

Maqasid Values and its Application in Donation-Based Crowdfunding Practices

Muhammad Shahrul Ifwat Ishak¹ and Nur Syahirah Mohammad Nasir²

¹Faculty of Business and Management, Universiti Sultan Zainal Abidin (UniSZA), 21300 Kuala Nerus, Terengganu, Malaysia, ²Faculty of General Studies and Advanced Education, Universiti Sultan Zainal Abidin (UniSZA), 21300 Kuala Nerus, Terengganu, Malaysia
Email: shahrulifwat@unisza.edu.my, syahirahnasir@unisza.edu.my

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Abstract

Even though crowdfunding is considered a new industry, the dramatic expansion of financial technology (FinTech) has significantly contributed to its rapid development. This sector has successfully proven its role in supporting business activities and community-based projects. From Shariah perspective, crowdfunding philosophically seems to be in line with its objectives in terms of promoting wealth distribution, encouraging transparency, and supporting social justice. Nevertheless, several issues are associated with the current practice of crowdfunding in Malaysia including improper due diligence carried out by platforms to screen campaigns, the lack of regulation in protecting funds and ideas owned by project initiators, and weak Shariah monitoring aspects. As a result, it is doubtful how far crowdfunding practices are in line with Shariah values. In this regard, this paper aims to explore the elements of Maqasid al-Shariah that can be adopted as an additional value to empower donation-based crowdfunding practices in Malaysia. The outcome of this paper would benefit many parties related to crowdfunding including entrepreneurs, crowdfunding platforms, and society who fund the fundraising projects.

Keywords: Crowdfunding, Maqasid Al-Shariah, Islamic Finance

Introduction

Recently, crowdfunding has been widely recognized as an alternative way to obtain funds for businesses and community-based projects. In Malaysia for example, it is reported that Peer-to-Peer (P2P) lending which is a part of crowdfunding practices, has successfully raised RM 739m from 9,989 campaigns while equity-based crowdfunding has raised RM 86m from 89 campaigns (SC, 2020). Meanwhile, donation-based crowdfunding has experienced dramatic growth due to the power of the internet as many platforms can be easily established.

What makes crowdfunding unique from other financial institutions, funders in crowdfunding have different motivations. While some of them expect a financial return from the funding campaign, others prefer to do so because of social obligation or personal satisfaction (Hemer, 2011; Wahjono et al., 2015). Therefore, not surprisingly crowdfunding has emerged in various models including donation-based, reward-based, equity-based, and lending-based. All of them could potentially support businesses or community-based projects as far as the element of trust is established between two groups: funders and project initiators (Nazarie & Williams, 2021).

Nevertheless, as a new industry, it is undeniable that modern crowdfunding is not immune from criticisms and issues. In terms of the fund, it is claimed that crowdfunding practices are inherent several risks, mainly fraud or incompetence campaign (Zhao et al., 2019). This occurs when fraudulent campaigns launched by scammers, are overlooked by crowdfunding platforms (Ishak & Rahman, 2021). In fact, even popular crowdfunding platforms like Kickscammed.com, Facebook's GoFraudMe pages and AndroidPolice.com are not immune to scammed projects (Saiti et al., 2018).

In Malaysia, this could be a serious issue for donation-based crowdfunding that till now, there has yet been governed by a special regulation (Abdullah, 2016). In other words, donation-based crowdfunding can be easily established. While under the House to House and Street Collections Act 1947, donations on the streets or public places are required to obtain a special license from the authority, online-based donation activities are not under the subject of this act (Hisamudin, 2020). The lack of regulatory requirements to tackle this issue could threaten resources contributed by society (Zainon et al., 2014).

Another issue that can threaten public funds through crowdfunding is the incompetence campaign. In more detail, any project launched could end up with a failure. In equity-based crowdfunding for example, in which its funders expect a profit return, their investment may witness a huge loss due to the business failure initiated by start-ups (Haniff et al., 2019). Even though crowdfunding is hoped to support micro-businesses, SMEs and start-up companies, the lack of training in terms of management makes this hope far from reality. It is argued that start-ups in Malaysia are experiencing difficulties to survive as the failure rate among them ranges between 50% to 95% (Kee et al., 2019). Even worse, most funders or investors do not have the capability to assess the financial risk involved (Lau et al., 2017). Unlike financial institutions, crowdfunding platforms did not strictly screen and monitor the project launched. As a result, this could lead to the issue of adverse selection (Haniff et al., 2019).

Another issue that could potentially threaten the fund is the status of Shariah compliance on both crowdfunding projects and crowdfunding instruments. In fact, crowdfunding must ensure its fundraising activities and its instruments are not against Shariah rulings if they intend to attract Muslim funders. Furthermore, financial instruments applied must be Shariah-compliant. In general, there may not be serious Shariah issues for donation-based and reward-based crowdfunding practices as far as their projects are halal (Saiti et al., 2018). Both represent many philanthropic concepts in Islam such as *infaq* (donation) and *hibah* (gift). Nevertheless, some of equity and lending instruments must be reviewed so as they are free from *riba* (interest) and *gharar* (uncertainty) (Hendratmi, Ryandono, et al., 2019). Unlike Islamic financial institutions that are strictly monitored by the Central Bank of Malaysia, Shariah requirements for crowdfunding are more lenient. For example, in terms of Shariah monitoring aspect, the current regulation does not specify the authority of Shariah advisors, resulting their roles are less significant (Haniff et al., 2019). At

the same time, some crowdfunding platforms like Ata Plus did not formally register as Shariah-compliant platform, but actively serves Muslim businesses (Hasan, 2021).

Therefore, it is fruitful to explore the elements of *maqasid al-Shariah* that can be applied to donation-based crowdfunding practices in Malaysia. This subject reflects Shariah values through its rulings. In other words, Shariah does not merely a religious law or a spiritual practice, but its values bring well-being to humankind. Applying *maqasid al-Shariah* into crowdfunding practices is timely due to this country has been widely recognized as among the leading countries in Islamic finance. In addition, it is learned that *maqasid al-Shari'ah* plays a significant role in integrating between *naqli* (revelation) and *aqli* (human intellect) by considering the *maslahah* in human life so as Shariah can be harmonized within reality without compromising its principles.

Literature Review

Crowdfunding

Crowdfunding is practiced as a fundraising concept that links two groups: those who have additional funds and those who have ideas but need funds to realize their ideas. Recently, crowdfunding has attracted many talents to obtain their funds via online platforms (Wahjono et al., 2017). Through this unique practice, entrepreneurs or activists can obtain fund through crowdfunding platforms (Mollick, 2014). Therefore, crowdfunding has been widely recognized as an alternative funding to intermediary institutions in which business entities could obtain their capital from the public, through the internet platform (Schwienbacher & Larralde, 2010). In Malaysia, it is reported that Peer-to-Peer (P2P) lending has successfully raised RM 739m from 9,989 campaigns while Equity Crowdfunding has raised RM 86m from 89 campaigns (SC, 2020).

In terms of operation, the fund channelled through crowdfunding platforms normally is managed transparently as most platforms provide a real-time update system. In addition, many platforms allow funders to receive regular updates on their contributions through emails and dashboards. This would be different from the traditional funding system, in which contributors sometimes have no idea whether their money is being used appropriately or not (Khairuddin & Ishak, 2021). In modern practices, four crowdfunding models are widely practiced including donation, reward, lending and equity. The first two models are known as community-based crowdfunding while the rest is popularly known as financial return-based crowdfunding (Ishak & Kamaruddin, 2021).

In fact, all crowdfunding models have the potential to support businesses or society-based projects as far as the element of trust has been established between two groups: funders and project initiators (Nazarie & Williams, 2021). This has been proven by many studies that trust in crowdfunding is the main factor of successful projects (Moysidou & Hausberg, 2020). Without trust, there would be fewer funders, resulting crowdfunding is ineffective as a financing platform (Nazarie & Williams, 2021).

On one hand, crowdfunding brings several advantages, firstly, it provides investors high returns instead of putting their money in mainstream financial institutions. As for project initiators, the cost of repayment would be lower than borrowing from financial institutions like banks (Bade, 2018). Secondly, crowdfunding improves the socio-economy by creating many new jobs, especially when the project starts to run (Abdullah, 2016). Meanwhile, crowdfunding can liberalise financial resources as this would allow society to determine and influence the types of businesses needed in the future that uphold the interest of society (infoDev, 2013). As a result, crowdfunding contributes for both entrepreneurs and society by

boosting economic growth and providing job opportunities, mainly towards sectors in which difficult to get support from current financial services (Ramos & Stewart, 2014).

On the other hand, crowdfunding has several challenges and difficulties. Despite the power of crowdfunding can support small-scale projects in obtaining funds from the public, it is undeniable that this concept may face difficulties to support big-budget projects, even though they can attract a huge number of investors, since their fund is relatively small (Ramos & Stewart, 2014). Meanwhile, crowdfunding could threaten talent when the idea from project initiators may not be protected (Manchanda & Muralidharan 2014).

Like other segments of modern financial practices, crowdfunding must ensure its practices comply with Shariah. For example, interest-based loans through lending-based crowdfunding are prohibited in Islam and they can be replaced with many Shariah contracts depending on the type of business or project. Such contracts are *murabahah* (mark-up sale) if the project managers aim to buy an asset while *salam* (forward sale) and *istisna'* (manufacturing contract) can be utilised for future projects since both are designed to provide the capital in advance (Hendratmi, et al., 2019). As for equity-based crowdfunding, it can be replaced with the profit and loss sharing contracts of Shariah such as *mudharabah* (silent partnership) and *musharakah* (full partnership) to form a partnership between funders and project managers (Muneeza et al., 2018).

Nevertheless, since this study is focusing in donation-based crowdfunding, the concept is simpler in term of contract because the purpose is more for charity. In addition to helping persons from underserved and unbankable groups in the community acquire financing and use it for their purposes, donation-based crowdfunding is important because it can do so, particularly in times of hardship (Muhammed et al., 2023). These include natural disasters like floods and earthquakes, as well as situations brought on by other demands like receiving assistance for medical and educational expenses. In addition to using Islamic crowdfunding with a donation-based approach, Malaysia typically uses Islamic social finance funds like zakat, waqf, sadaqah, hibah, and qard hasan to fund a variety of industries like publishing, cultural preservation, agriculture, and healthcare. (Kamaruddin et al., 2023)

At the same time, crowdfunding can be used to manage funds related to religion. Cash waqf for example, can be exercised through crowdfunding in order to reduce the liquidity problem (Thaker et al., 2018). Moreover, crowdfunding can be used as a platform to manage zakat funds efficiently (Thaker et al., 2019).

However, since there is no specific regulation that is developed to oversee and monitor donation-based crowdfunding and many issues are associated with the current practice of crowdfunding in Malaysia including improper due diligence carried out by platforms to screen campaigns, the lack of regulation in both protecting funds and ideas owned by project initiators, and weak Shariah monitoring aspects, maqasid Shariah plays an important role as a guideline to make the practices of donation-based crowdfunding in line with the values of Shariah.

Maqasid al-Shariah: Harmonizing between reality and revelation

Maqasid al-Shariah can be defined as the wisdom that emphasized by God through his revealed rulings (Al-Yūbī, 1998). In other words, Shariah rulings are revealed for a particular reason that must be considered for implementation. As God declares Himself as al-Hakim (the all-wise), His rulings should reflect His omniscience. Therefore, to glorify the character of al-Hakim, it should be promoted that Islamic rulings are revealed for humankind with full of wisdom (Hamīdān, 2004).

In supporting Shariah as a way of life, *maqasid al-Shariah* realizes the element of *maslahah* (public interest) through the implementation of rulings. *Maslahah* was first defined by al-Ghazali as protecting five essential elements in life, including *din* (religion), *nafs* (soul), *aql* (intellect), *nasab* (progeny) and *mal* (property) (Al-Ghazālī, 1992). Later, al-Shatibi explained *maslahah* reflects the core of human's life in achieving their livelihood and to gain the quality of emotion and intellect which require them to be in an absolute sense (Al-Shatibi, 2004). Ibnu Ashur, a contemporary scholar describes *maslahah* as an attribute of an action that realizes goodness; in which it is always or usually benefiting the public or individuals. In contrast, *mafsadah* is an attribute of an action in which it always or usually leads to corruption or harm towards the public or individual (Al-Ashūr, 2001).

Based on the Qur'an and the Hadith, achieving *maqasid al-Shariah* or realizing *maslahah* is considered as the main objective in implementing Shariah rulings. For example, avoiding difficulties and bringing mercy. Meanwhile, some verses mention specific *maslahah* in specific rulings such as the protection of life by imposing *qisas* (law of equality) (Qur'an: 179:2) and the equal wealth distribution by implementing *fai'* (spoil of war) (Qur'an: 59:7).

Through works of literature, it can be understood that *maqasid al-Shariah* aims to promote the total well-being of humanity and the environment that should be based on the value of Shariah (Shinkafi & Ali, 2017). Therefore, it is vital to avoid Shariah from being amended because of the reality, also to prevent understanding Shariah rulings literally; ignoring their spirit (Al-Qarḍāwī, 2005). In this regard, *maqasid al-Shariah* is considered as the best tool in harmonizing between reality and revelation, particularly in applying Shariah rulings into modern financial practices. In more detail, *maqasid al-Shariah* comes up with a guideline to integrate between revelation and to deal with the current circumstance, the change of human needs and the evolve of their customs, before applying any Shariah ruling (Zahraa, 2003).

Research Methodology

This study applies the library research method to achieve its objectives. This method represents a gradual procedure conducted by collecting data to produce an academic paper or to present a project. In more detail, there are three types of secondary data: documentary, multiple sources, and survey data (Saunders et al., 2019). Nevertheless, since the library study is considered a secondary source, it tends to have certain disadvantages such as obsolete, biased, incomplete or inaccurate due to it was collected for a different purpose. Besides, secondary qualitative data may be difficult to interpret unless explicit information on the context and the informant is provided. On the other hand, the advantage of using secondary data is that it is low cost and uncomplicated assess to the relevant information (Hox & Boeijs, 2005). Since this study is conceptual, utilizing secondary data is sufficient to achieve its objectives. In more detail, it aims to explore the overview issues of crowdfunding practices in Malaysia and to identify elements of *maqasid al-Shariah* that can be applied on these practices.

Result and Discussion

Through analysis on literature, it has been identified that *maqasid al-Shariah* can be applied as values to crowdfunding practices in Malaysia as follows

1. Protecting *din*

Din according to Islam covers three crucial elements: *aqidah* (faith), Shariah practical rulings and *akhlak* (manners). Based on *maqasid al-Shariah*, *din* must be protected as the highest priority in life since its role is not limited on individual levels, but protecting *din* means creating peace for the society. In other words, *din* should be understood as a system of life for human, instead of culture or ritual. Through literature, enforcing *jihad*, punishing apostasy and banning *bid'ah* are among efforts that aim to protect *din* due to their significant impacts towards the interest of society and country. In addition, practicing *ibadat*, imposing Shariah rulings, and delivering *da'wah* are considered as protecting *din* (Al-Shātibī, 2004). In modern time, Muslim scholars have included fighting with ideology that is against Islamic teachings, promoting a positive image of Islam, establishing Islamic institutions such as Islamic education, Shariah courts, and halal markets as vital efforts to protect *din*.

In regards with crowdfunding, protecting *din* should be concerned by platforms and funders. Thus, any campaign that promote *din* such as to establish mosque or to organize religious activities should be supported. In contrast, campaigns that are against *din* must be banned. For example, it is widely found in popular crowdfunding platforms like GoFundme, Kickstarter, Gogetfunding that they support LGBT-based projects as all of them against not only *din* but norms of life. At the same time, it should be noted that through protecting *din*, crowdfunding platforms must ensure all campaigns are halal-based projects as well as financial instruments are Shariah-compliant. Thus, Shariah review process are crucially needed in crowdfunding operations.

2. Protecting *Nafs*

Protecting *nafs* means to ensure human survival and to take care of their health. Like protecting *din*, protecting *nafs* is not restricted on individual levels, instead it aims to protect all humankind, regardless of their background. Thus, *nafs* is considered as the second priority after *din* according to *maqasid al-Shariah*. Based on the literature, among efforts mentioned by scholars to protect *nafs* are promoting marriage, providing *nafqah*, encouraging healthy life, allowing prohibited foods in time of urgency, imposing *qisas* and *diat* as well as to stop epidemics from spreading (Al-Shātibī, 2004).

In regards with crowdfunding, it is undeniable that this concept of funding plays a crucial role during Covid-19 pandemic. As business and certain works could not be continued due to lockdown imposed, it has severely affected people's life. Sadly, it was reported the approach carried out by the government at some points may slow down the spread of the pandemic among people but it also leads to suicide and self-harm due to unable to financially sustain their life. In fact, crowdfunding plays a crucial role to support people in need and small business entities during the pandemic.

3. Protecting *Aql*

Aql must be protected so as human can functionally conduct their duties and daily life. Therefore, protecting *aql* ranks the third priority according to *maqasid al-Shariah* that must be considered after *nafs*. Protecting *aql* can be manifested when Shariah promotes humankind to seek beneficial knowledge. On the other side, alcohol is banned by Shariah since it severely affects human consciousness (Al-Shātibī, 2004).

In regards to crowdfunding, this concept should be utilized to support the development of knowledge, expertise and skill. University students for example nowadays are facing difficulties in terms of funding to cover their fees and their needs. While many universities

have established waqf and endowment to support their students, crowdfunding could be another alternative. Since crowdfunding is more to support talent and idea, it may be used to support community-based activities carried out by students, entrepreneurship programs or research projects (Khairuddin & Ishak, 2021).

Meanwhile, under the protecting *aql*, it is understood that crowdfunding aims to realize the idea or to support the talent. Through an open platform, those who has an idea can publicly launch it to attract funders. However, this could bring the risk that the idea may be stolen. Therefore, copyright should be considered a special right belongs to project initiators as the platform should provide a special mechanism to protect this right.

4. Protecting *Nasab*

Protecting *nasab* ranks the fourth after *aql*. While some of them prefer to term of *nasab*, others use the term of *nasl* (Hamīdān, 2004). However, both terms aim for the same matter: to protect humanity and its dignity, to uphold individual rights and their privacy. Protecting *nasab* is carried out through several approaches such as requiring testimony on a marriage, announcing it to the public, prohibiting *zina* (adultery), imposing punishment on *qazaf* (accusing adultery), and prohibiting *tabarruj jahiliyyah* (displaying of beauty like pre-Islam) (Al-Shātībī, 2004). In regards with crowdfunding, activities that protect *nasab* should be supported. In this regard, crowdfunding can be utilized to support NGOs that aim to protect orphans, poor women and single mothers from involving in prostitution activities for the sake of survival. The projects launched through globalsadaqah platform to empower single mothers such as “Empowering Single Mothers and Battling Food Wastage in Sarawak” could be good example to explain this point.

5. Protecting *Mal*

Technically speaking, *mal* represents property and wealth either public or individual, in which it involves specific processes to own or to transfer among each other. In terms of the necessities rank, protecting *mal* is considered as the least priority in comparison to *din*, *nafs*, *aql*, and *nasab*. However, protecting *mal* is still recognized as necessities. To ensure *mal* is protected, Shariah encourages financial and business activities among people, and at the same time, many rulings are established to preserve individual wealth such as the punishment of stealing and robbery, stopping *safih* (stupid) from carrying out financial activities, and encouraging a written agreement for financial transactions (Al-Shātībī, 2004).

In regard to crowdfunding, it aims to gather funds from the public and then channel it for projects initiated by fundraisers. Since campaigns through crowdfunding require high transparency in terms of the details of a project, this concept of funding has successfully convinced many funders. However, as mentioned before, crowdfunding is not immune from fraudulent campaigns. Thus, from the perspective of protecting *mal*, it is required to crowdfunding platforms to conduct due diligence to ensure the fund from investors or donors is not being manipulated.

Conclusion

This study identifies *maqasid*-based values that can be applied into donation-based crowdfunding practices in Malaysia. Through literature, it is learned that *maqasid al-Shariah* provides an insight in understanding Shariah based on *naqli* and *aqli*. In other words, it is vital to harmonize between revelation and reality so as Shariah is implemented by considering *maslahah* in human life. Based on *maqasid al-Shariah*, five values are identified which are

protecting *din*, *nafs*, *aql*, *nasab* and *mal*. As for protecting *din*, any campaign that promotes Islam should be supported while campaigns that against *din* like LGBT campaigns must be banned. In addition, crowdfunding platform must ensure that all their campaigns are halal-based projects, thus, Shariah review process are crucially needed. As for protecting *nafs*, crowdfunding plays a crucial role during Covid-19 pandemic by supporting those who lost job because of the lockdown imposed while as for protecting *aql* crowdfunding should be utilized to support the development of knowledge, expertise and skill but at the same time crowdfunding platforms must protect copyright belongs to project initiators. As for protecting *nasab*, crowdfunding can be utilized to support NGOs that aim to protect orphans, poor women and single mothers from involving in prostitutions activities for the sake of survival. Finally, as for protecting *mal*, it is required to crowdfunding platforms to conduct due diligence to ensure the fund from donors are not being manipulated.

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