Journal of Namibian Studies, 35 (2023): 1544-1564 ISSN: 2197-5523 (online)

Micro Credit-Qard Hasan Financing Through Zakat Fund (Mczf) According To The Views Of Islamic Contemporary Scholars

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ABSTRACT

The concept of qard hasan in the Islamic economic is a unique financing mechanism that emphasises welfare aspects in its implementation. Although proven to be a good instrument, there is a polemic regarding the legal status of microcredit-qard hasan financing through zakat funds, whether it is allowed or otherwise. Furthermore, if this instrument is new and not practised by the Muslim community in the past, then there will be doubts about its legal status from the Sharia perspective. This study explored the legal status of micro credit-qard hasan financing through zakat fund (MCZF) according to the views of contemporary scholars. This study used a qualitative approach involving a literature review including related books and journals. The materials obtained were analysed using the document analysis method. Based on the findings of the study, it is shown that contemporary scholars allow the MCZF scheme based on arguments that include the permissible distribution of zakat based on working capital, the qiyas awlawi approach, and the breadth of ijtihad in zakat, in line with the demands of maqasid al-Sharia and maslahah. Therefore, the MCZF scheme from the point of view of its Sharia compliance is undisputed.

Keywords: Micro financing, qard hasan, zakat, maqasid al-sharia, maslahah.

INTRODUCTION

The management of zakat in Malaysia through institutions and official regulations leads to the success of zakat practice in Malaysia. Integrity management under the existing the state government allows zakat management to be organised through the injection of funds and the appointment of professional officials (Halim et al., 2022). This can reduce the operational costs of zakat institutions while utilising the entire zakat collection fund for public welfare. Indirectly, this also causes the Muslim community to have high confidence in the institution of zakat in Malaysia (Ibrahim & Sahrim, 2019; Hasbulah et al., 2022).

Zakat institutions in Malaysia have undergone various improvement processes in the zakat management system; one of those steps is privatising. According to Esrati (2018), there are three categories of zakat institutions in Malaysia, namely full privatisation (Selangor, Penang, Sabah, Sarawak), partial privatisation (Federal Territory, Negeri Sembilan, Melaka, Pahang), and no privatisation (Kedah, Perlis, Perak, Kelantan, Terengganu, Johor). For the fully privatised category, zakat collection and distribution activities are fully handed over to the respective corporate zakat offices. While for the semi-privatised category, collection activities are carried out by the corporate zakat office, but distribution activities are placed under the Baitulmal institution. In states that do not privatise zakat institutions, both collection and distribution activities become the Baitulmal's full responsibility (Esrati, 2018; Hasbulah et al., 2022).

Zakat institutions in Malaysia also bring various reforms that can increase zakat collection. An example of the efforts made is to increase the types of property that can be “zakatable” (zakat-eligible), which includes income zakat, savings zakat, EPF zakat, takaful zakat, business zakat, investment zakat, gold and silver zakat, and agricultural zakat. This diversity has helped zakat institutions in increasing zakat collection over time (Paizin & Sarif, 2021; Mohamad et al., 2022).

In addition, zakat collection is no longer only carried out through traditional methods because zakat institutions have provided various types of modern channels to facilitate zakat payers. Among the existing zakat payment channels are zakat counters in branches, mobile zakat counters (vans or lorries), salary deduction schemes, banks (counters, internet banking, ATMs), and post office counters. In addition, there are various alternative channels consisting of virtual zakat payment methods (e-zakat pay), debit and credit cards, remittances, post-dated checks, Space Cooperatives, and others (Paizin & Sarif, 2021; Noor et al., 2022).

From the perspective of zakat distribution, zakat institutions do not only distribute zakat money on a one-off or subsistence basis to the asnaf groups, but they have carried out several initiatives such as building educational and business places, providing training courses, scholarships, equal capital in the form of money or equipment, and shelters that include various categories of asnaf to allow them change their status quo from asnaf to those who can contribute to the zakat fund as a result of their work or business (Paizin & Sarif, 2021; Asni, 2021).

Although various reforms are implemented in the institution of zakat, some past studies suggest that the concept of qard hasan be included in zakat. This is as in the study of Adnan et al. (2017), where the researchers found that the inclusion of qard hasan elements in zakat can provide greater maslahah (benefit). In a study conducted by Nurcahaya et al. (2019), they found that the provision of microcredit through zakat funds by Baitul Qiradh BAZNAS has freed micro-entrepreneurs from the usury system. In addition, a study by Haider Syed et al. (2020) proposed a model of artificial intelligence and Islamic financial technology based on Natural Language Processing (NLP) that combines zakat and qard hasan to help the economy by minimising the impact of COVID-19 on individuals and Small and Medium Enterprises (SMEs).

In addition, the study of Muhd Adnan and Che Roselam (2019) found that informal microfinance loan schemes have succeeded in recovering the financial problems faced by small traders and stall operators in urban areas in Bangladesh. Similarly, the implementation of qard hasan in Baitul Mal Aceh, which proved to be successful when it was able to change the status of poor entrepreneurs to a better life, and successful payment transactions were carried out within the specified period (Adnan et al., 2018).

In general, the word qard hasan means a good loan. It is a manifestation of a person's concern to do good financially, by helping his brother who is in need. Therefore, the borrower only has to pay the amount borrowed without interest. The concept of goodness in this contract also leads to the tolerance and concern of the borrower, who can give consolation in the form of money to the creditor when paying off his debt as a sign of appreciation to the creditor for providing help to him in a desperate situation (Aderemi & Ishak, 2023). Qard hasan has a general meaning, which is intended to spend wealth in the way of God and give charity to the poor and needy. In addition, in its special meaning, it aims to owe according to Sharia principles, which are free from interest and far from increase and harm (Abdullah, 2015).

Although qard hasan is an instrument based on virtue and strongly encouraged by Islam, there is a polemic regarding the legal status of microcredit-qard hasan financing through zakat funds whether it is allowed or otherwise by Sharia. Furthermore, when this instrument is newly put into practice that was not exemplified by the Islamic community in the past, doubts regarding its legal status from a Sharia point of view will be inevitable. Thus, this study will discuss the legal status of micro credit-qard hasan financing through zakat fund (MCZF) according to the views of Islamic contemporary scholars.

METHODOLOGY

This study used a qualitative approach involving a literature review of relevant books and journals. Then, the researcher identified the views of the jurists regarding the status of micro credit- qard hasan financing through zakat fund (MCZF). The data obtained was analysed using the content analysis method by identifying, filtering, interpreting, and dividing the data into the legal categories of micro credit-qard hasan financing through zakat fund (MCZF) and its arguments (Lebar, 2018).

RESULT AND DISCUSSION

Based on the discussion of the scholars regarding the legal status of MCZF from the Sharia point of view, it was found that many scholars approve the scheme. Among them are Abū

Zahrah, Khallāf, Ḥasan (al-Qaraḍāwī, 1977), al-Ḥaydar Ābādī (2003), al-Mawdūdī, Abū Ghuddah (Ṣalāḥuddīn, 2014), al-Zuḥaylī (2011), al-Baʻlī (2003), ʻAbd al-Laṭīf Mashhūr (1993), al-ʻĀnī (1999), Al-ʻAjmī (2009) and al-Qaraḍāwī (1977).

Al-Qaraḍāwī (1977) stated that in the chapter on zakat, the evidence of qiyas and maqasid Sharia allows giving qarḍ (debt) to those who wish from the asnaf gharimin section. Therefore, it is possible to establish a special fund from the zakat fund, where it can help fight against riba and practically eliminate the interest of riba through the zakat fund.

The official institution that applies and implements the MCZF scheme consists of the state of Kuwait through its zakat institution, called Bayt al-Zakāh. IFA-OIC Resolution no. 15 (3/3) at the third symposium by Bayt al-Zakāh states that the application of zakat distribution through qard hasan is permitted by Sharia (Mikail et al. 2014). In addition, the decision by the Indonesian Ulama Council (MUI) at the 7th Indonesian Fatwa Commission's Ijtima Ulama in 2021 about zakat in the form of qard hasan states that the law allows such a method based on more comprehensive benefits (Indonesian Ulama Council [MUI], 2021).

In addition, Algeria is one of the countries that enable the MCZF scheme distribution method through its zakat institution called Ṣundūq al-Zakāh. Qarḍ ḥasan in Algeria utilises zakat wealth from zakat payers across the country as a subsidy to help the deserving borrowers (Mohammed & Mohammed, 2006). Sudan also issued a new zakat law by placing maqasid al-sharia in zakat distribution. This allows zakat funds to be given priority to the poor and needy, as well as enabling microfinancing to be implemented comprehensively (Muhammad, 2011).

Meanwhile in Malaysia, it was found that the Selangor State Syara' Legal Consultative Committee through its fatwa in 1998, had decided that Sharia permits the qard hasan method of zakat distribution. It has been agreed with the acceptance of the renewal of the implementation of capital distribution through the concept of repaying half of the allocation of capital distribution in the Poor and Muallaf Trust Fund (DAM) (Muhd Adnan et al., 2021).

The Malacca Fatwa Committee in 2011 allowed the MCZF scheme conditionally. According to the Committee, the qard hasan business loan assistance scheme from asnaf ghārimīn can be opened to anyone regardless of the applicant's income, as long as the business conducted does not conflict with Sharia law. However, due to limited zakat funds, zakat administrators need to set certain conditions in granting business loans based on the awlawīyah (priority) method. This is to ensure that zakat money can be distributed fairly to all entitled asnaf. Therefore, they suggest that this method is only suitable for applicants who meet two requirements, namely i) applicants who want to start a business and ii) applicants who are unable to obtain a loan from any financial institution based on Sharia (Muhd Adnan et al., 2021).

Arguments underlying the MCZF scheme

1. Distribution of zakat by working capital

The purpose of zakat distribution is to improve the lives of zakat recipients in various aspects such as spirituality, society, education, and economy. In the economic context, the distribution of zakat can be achieved by implementing productive zakat. Productive zakat can be implemented by providing working capital in the form of microfinancing, which can be given in several forms, one of which is through qard hasan. This microfinancing helps build the ability of asnaf zakat to start and develop small businesses that can advance their economy (Muhd Adnan et al., 2021).

Al-Zarqā (1989) and al-Qaraḍāwī (1977) support the use of zakat funds for microfinancing. To implement this method, a special fund needs to be established to provide microfinancing to asnaf zakat, where one of its uses is to pay off debts and give loans to them.

This view of zakat distribution through microfinancing is based on the opinion of al-Nawawī (1996), who specifically explains the concept of working capital from zakat funds as follows. First, working capital can be provided in the form of cash or equipment that suits their respective skills. For example, carpentry tools are provided to carpenters and business capital is provided to traders or merchants. Second, the amount of business capital is distributed according to the business field engaged in. Vegetable and fruit traders, for example, are given as much as five to 20 dinars, perfume dealers were given 1000 dinars, clothing sellers were given 2000 dinars, money changers were given 5000 dinars, and diamond businesses were given 10,000 dinars.

2. Qiyās awlawī

Scholars also use the qiyās awlawī method approach in allowing the use of zakat for microfinancing. Qiyās awlawī refers to the 'illah (motive or cause) against a certain furu' (branches) law stronger than the 'illah of the original law (Muda & Mat Zin 1997). In this context, the use of zakat to pay the debts of asnaf ghārimīn is an original law, while the use of zakat in the form of qard hasan is a furu' law. Therefore, if zakat funds can be used to pay the debt of asnaf ghārimīn, then the use of zakat funds in the form of qard hasan, which is free from the element of riba and returned to Baitulmal is more important (al-Qaraḍāwī, 2002).

This qiyās awlawī approach is also applied by the Islamic scholars in some issues related to zakat. Among the problems is the government's right to distribute zakat property as benefits to asnaf without permanent property ownership (Muhd Adnan et al., 2021). In addition, the actions of Muaz bin Jabal r.a when he was sent to be an amil in Yemen, he took zakat fitrah which was paid in forms other than staple or basic food on the basis in which it could provide more significant benefits to the asnaf faqir (al-Shirbīnī, 1994). Through this qiyās awlawī approach, the party who is obliged to issue a goat as a deduction of zakat for an example, but if he does not find it, then he is required to issue something of equal value (qimah) to it without having to go to the trouble of finding a goat in another place. Likewise, for the asnaf if something is seen that is more beneficial to be accepted as meeting the needs of life other than staple food, then it is required for the zakat to be given in other form such as money, where its use is more extensive (Muhd Adnan et al., 2021).

In addition, Islamic scholars discuss that the government is allowed to distribute zakat to some asnaf faqir based on their need and not give it to other asnaf who do not need the zakat (Ṣalāḥuddīn, 2014). The Shafi'i School states the opposite in which the distribution of zakat must include all asnaf(s) without exception. Nevertheless, most scholars allow it and it is also fatwa by some scholars of the Shafi'i school such as Ibn ʻUjayl (Baʻlawī, n.d.).

This method is also used by Islamic scholars in the issue of allowing the government to tasarruf (manage) zakat property through buying and selling activities, investments, and the like due to the existence of needs that are at the level of darurah or hajah. This is based on the view in the Shafi'i school, which states that the Sharia gives permission to the government to manage zakat wealth based on the maslahah of the poor and needy. Therefore, it is allowed to provide assets to asnaf faqir so that they can take advantage of the rent from them. Shafi'i school also allows the government to buy weapons for the soldiers on the battlefield under the provisions of asnaf fi sabilillah or the weapons that are made into waqf property, which are used by the soldiers and then returned after the battle (al-Nawawī, 1991). Al-Nawawī (1991) is also of the view that the government or zakat collectors can sell zakat property due to emergencies such as fear of destruction of zakat property, danger in the middle of the road, and the need for the cost of transferring zakat property. This shows that the actions of the authorities, especially the government in matters of zakat distribution also depend on the current or local maslahah.

3. Sustainability of Zakat Fund

Microfinancing can be provided through qard hasan, musharakah, or mudarabah. With this approach, the goal of zakat management in Baitul Mal Aceh in changing a person's status from a zakat recipient to a zakat payer can be achieved. The distribution of productive zakat through microfinancing is one of the effective methods of shifting a person's status (Muhd Adnan, 2015).

In addition, following the discussion of IFA-OIC resolution no. 15 (3/3) by Bayt al-Zakāh al-Kuwaytī at the third symposium, applying zakat distribution through microfinancing is aligned with Sharia. This is due to the actions of the Prophet Muhammad PBUH when camels, cows and goats collected zakat, it was not distributed directly to the asnaf. At that time, only camel milk was given to asnaf. Similarly, when the issue of a group of immigrants from Uraynah who were allowed to drink zakat camel milk, they killed the camel's owner and robbed all the zakat camels. Then, the Prophet ordered that they be arrested. The argument is that the milk produced from zakat animals collected and kept is considered one of the results or returns from investment. Suppose the zakat assets are allowed to be invested and exposed to loss and risk such as the issue of zakat camels that were robbed earlier, therefore, the allocation of zakat for the use of asnaf through microfinancing, not to mention if it is controlled, has protection. In that case, it is more appropriate to allow its implementation (Mikail et al., 2014).

Shaḥātah (1994) suggested that interest-free microfinancing be given to those in need in certain circumstances such as emergencies, natural disasters, health problems, and high surgical costs. He also said interest-free microfinancing implemented based on Sharia requirements should be developed and given to bankrupt people. The next idea is to look at the probability of cross-referencing with Islamic financial products and takaful, which can be studied in detail and seen to be reasonable regarding the sustainability of zakat wealth and its use in a more effective and widespread form.

4. Qard hasan in zakat distribution is a matter of ijtihadi

The scholars have discussed in detail the recipients of zakat based on the signs found in the verses of the Quran and hadith. Among the issues discussed is the extent to which the recipients of zakat funds have ownership and the freedom to use the property is a condition for the distribution of zakat funds. Tamlīk (ownership) requirements as required by most scholars are still within the scope of ijtihad and not a matter of consensus. In fact, some scholars such as al-Shawkānī (2004) opined that tamlīk is not required for zakat property if there is a need.

Muhd Adnan (2015) in his study discusses the law that zakat funds that must be given in the form of microcredit financing based on the understanding of the Arabic language on the verses of Surah al-Tawbah. The difference is in the sentence’s letters li (for) and fi (at). Abd Khafidz (2006) also discussed that the letter li at the beginning of the words faqir, miskin, amil, and mualaf means belonging or the rights of that group. Meanwhile, the letter fi is placed at the beginning of the word enslaved people who want to be free, people who are in debt, people who fight in the path of Allah SWT, and people who travel to explain freedom to those groups using the distribution of zakat wealth based on their needs.

According to Abd Khafidz (2006), the use of the letter li is derived from the letter lam, which is categorised as the letter lām al-idafah, in which the letter lam carries the meaning of ownership of something by its owner or based on something that can be owned by the person who has the right to hold it.

Among the types of lām al-iḍāfah is lām al-milkī, which is ownership, and lām al-tamlīk, which refers to the transfer of ownership. Therefore, Allah SWT states that ownership of zakat property is the absolute right of the faqir, poor, amil, and converts. The use of the letter fī also belongs to the letter jar, which is a word that does not show any meaning when standing alone. It will give meaning if it is placed with other words in the order of the sentence. Most scholars state that the use of fī in the distribution of zakat to slaves, people in debt, fī sabīlillāh, and ibn sabīl is related to benefits, and they have absolutely no personal rights to the property.

The sustainability of ownership of zakat property to the faqir, poor, amil, and converts should have an effective distribution method to impact the social, economic, spiritual, and educational sectors of the asnaf group (Tarimin, 2005). Therefore, the use of the letter li at the beginning of the word fuqarā’ gives the meaning of the ownership of zakat property to this group (Ibn al-‘Arabī, 1974). In the economic field, one of the methods that can be used is the distribution of zakat through the productive zakat method (Hamat, 2010).

Shaḥātah (t.t.) said that the scholars of Islamic economics attach importance on the distribution of zakat to the right group, namely the faqir and those afflicted with poverty so that the distribution does not result in loss and waste. The distribution is to improve the standard of living of the asnaf group, especially the faqir and poor. Those groups can be given zakat property as initial capital in engaging in economic activities.

This distribution is in line with the method stated by al-Qaraḍāwī (2002), which is that the obligation of zakat by Allah SWT is to strengthen the religion of Islam. This is because, by distributing zakat to the poor and needy, they can meet their basic physical and mental needs, which cover food, drink, clothing, shelter and marriage for the first, and knowledge related to entrepreneurship for the latter, so that they can be directly involved in economic activities.

In short, every time a new matter arises that has no text in the Qur'an and hadith, the scholars will do ijtihad (Zaydān, 1999). Thus, microcredit is an important element that can be included in the field of zakat. This is as emphasised by Musa Basyah (2009), the Head of the Baitul Mal Aceh, that is, the scholars need to ijtihad to decide the law of microcredit from zakat funds as per the opinion of al-Qaraḍāwī (2002) and al-Zarqā (1987). They argue that zakat is not necessarily distributed in the form of ʻaqd al-tamlīk, rather it must be adapted to current and local conditions. The basis used by scholars in determining this mechanism is maqāṣid al-sharia. It can be implemented based on the principle of microfinancing through the zakat fund that benefits the local community.

Al-Qaradāghī (2013) stated that among the methods that can be implemented in fulfilling the criteria of tamlīk is to give asnaf that is included in the category under the ownership distribution rights in the form of cash or purchased work aids and enterprises. It is also required to be given ownership in the form of business shares managed by the asnaf as their income.

Ibn Taymīyah (n.d.) states that giving zakat property to some of the asnaf groups is obligatory. Among the asnaf that are not necessary for tamlīk are riqāb, ghārimīn and fī sabīlllāh. In addition to the asnaf, including the poor and needy, it is obligatory to give zakat wealth to them during the distribution of zakat funds. They argue with the same verse because the letter lām tamlīk focuses only on the first four asnaf(s), namely faqir, poor, amil, and converts.

According to the Maliki school, the interpretation of the letter lām here is not for tamlīk, but instead explains the distribution of the asnaf group. This is because if the letter lām is not interpreted in such a way, the allocation to the eight asnaf(s) is obligatory, while it is not an accurate opinion. Al-Mardāwī (1956) states that the letter lām in verse 60 of surah al-Tawbah is lām al-ṣarf (explaining distribution), instead of the letter lām meaning tamlīk. Therefore, he made ijtihad that it is not obligatory to distribute zakat to all eight asnaf(s). On the other hand, if it is given to only one asnaf, it is sufficient.

In conclusion, based on the discussion above, full ownership and freedom of zakat funds are given to the first four groups, including fakir, poor, amil, and converts. This ownership is individual, that is, those who are included in these four groups have the right to receive the distribution of zakat. This is because the letter lam found in the verse means lam al-tamlik, which is ownership. As for the last four groups, i.e. riqāb, ghārimīn, fī sabīlillāh and ibn sabīl do not have individual ownership and complete freedom over zakat funds due to the verse changing from lām tamlīk to the letter fī al-ẓarfīyah, which means zakat funds are distributed to them because there is some relatable maṣlaḥah including general issue, social, or national needs (ʻAlī Riḍā, 1990).

Therefore, the ownership of asnaf through microcredit financing is also seen to fulfil the tamlīk concept according to the views of scholars who allow this financing. This is because throughout the acceptance, the asnaf is eligible to use and own all the benefits and results from the financing, even if it is temporary.

5. Maqasid al-sharia

The method of distributing zakat funds by qard hasan is in line with the maqasid al-sharia approach. This approach answered the argument of the scholars who do not allow this method on the claim that zakat is an act of ta`abbudī worship. However, Sharia is not only ta`abbudīyah as expressed by al-Qaraḍāwī (1990), that is, part of Sharia law has 'illah that can be understood by the human mind as stated by ʻAbd al-Salām (1991). He stated that the things prescribed by Allah SWT are divided into two. First, it does not matter whether it causes maṣlaḥah or rejects mafsadah (harm), it is a thing that brings maṣlaḥah and at the same time removes mafsadah, or it brings maṣlaḥah and at the same time removes maṣlaḥah. where it is called maʻqūl al-maʻná.

Second, things that are not clear cause maṣlaḥah or reject mafsadah, where they are included in taʻabbudī matters. In the matter of ta'abbudī, there is an element of obedience: something whose wisdom and 'illah is not known. Therefore, a person who does something can intend to produce wisdom and benefits if the ʻillah and wisdom are known. In other words, the person who performs a certain act of worship, does it with the aim of worshiping and obeying Allah SWT without knowing the wisdom and 'illah (`Abd al-Salām, t.t).

In the context of zakat, although it is considered as worship, but it is included in the type of worship that has 'illah and a clear objective, which is named by some scholars as al-maslahi. This was also confirmed by ʻAbd al-Salām (t.t.), who stated that worship can be grouped into two types. The first type is obedience worship, which provides benefits in the afterlife, such as fasting, prayer, hajj, and iktiqaf. While the second type is obedience worship that provides benefits in the afterlife for those who do it, and benefits in this world for those who receive or benefit from it, such as zakat, almsgiving, qurban, gifts, waqf, and friendship.

According to al-Qarāfī (1994), the Sharia of charity contains maṣlaḥah whose benefits can be understood. Therefore, zakat has a clear purpose and wisdom for asnaf and zakat receivers, and it is a worship termed as ma 'qulat al-ma 'na and ʻibādah mālīyah.

There are two primary maqāṣid recipients of zakat as stated by al-Saʻdī (2002). First, the group that is given zakat because of hajah (need) and benefits from it such as fakir, the poor and the like. Second, the group that is given zakat because they need it and also for Islamic affairs. Therefore, Allah SWT makes zakat obligatory on the part of the wealth of the rich to meet the specific and general needs of Islamic affairs and Muslim people. This view shows that there are two main purposes of zakat from the receiving group's perspectives that lie upon their needs and because Islam needs them. This is expressed in some modern scholars such as al-Ghufaylī (2008), which examples of the vital maqāṣid of zakat are muwāsaṭu al-faqīr (sympathy for the faqir) and sadd al-ḥājātih (meeting their needs).

This was also stated by al-Kāsānī (1986), that is, paying zakat is included in the chapter of helping the weak and helping those who are in need, in addition of empowering the weak and strengthening them to complete the demands imposed by Allah SWT such as performing worship, and zakat is one of the intermediaries to achieve the obligation.

In addition, al-Ghufaylī (2008) elaborates maqāṣid from the perspective of the recipient of zakat, that is zakat can realise social security and takaful ijtimāʻī. This shows that zakat is an institution that creates the concept of helping each other in society. The intended aid is to provide people with the necessities of life through food, clothing and shelter, freeing debtors from the shackles of debt, facilitating people's travel to their hometowns, freeing enslaved people, and so on.

Therefore, zakat is an effective intermediary to generate an attitude of helping each other and guaranteeing each other in society. The positive effect of zakat is determined when it can help to grow and develop one country's economy. This is because the property development of Muslims who pay zakat actually helps the community's economic development more quickly. The proof is that zakat prevents wealth from only hovering among the rich. Among the purposes of zakat that Sharia wants to achieve is to give all individuals property chance to fulfil their needs. When each individual can obtain goods or services, it will encourage more advanced economic activities that benefit the society as a whole.

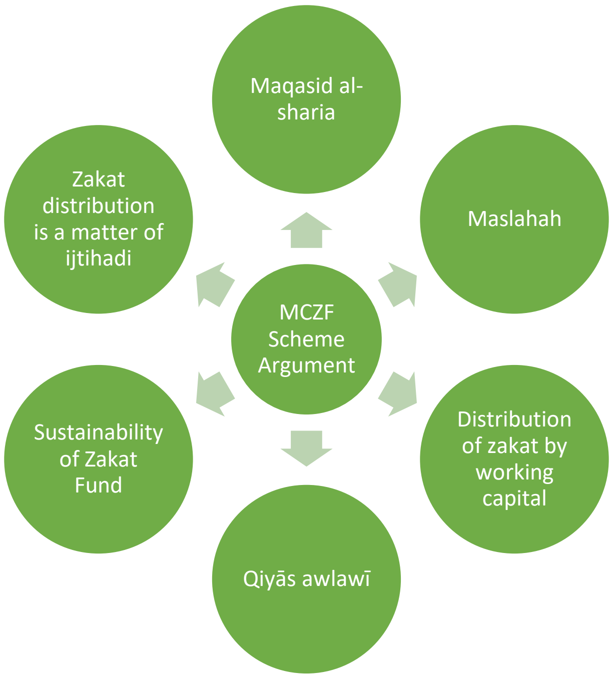
6. Maṣlaḥah in the implementation of qard hasan

The laws of zakat show that some statutes are decided based on maqāṣid and maṣlaḥah even if they contradict the original law. Among them is transferring zakat to foreign countries of zakat payers. The original law in the matter is that zakat must be issued in the state of the payer or the state where the property is located. However, scholars allow transferring zakat to another state (not the paying state) if there is maṣlaḥah (Muhd Adnan et al., 2021).

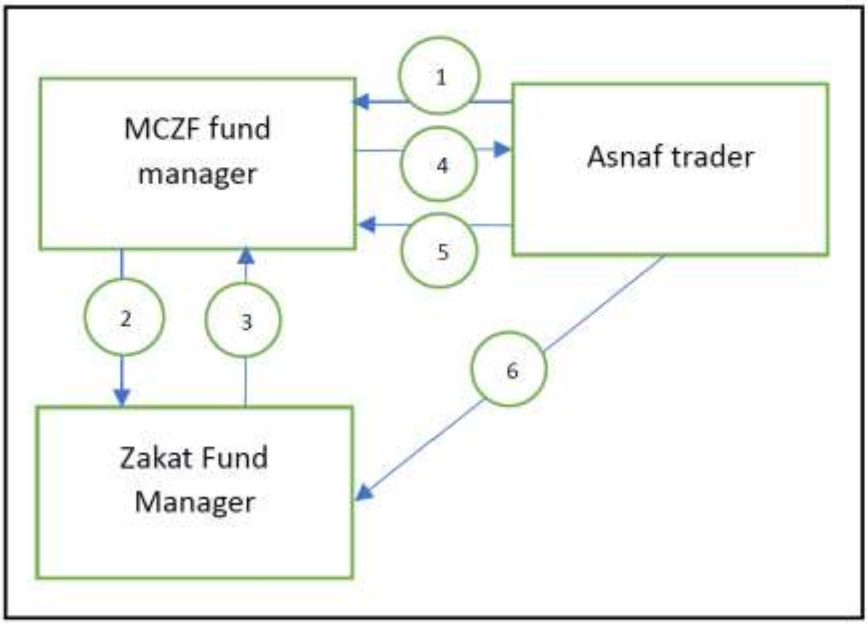
Next is the problem of delaying the payment of zakat. The original law of zakat should be issued immediately when the hawl is sufficient. Nevertheless, some scholars allow delay in issuing zakat because there is an element of maṣlaḥah such as helping someone who is more in need or wanting to help poor relatives. Another example is that it is allowed to issue value in zakat fitrah when there is maṣlaḥah (Ibn Taymīyah, t.t). Therefore, the scholars viewed that there is a necessity when there is maṣlaḥah in giving zakat funds in the form of qarḍ ḥasan to asnaf in this issue. This is because, the views of scholars that allow qarḍ ḥasan from zakat funds are based on the arguments of maqāṣid al-sharia and maṣlaḥah. For example, al-Qaraḍāwī (1973) when making a description of asnaf ghārimīn based on the arguments of qiyas and maqāṣid al-sharia, he identified that it is permissible to give qarḍ hasan from the zakat fund to those in need from the asnaf ghārimīn section by establishing a special fund. Thus, zakat can contribute practically to curbing usury.

The concept of establishing the special fund comes from the collected zakat fund. This fund will be given to the poor and needy in the form of qarḍ ḥasan for them to use for specific purposes. Once they have finished using the fund, the money will be returned and put back into the special fund when they can afford it. This fund can be used again to help other asnaf for the same purpose. Therefore, it is determined that the benefits of this fund are not only focused on a few individuals, but can involve a larger amount in the future. Al-Qaraḍāwī (1990) narrates that Umar al-Khattab r.a. once stopped the distribution of land as ghanīmah property by the Islamic army because he saw that the practice could have a harmful effect even though in the original law, ghanīmah property was allocated among those who were involved in a war. The second Caliph of the Rashidun Caliphate believed that the distribution would cause the children of the controlled enemy to be in poverty after their property was taken. In short, the arguments that require the MCZF scheme can be summarised as in figure 1 below.

Figure 1: Arguments underlying the MCZF scheme



The concept of MCZF can be understood in figure 2 below.



1. Asnaf traders apply for microcredit financing from the MCZF fund manager.
2. After the MCZF fund manager checks the qualifications of the asnaf trader, the MCZF fund manager will apply for zakat funds from the zakat fund manager.
3. The zakat fund manager will provide funds to the MCZF fund manager based on the applicant's qualifications.
4. MCZF fund manager provides microfinancing funds along with contracts to asnaf traders.
5. Asnaf traders pay back the microfinancing in the MCZF fund in installments within a predetermined period.
6. After the asnaf trader has finished paying the loan and the business has progressed, the asnaf trader becomes a muzakki by becoming a zakat payer.

CONCLUSION

The concept of qard hasan is a unique instrument in Islamic economics that emphasises welfare aspects in its implementation. Despites its credibility as a good financing mechanism, there is also a polemic regarding the legal status of microcredit-qarḍ ḥasan financing through zakat funds whether it is allowed or otherwise. Furthermore, if this instrument is new and not practised by the Muslim community in the past, then doubts about its legal status from the Sharia perspective become inevitable. Thus, this study explores the legal status of micro credit-qarḍ ḥasan financing through zakat fund (MCZF) according to the views of contemporary scholars. Based on the findings of the study, it is shown that contemporary scholars allow the MCZF scheme based on arguments that include the permissible distribution of zakat based on working capital, the qiyās awlawī approach, and the breadth of ijtihad in zakat, in line with the demands of maqasid al-sharia, and maslahah. Therefore, the MCZF scheme from the point of view of its Sharia compliance is undisputed.

ACKNOWLEDGEMENT
This research was supported by Ministry of Higher Education (MoHE) of Malaysia through Fundamental Research Grant Scheme (Ref: Ref: FRGS/1/2022/SSI13/KUIPS/02/1). The authors also thank the management of Kolej Universiti Islam Perlis for supporting the research work.

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