

QANUN OF SHARIA FINANCIAL INSTITUTIONS: ECONOMIC BENEFITS AND MAQĀSID AL-SYARĪ'AH

QANUN LEMBAGA KEUANGAN SYARIAH: KEMASLAHATAN EKONOMI DAN MAQĀSID AL-SYARĪ'AH

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Abstract

This study focuses on two things, namely; first, explaining the substance of Qanun Aceh Number 11 of 2018 and second, finding and explaining the connection of this Qanun with the economic benefits of the Acehese community in the perspective of maqāsid al-syarī'ah. Through the literature study and data document review of the Aceh Statistics Agency, it was found: First, Qanun Aceh Number 11 of 2018 has been in effect in Aceh for 4 (four) years. This law consists of XII chapters and 67 articles. In consideration, the philosophical, historical, sociological, and juridical foundations of this qanun are explained. This study found that all financial institutions operating in Aceh must be based on sharia principles even if they are not labeled sharia. This conclusion is reinforced by the explanation of article 3 of this law in relation to the universal basis that adheres to the principled system of conducting business activities in the financial field that applies in general while still referring to sharia principles. This conclusion shows that this Qanun offers the Islamization of financial institutions in Aceh substantially not formally. Second, in the perspective of maqāsid al-syarī'ah, this Qanun has not shown a significant increase in the economic benefits of the people of Aceh. This conclusion is supported by BPS Aceh data on economic benefits. There are 4 (four) indicators used to measure it, namely; economic growth rate, CPI, poverty profile, and financial access to UMKM. The word has not been used to explain that this Qanun has only been implemented for 4 (four) years and was interrupted by the Covid 19 pandemic. Therefore, it cannot be concluded that the SFI Qanun does not affect the economic benefits of the Acehese community. Unless it has not given a significant influence for the economic benefits of Aceh practically-factually.

Keywords: Qanun SFI, Economic Benefits, Maqāsid Al-Syarī'ah

Abstrak

Studi ini menfokuskan diri pada dua hal, yaitu; pertama, menjelaskan substansi Qanun Aceh Nomor 11 tahun 2018 dan kedua, menemukan dan menjelaskan keterkaitan Qanun ini dengan kemaslahatan ekonomi masyarakat Aceh dalam perspektif maqāsid al-syarī'ah. Melalui studi literatur dan telaah dokumen data Badan Statistik Aceh

ditemukan: Pertama, Qanun Aceh Nomor 11 tahun 2018 sudah diberlakukan di Aceh selama 4 (empat) tahun. Qanun ini terdiri dari XII bab dan 67 pasal. Dalam konsideran menimbang dijelaskan landasan filosofis, historis, sosiologis, dan yuridis dari qanun ini. Studi ini menemukan bahwa semua lembaga keuangan yang beroperasi di Aceh harus berdasarkan prinsip syariah meskipun tidak berlabel syariah. Kesimpulan ini diperkuat oleh bunyi penjelasan terhadap pasal 3 qanun ini berkaitan dengan asas universal yang menganut sistem prinsip penyelenggaraan kegiatan usaha di bidang keuangan yang berlaku secara umum dengan tetap mengacu pada prinsip syariah. Kesimpulan ini menunjukkan bahwa Qanun ini menawarkan Islamisasi lembaga keuangan di Aceh secara substansial bukan formal. Kedua, dalam perspektif *maqāsid al-syarī'ah*, Qanun ini belum menunjukkan adanya peningkatan signifikan terhadap kemaslahatan ekonomi rakyat Aceh. Kesimpulan ini didukung oleh data BPS Aceh tentang kemaslahatan ekonomi. Indikator yang digunakan untuk mengukurnya ada 4 (empat), yaitu; tingkat pertumbuhan ekonomi, IPM, profil kemiskinan, dan akses keuangan terhadap UMKM. Kata belum digunakan untuk menjelaskan bahwa Qanun ini baru diterapkan selama 4 (empat) tahun dan diinterupsi oleh musibah pandemi Covid 19. Karena itu, tidak bisa disimpulkan bahwa Qanun LKS tidak mempengaruhi kemaslahatan ekonomi masyarakat Aceh. Melainkan belum memberi pengaruh signifikan bagi kemaslahatan ekonomi Aceh secara praktis-faktual.

Kata Kunci: Qanun LKS, Kemaslahatan Ekonomi, *Maqāsid Al-Syarī'ah*

A. INTRODUCTION

Sharia Financial Institutions are institutions that carry out activities in the banking sector, non-banking sharia sector, and other financial sectors. Economic benefit is an increase in economic resources, productivity, and community welfare as well as local revenue.(P. Aceh 2018) Whereas *maqāsid al-syarī'ah* is the vision and mission of Islamic law.(P. Aceh 2018) The vision of Islamic law is to realize human benefit in this world and the hereafter. In realizing this vision, the scholars formulated 6 (six) missions of Islamic law, namely preserving religion, soul, mind, property, and offspring. In implementing Islamic law, it is this vision and mission that must be realized in a systematic, comprehensive and integral manner.(Al-Jauzī 2007; As-Syātibī 2004; ‘Āsyūr 2006)

Normatively-theoretically, the presence of Aceh Qanun No. 11 of 2018 concerning Islamic Financial Institutions brings benefit to the people's economy, especially Aceh. Because Islamic law has a true vision of realizing the benefit of mankind in the world and the hereafter, including the benefit of the economy. This

Qanun is a follow-up to Qanun Aceh No. 8 of 2014 concerning the principles of Islamic law which explicitly obliges all financial institutions operating in Aceh to be implemented based on sharia principles. This SFI Qanun came into effect on January 4, 2019. Consequently, all financial institutions operating in Aceh were given 3 (three) years to adjust to this Qanun.

On a practical level, the presence of this Qanun has generated controversy among the public, particularly in Aceh. Among the crucial issues being debated are aspects of the substance of the qanun which are theoretical and practical in nature for Islamic financial institutions in Aceh. The sharpest focus regarding the substance of this qanun is the prohibition on the operation of non-sharia financial institutions, especially banking institutions. The sharpest criticism of this comes from businessmen and most economic observers. Meanwhile, the practice of Islamic financial institutions that has been highlighted sharply is the world of banking, particularly with regard to service quality and systems that are suspected to be not in accordance with sharia principles.

Based on the problems above, the study of this *qanun* is very urgent and useful in order to provide a scientific basis for the positions of various critics of this *qanun*. (Syamsuri; Fadillah, Nirhamna Hanif; Kusuma 2021; Hidayat 2018; Muklir; Syamsudin; Gusti, Muhammad; Aziz 2022; Rahmawati; Putriana 2020; Maharani, Dewi; Hidayat 2020; Jailani, Munawar Rizki; Danial; Syahputra 2021) Specifically, from the point of view of Islamic law, in this case the *maqāsid al-syarī'ah* perspective. The results of the previous review show that there has been a study on the SFI Qanun. However, the focus is more on the economic perspective and the Koran. While the perspective of Islamic law has not received the attention of previous researchers. The main questions that will be answered in this article are: First, what is the description of the substance of Qanun Aceh Number 11 of 2018 concerning SFI? Second, how can the impact of this qanun bring benefits to Aceh's economy?

B. RESEARCH METHODOLOGY

This study is a literature review that focuses on the contents of the qanun and its relation to the economic benefit of the people in Aceh. Economic benefit is one of the

missions of Islamic law, namely the obligation to maintain property. The primary data source is Qanun No. 11 of 2018 concerning SFI. Meanwhile, to obtain data on the level of Aceh's economic benefit, official data from BPS Aceh was used. BPS data used as a reference is 4 (four) years before the enactment of this Qanun and 4 (four) years after. Data before and after the enactment of this Qanun aims to see differences in the level of Aceh's economic benefit with the existence of this SFI Qanun. While secondary data are articles in journals and literature related to the focus of this study.(Danial, Mahamatayuding Samah, Munawar Rizki Jailani 2022) Data is collected through document review. After the data is collected, it is then processed through the steps of classification, systematization, interpretation and data presentation.(Ishaq 2017) The data analysis method used is descriptive and dialectical with the *maqāsid al-syarīah* approach.

C. RESULTS AND DISCUSSION

I. BRIEF DESCRIPTION OF THE QANUN SFI

Qanun No. 11 of 2018 concerning Islamic Financial Institutions consists of XII chapters and 67 articles. In the preambles set forth at the beginning of this *qanun* one can find philosophical, historical, sociological, and juridical foundations. The philosophical foundation explains that this *qanun* aims to create a just and prosperous Acehese economy under the auspices of Islamic law. The historical foundation confirms that Islam has become the belief and way of life for the people of Aceh.(Jailani 2022) Sociologically, this *qanun* is an effort to meet the needs of the people of Aceh for Islamic financial institutions as one of the important instruments in implementing Islamic economics. While the juridical basis includes Law No. 11 of 2006 concerning the Government of Aceh and Aceh Qanun No. 8 of 2014 concerning Principles of Islamic Sharia.(P. Aceh 2018)

In article 2 paragraph 1 it is explained that financial institutions operating in Aceh are based on sharia principles.(P. Aceh 2018) Paragraph 2 explains that the financial aqad in Aceh uses sharia principles. What is meant by sharia principles? There is no answer to this question in the elucidation of this qanun. However, it can be ascertained that the principles referred to in Article 2 are not sharia principles. Because

it relates to the principles explained separately in article 3. Then is the sharia principle meant the vision of Islamic sharia, so that according to sharia principles means in accordance with the vision of Islamic sharia? As stated above, the vision of Islamic law is to realize human benefit in this world and the hereafter. If this is the case, then all financial institutions that create human benefit are financial institutions that are self-based on sharia principles, without having to be labeled sharia.

Based on article 3, this qanun is prepared based on the principles of justice, trust, brotherhood, profit, transparency, independence, cooperation, convenience, openness, sustainability, and universality. In the elucidation of this qanun it is found that the intended justice is fairness in terms of profit and risk sharing, as well as access to financial institutions. Trust is the trust given to SFI to maintain and manage the deposit given by other parties and a commitment to safeguard their rights and obligations. Fraternity is an attitude of mutual trust, responsibility and solidarity by prioritizing the interests of the people. Transparency in question is the disclosure of information about SFI business activities to the public that refers to laws and regulations. The convenience in question is the implementation of SFI services that are practical and provide convenience for the community. Whereas universal is an SFI that adheres to a system of principles for conducting business activities in the financial sector that are generally applicable while still referring to sharia principles.(Syamsuri; Fadillah, Nirhamna Hanif; Kusuma 2021)

SFI was established to strengthen the implementation of sharia economic development in Aceh.(Jailani 2020) In Chapter I, in more detail this qanun states that there are 8 (eight) objectives of the SFI, namely: First, to create an Islamic Aceh economy. Second, to become a driver and driver of Aceh's economic growth. Third, collect and/or provide funding support and carry out the functions of financial institutions based on sharia principles. Fourth, carrying out other social functions including utilizing religious assets for the benefit of the people based on sharia principles. Fifth, encourage an increase in local revenue. Sixth, increase access to funding and business for the community. Seventh, helping to increase economic empowerment and community productivity. Eighth, help increase the income and welfare of the community.

Chapter II contains arrangements regarding type, establishment, ownership and permits. SFI consists of 3 (three) types, namely (1) Islamic Banks, (2) Islamic Non-Bank Financial Institutions, and (3) other Financial Institutions. Islamic banks include (a) Islamic commercial banks, (b) Islamic business units, and (c) Islamic people's financing banks. Meanwhile, Islamic non-bank financial institutions include (a) Islamic insurance, (b) Islamic capital markets, (c) Islamic pension funds, (d) Islamic venture capital, (e) Islamic pawnshops, (f) Islamic financing cooperatives and the like, (g) Islamic financing institutions, (h) Islamic factoring, (i) Islamic microfinance institutions, (j) Islamic financial technology, and (k) Other Islamic non-bank financial institutions. While other financial institutions consist of (a) non-formal financial institutions and (b) non-formal pawnshop institutions.

The establishment of an SFI must meet at least 4 (four) requirements, namely form of legal entity, management and ownership structure, capital, and business activities in accordance with laws and regulations. SFI can be owned by (a) individual Indonesian citizens, (b) Indonesian legal entities, and/or (c) partnerships with foreign citizens and/or legal entities.

The duties, business activities, and functions of Islamic banks are explained in detail in Chapter III of this Qanun. According to article 13 paragraphs 1-2, there are 2 (two) duties of Islamic banks. First, collect and distribute public funds, provide other financial services, and carry out social functions. Second, support the collection of zakat, infaq, charity, and waqf in cash on behalf of BMA or BMK.

Furthermore, chapter IV contains further explanation of the contents of article 7 concerning Islamic non-bank financial institutions. The explanation referred to is contained in articles 21-37. Chapter V examines business activities and business area coverage. There are 6 (six) forms of business activities that can be carried out by SFI, namely buying and selling, investment cooperation, lending and borrowing, money transfer services, leasing, and other businesses based on sharia principles. With regard to the Sharia Supervisory Board, the Aceh Sharia Council and the Regency/City Sharia Council are regulated in Chapter VI articles 44-49. Chapter VII regulates the responsibilities of the Aceh government and district/city governments for the

development of SFI according to sharia principles and the obligation to carry out financial transactions through SFI.

Regarding the protection of customers, and partners, SFI, and guarantees are regulated in Chapter VIII. Meanwhile, Chapter IX describes coaching, regulation, and supervision. Then, chapters X-XII sequentially regulate administrative sanctions, transitional provisions, and closing provisions. Descriptively about the body of this qanun can be seen in Table 1.1. below this:

Table 1.1
Description of Qanun No. 11 of 2018 concerning SFI

CHAPTER	TITLE OF CHAPTER/PART OF ARTICLE	VERSE
I	General Provisions	Article 1-6/28 Paragraph
II	Type, Establishment, Ownership, and Licensing	Article 7-12/11 Paragraph
III	Sharia Banks <ul style="list-style-type: none"> ❖ Duties, Business Activities, and Functions of Islamic Banks ❖ Education, Research, and Product Development ❖ Coordination between Sharia Banks ❖ Role of the Government of Aceh 	Article 13-16/12 Paragraph Article 17/3 Paragraph Article 18 Article 19-20/5 Paragraph
IV	Non-Bank Syariah Financial Institutions <ul style="list-style-type: none"> ❖ Sharia Insurance ❖ Sharia Capital Market ❖ Sharia Pension Fund ❖ Sharia Venture Capital ❖ Sharia Pawnshops ❖ Sharia Financing Cooperatives and the like ❖ Sharia Financing Institutions ❖ Sharia Factoring ❖ Islamic Microfinance Institutions ❖ Sharia Financial Technology ❖ Other Sharia Non-Bank Financial Institutions 	Article 21-22/ 4 Paragraph Article 23/ 8 Paragraph Article 24/ 5 Paragraph Article 25/ 3 Paragraph Article 26-27/ 3 Paragraph Article 28/ 3 Paragraph Article 29/ 4 Paragraph Article 30-33/ 12 Paragraph Article 34/ 6 Paragraph Article 35-36/ 11 Paragraph

		Article 37/ 5 Paragraph
V	Sharia Supervisory Board, Aceh Sharia Council, and Regency/City Sharia Council	Article 38-43/ 12 Paragraph
VI	Sharia Supervisory Board, Aceh Sharia Council, and Regency/City Sharia Council <ul style="list-style-type: none"> ❖ Sharia Supervisory Board ❖ Aceh Sharia Council ❖ District/City Sharia Council 	Article 44-45/ 4 Paragraph Article 46-47/ 12 Paragraph Article 48-49/ 8 Paragraph
VII	Responsibilities of the Aceh Government and District/City Governments	Article 50-54/ 4 Paragraph
VIII	Protection of Customers, Partners, SFI, and Guarantees <ul style="list-style-type: none"> ❖ Protection of Customers, Partners, and SFI ❖ Guarantees for customers, partners, and SFI 	Article 55-58/ 4 Paragraph Article 59/ 2 Paragraph
IX	Guidance, regulation and Supervision	Article 60-63/ 6 Paragraph
X	Administrative Sanctions	Article 64/ 2 Paragraph
XI	Transitional Provisions	Article 65
XII	Closing Provisions	Articles 66-67

II. SFI Qanun and Economic Benefits

In order to measure whether this Qanun has been able to realize the economic benefit of the people, especially Aceh, it can be seen from whether or not the objectives of establishing the SFI stipulated in this qanun have been achieved. Philosophically and at a macro level, the purpose of forming this Qanun can be seen in the consideration of points a, c, and d. These three points of consideration systematically explain that; First, the Qur'an and Sunnah are the main foundations of the Islamic religion which bring blessings to all nature and have become the beliefs and guidelines for the life of the

people of Aceh.(Shinkafi and Ali 2017) Second, that in order to create a just and prosperous Acehese economy under the auspices of Islamic law, the services of Islamic financial institutions are required. Third, that the Acehese people need Islamic financial institutions as one of the important instruments in implementing Islamic economics.(Wajdi Dusuki 2008)

Based on the considerations considering points a, c, and d above, it can be analyzed that; First, at a macro level, it explains that Islamic law aims to spread love (grace) to all of nature. The grace referred to covers all beings and all fields, including human beings and the economic field. Second, the true purpose of this qanun is to realize justice and economic prosperity for the people of Aceh based on Islam. Third, SFI is an important instrument in order to realize the second goal above.

The three objectives above are detailed in article 5 as explained in the previous section of this paper. The details of the intended SFI objectives are: First, realizing an Islamic Aceh economy. Second, to become a driver and driver of Aceh's economic growth. Third, collect and/or provide funding support and carry out the functions of financial institutions based on sharia principles. Fourth, carrying out other social functions including utilizing religious assets for the benefit of the people based on sharia principles. Fifth, encourage an increase in local revenue. Sixth, increase access to funding and business for the community. Seventh, helping to increase economic empowerment and community productivity. Eighth, help increase the income and welfare of the community.(P. Aceh 2018)

All the objectives of the SFI stated above can be derived as indicators of economic benefit. These indicators include; (1) mobilizing and encouraging economic growth; (2) increasing local revenue; (3) increasing access to funding; and (4) increase productivity. Thus, it can be identified that the economic benefit of the Acehese people can be seen from increasing access to funding for community businesses. If access increases, productivity also increases. Increased productivity gave birth to increased economic growth and at the same time encouraged an increase in local revenue. These four indicators are the minimum standards for Aceh's economic benefit. The level of Aceh's economic benefit will have a significant influence on the human development index in particular and the development of Aceh in general.

The question on a practical level is whether all of the above indicators have materialized in the reality of the life of the people of Aceh, especially in the economic reality? The answer to this question can be confirmed through BPS data and other official or scientific data related to the economic benefit of the Acehnese people.

The economic well-being of a nation or region including Aceh province is at least measured through 4 (four) indicators, namely economic growth, Human Development Index (HDI), poverty profile, and access to funding or MSME finance. In looking at the impact of SFI on economic benefit, the level of economic benefit will be studied 4 (four) years before and 4 (four) years after the SFI qanun was enacted.

Aceh's economic growth in the 2015-2018 range was -0.73 (2015), 3.29 (2016), 4.18 (2017) and 4.61 (2018) respectively. Whereas after the SFI qanun from 2019-2022 were 4.14 (2019), -0.37 (2020), 2.79 (2021), and 4.21 (2022) respectively. (B. P. Aceh 2022) The data above shows that there is no significant change in the level of economic growth in Aceh before and after the SFI. Even the highest pre-SFI economic growth was at 4.61 (2018), while the highest post-SFI growth was 4.21. Although it should be noted here that in 2019-2020 the world and Indonesia in general are experiencing a crisis due to the pandemic. According to the results of a study by Siti and Budi, during the Covid-19 pandemic, Indonesia's economic growth decreased by 2.97% (year on year). In contrast, the unemployment rate in Indonesia has increased. As a result, the 2020 State Budget (APBN) deficit reached 6.27% as measured by gross domestic product (GDP). (Indayani, Siti; Hartono 2020)

Aceh province HDI is compiled based on 3 (three) indicators, namely longevity and healthy life (life expectancy at birth), knowledge (expected schooling and average length of schooling), and decent standard of living (per capita expenditure). With the 3 (three) indicators above, it was found that the HDI for 2015-2018 was as follows; 69.45 (2015), 70 (2016), 70.60 (2017), and 71.19 (2019). While post-SFI 2019-2022 are 71.90 (2019), 71.99 (2020), 72.18 (2021), and 72.80 (2022). This HDI data shows that the Aceh HDI has an increasing trend from year to year. This increase occurred pre and post SFI. It's just that the pre-SFI numbers fluctuated, each from 2015 to 2016 the increase was 0.55 digits, 2016 to 2017 0.60 digits and from 2017 to 2018 it decreased by 1 digit, namely at 0.59 digits. In contrast, the increase in HDI after SFI has an increasing trend.

In 2019 to 2020 the increase was only 0.09 digits, from 2020 to 2021 it increased to 0.19 digits, and from 2021 to 2022 it jumped to reach 0.62 digits. The low rate of increase from 2019 to 2020 and 2020 to 2021 is likely to be affected by the Covid 19 pandemic outbreak.

The next indicator of economic benefit is the poverty profile of the Acehnese before and after the SFI. From 2015-2018 the poverty profile of the people of Aceh was 17.11 (2015), 16.43 (2016), 15.92 (2017), and 15.68 (2018) respectively. Whereas after the 2019-2022 SFI, the poverty rate is at 15.32 (2019), 15.43 (2020), 15.33 (2021) and 14.75 (2022) respectively. These figures illustrate that the poverty profile in Aceh before SFI has a downward trend, while after SFI it has increased by 0.10 in 2020 compared to 2019. Meanwhile, from 2020-2022 the poverty profile has decreased. One of the main causes of the increase in the poverty rate in 2020 is the outbreak of the Covid-19 pandemic. The poverty rate has a negative effect and per capita spending has a positive effect on people's welfare, while the unemployment rate and growth have no significant effect on people's welfare.

One other important aspect that influences economic benefit is Micro, Small and Medium Enterprises (MSMEs). The contribution of the micro, small and medium business sector to Gross Domestic Product (GDP) increased from 57.84% in 2013 to 60.34% in 2017. The large contribution of MSMEs to the benefit of the Indonesian economy does not make MSMEs free from problems. One of them is limited access to funding. The results of Merdika and Fitria's research show that there is an effect of access to finance on the growth of MSMEs. This study found that the higher the access to finance or funding, the higher the growth of MSMEs. How is MSME access in Aceh to finance or funding?

D. CONCLUSION

Based on the explanation above it can be concluded that:

First, Aceh Qanun Number 11 of 2018 has been in force in Aceh for 4 (four) years. This Qanun consists of XII chapters and 67 articles. In the preamble, the

philosophical, historical, sociological and juridical foundations of this qanun are explained. This study found that all financial institutions operating in Aceh must be based on sharia principles even if they are not labeled sharia. This conclusion is reinforced by the explanatory sound of article 3 of this qanun relating to the universal principle. This principle means that SFI adheres to a generally accepted system of principles for conducting business activities in the financial sector while still referring to sharia principles. This conclusion shows that this Qanun proposes a substantial non-formal Islamization of financial institutions in Aceh.

Second, in the perspective of maqāsid al-syarī'ah, Qanun Aceh number 11 of 2018 concerning SFI has not shown any significant increase in the economic benefits of the Acehnese people. This conclusion is supported by BPS Aceh data on economic benefits. There are 4 (four) indicators used to measure it, namely; economic growth rate, HDI, poverty profile, and financial access to MSMEs. The word has not been used to explain that this Qanun has only been implemented for 4 (four) years and was interrupted by the Covid 19 pandemic. Therefore, it cannot be concluded that the SFI Qanun does not affect the economic benefits of the Acehnese people. Rather, it has come to a conclusion that it has not had a significant effect on Aceh's economic benefits in a practical-factual way.

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