

SHARIAH SCHOLARS AND FATWA MAKING PROCESS IN ISLAMIC FINANCE

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Abstract

Islamic finance industry faces unprecedented new issues that need immediate attention by Shariah scholars. The issues require the Shariah scholars to exercise their own ijtihad whether it is a collective or an independent ijtihad especially in the innovations of Islamic finance. One of the main challenges in issuing a fatwa in the Islamic finance is the scholars have to innovate Shariah compliant products that are workable and meet the modern market needs. To address this issue, it requires the scholars to have mastery skills in both the turath (classical knowledge) and contemporary knowledge in Islamic finance. The study will evaluate the efforts of the scholars in the fatwa making process and examine the challenges faced over time.

Keywords: *Shariah scholars, ijtihad, Islamic finance innovations*

INTRODUCTION

Shariah scholars have played vital roles in the establishment of Islamic financial institutions since their inceptions in the 1970s. To date, the Islamic Financial Institutions (IFIs) worldwide grows on average of 15-20 percent per year. The total asset of the industry had reached approximately USD 2.1 trillion in 2014 (Kuwait Finance House, 2014). An Islamic banking industry by far is the largest sector of the Islamic Financial institutions and its market share has increased in more than half of the 31 tracked jurisdictions, and the number of countries where Islamic banking is systemically important (i.e. where it accounts for more than 15% of the total banking assets) increased to 11, with 84% of the global *sukuk* outstanding also concentrated in these markets (Islamic Financial Services Industry Stability Report, 2016).

Although the majority of the Muslim scholars do not involve directly in the industry, their *fatawa* especially related to the Islamic banking products were very important to the industry and public. However, the Islamic Financial institutions are still facing a shortage of scholars (Wallin, 2005). It is a general public perception that the conventional banks which operated based

on the interest system is prohibited. The interest concept which is similar to *riba* is prohibited by the virtue of Quranic verses 2:275,276, 30:39, 4:161 and 3:130. The Islamic resurgence in the Middle East and discovery of oil during the 1960s are believed as the key factors for the establishment of the Islamic banks. One of the earliest banks, Mit Ghamr was established in 1967 used a *mudarabah* concept. In addition, Vahid and Vawda (2008) argue that Islamic banking and finance have made phenomenal progress since the establishment of Dubai Islamic Bank in 1975.

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Penafian

Pandangan yang dinyatakan dalam artikel ini adalah pandangan penulis. Jurnal Pengurusan dan Penyelidikan Fatwa tidak akan bertanggungjawab atas apa-apa kerugian, kerosakan atau lain-lain liabiliti yang disebabkan oleh / timbul daripada penggunaan kandungan artikel ini.