can be interpreted:

1. The system cannot guarantee their usurious equitable income distribution i.e. large gap between capital owners and workers is not allowed. Private ownership of property is allowed but should not be concentrated in a few hands only, no individual is working beyond its capacity. The lender may not charge interest and more based on motifs help.
2. Fairness means that every individual should receive income at least to a degree sufficient for a decent, no individuals are working beyond capacity.
3. Ibn Khaldun (1998), describes some of the things that underlie the prohibition of excessive lifestyles and waste (consumerism) does this have an effect on; could weaken the country, it could reduce the state budget, resulting in corruption, poor mental childbirth, destroying the unity of the state and weaken the younger generation.
4. The existence of banning the exploitation of workers and business partners who have limited capital, even encouraged to help each other.
5. From the aspects of stability, conventional financial proved unable to realize economic stability, with economy based on usury of the world and the country is often affected by the crisis at the regional and global scale.

6. Islamic finance is derived from Islamic economic principles that are able to create prosperity in the face of the earth together is not partial. Islamic Economics can be an instrument to achieve prosperity for all and anti-oppression, spread justice, create security, through economic activities that are not usury, speculation and destructive.

Based on the above analysis, the global system does not serve all the elements of maqashid shariah, hence the Islamic financial system is offered to cover the weaknesses of the system. The proposed solution depicted in Fig. 6, as follows:

**Fig. 6: Islamic Economic Flow Chart “Partial”**



The above proposed model is Islamic financial system mechanism, of course it is in line with the maqashid shariah, however, the deep study is needed to prove it. Basically the study still in general concept which needs to elaborate in detail to make sure the model is viable to be implemented in the current system, hence the further study is needed to extend the model by involving all stakeholders.

## CONCLUSIONS AND RECOMMENDATIONS

### Conclusions

Islamic Capital Market is a means for capital owners to conduct transactions with the manager of the company. Islamic Capital Market based on major transactions, namely financing based on inclusion (equity financing) and debt (debt financing) by applying the principles of sharia in their applications.

Global financial market as official current system has mechanisms, procedures and transactions in is different with Islamic financial system. Although both systems have the same goal which is the goal of profit. But the Islamic financial system is not allowed

to take or give interest. Besides the advantages that justified by sharia are those that contain risks and IFI encourage business activity.

*Maqashid shariah* divided into three dimensions: *Dharuriyyah*, *Hajiyah*, and *Tahsiniyyah*, while in term of *dharuriyyah* is divided into: Ability to maintain Religion, The ability to keep the Soul, Ability to maintain Intellect, The ability to keep offspring, The ability to keep possessions, The ability to realize a fair and stable economy  
The research conclude that the global financial system may not be able to serve *masalah* in *maqashid sharia darruriyyah*. In addition, the system does not deal with justice, stability and welfare issues.

### **Recommendation**

For further research inch, stakeholder approach is needed for evaluating the maqashid shariah point of view i.e. scholars, academicians, bankers and practitioners. All the stakeholders may involve in the interview process for collecting their opinions to the matter. Besides that, they can also produce their opinion regarding what is the best solution to address the issues.

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