

# **Maqasid al-Shari'ah as A Method of Renewing Islamic Law in the Fatwa of Majelis Tarjih Muhammadiyah: Analytical Study of Bank Interest Law in Indonesia**

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**Abstract.** *This research aims to investigate Muhammadiyah's stance on bank interest as manifested through three legal fatwas issued during the Tarjih and Tajdid sessions. The first fatwa in 1968 declared interest as mutasyabihat. The second fatwa in 2006 concluded that interest is riba because it constitutes an addition to the principal capital lent. It was reinforced by Quranic principles, emphasizing the binding nature and agreed-upon additional terms. The third fatwa 2010 solidified the anti-interest stance. This study delves deeply into the fatwas and secondary sources using maqasid al-Shari'ah as the main criterion. The fatwa emphasizes the obligation to realize the welfare of society within the bounds of Islamic law. The fatwa's gradual and uncomplicated implementation underscores its moral imperative, requiring public awareness and understanding to collectively eliminate the practice of bank interest. Ultimately, Muhammadiyah's fatwa aims to align with the maqasid al-Shari'ah, promoting societal well-being while recognizing the importance of individual and communal understanding.*

**Keywords:** *Fatwa of the Muhammadiyah Tarjih Council; Bank Interest Law; Maqashid al-Shari'ah*

**Abstrak.** *Penelitian ini bertujuan untuk mengeksplorasi sikap Muhammadiyah terhadap bunga bank yang tertuang dalam tiga fatwa hukum yang dikeluarkan pada sidang Tarjih dan Tajdid. Fatwa pertama pada tahun 1968 menyatakan bunga sebagai mutasyabihat. Fatwa kedua tahun 2006 menyimpulkan bahwa bunga adalah riba karena merupakan penambah modal pokok yang dipinjamkan. Keputusan ini diperkuat dengan prinsip-prinsip Al-Quran yang menekankan sifat mengikat dan syarat-syarat tambahan yang disepakati. Fatwa ketiga tahun 2010 memantapkan sikap anti-bunga. Studi ini menggali secara mendalam fatwa-fatwa dan sumber-sumber sekunder, dengan menggunakan maqasid al-Shari'ah sebagai kerangka utama. Fatwa tersebut menekankan pada kewajiban mewujudkan kesejahteraan masyarakat dalam batas-batas hukum Islam. Penerapan fatwa ini secara bertahap dan tidak rumit menggarisbawahi keharusan moralnya, yang membutuhkan kesadaran dan pemahaman masyarakat untuk bersama-sama menghilangkan praktik bunga bank. Pada akhirnya, fatwa Muhammadiyah bertujuan untuk menyelaraskan dengan maqasid al-Shari'ah, memajukan kesejahteraan masyarakat sambil mengakui pentingnya pemahaman individu dan komunal.*

**Kata kunci:** *Fatwa Majelis Tarjih Muhammadiyah; Hukum Bunga Bank; Maqashid al-Shari'ah*

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## Introduction

The conventional and Islamic economic systems have been highlighted by experts for their lack of attention to equality, fairness, humanity, and religious values in their structures (Amalia dan Hidayah 2020). The interest-based (riba) system serves as a major obstacle to achieving equitable justice. Justice is impossible without eliminating interest, promoting an interest-free economic system, and prioritizing moral values and common interests ( Kalsum 2014).

By definition, bank interest is the compensation for the loan of money or goods paid by the debtor to the creditor (H. Malayu S.P. Hasibuan 1997). Some argue that the rate of interest is the cost of using money or can also be seen as the rent for the use of money for a specific period (H. Malayu S.P. Hasibuan 1997). According to Hisam Ahyani et al. (2020), in their study, it is stated that, savings interest and loan interest are the main components of financing and income for banks (Ahyani et al. 2020). Interest on savings is a cost for customers, while interest on loans is income for customers. The difference between the two, after subtracting the interest on savings, becomes the profit or gain for the bank (Muslich, 2010).

In his study, Kamto (2022), found that Scholars differ in their interpretations of the Quranic verse in al-Baqarah 2:279. This verse emphasizes that the only thing they are entitled to receive back from the wealth they have earned is their original capital. Therefore, the keywords in this verse establish that any form of increase or excess, whether compounded or not, has been prohibited by the Quran with the revelation of this verse (al-Bukari, 1987). This opinion is explained by Sandi Saputra and Selviani (2021) in their research that; This is the opinion held and considered valid by the Indonesian Ulama Council (Majelis Ulama Indonesia). The decision of the Indonesian Ulama Council states, "Interest (faidah) is an additional charge in money lending transactions (al-Qard) that is calculated from the principal loan amount without considering the utilization or the yield of the principal. It is based on a specified period, calculated in advance, and generally based on a percentage" (Saputra and Selviani 2021). Therefore, Gytha Nurhana Dhea Pradha Gitama et al. (2022), in their research, states that any loan accompanied by an additional amount is considered interest, and interest is deemed usury, which is prohibited by Islamic law (Gitama et al 2022).

Muhammadiyah, through the Decisions of the *Tarjih* Council in 1968, 1972, 1976, and 1989, explicitly failed to declare the prohibition of bank interest. Although it stated that usurious banks were forbidden, interest from state-owned banks was considered *musytabihat* (uncertain), and its halal or haram status was not

clearly defined according to the views of the council, (Wijaya 2019). Based on the results of the Commission VI meeting, Muhammadiyah officially issued a fatwa on Saturday, April 3, 2010, declaring the prohibition of bank interest. This decision was made during the 27th National Deliberation and Renewal Assembly (Musyawarah Nasional 27<sup>th</sup> *Tarjih* dan Tajdid Muhammadiyah) at the Muhammadiyah University of Malang (UMM). It's worth noting that a similar fatwa had already been decided at the Muhammadiyah National Deliberation in 2006.

The fatwa on bank interest by the *Majlis Tarjih* Muhammadiyah was updated due to the consensus considerations of the *Tarjih* forum, which aligns with the concept of *Maqasid shari'ah* (objectives of Islamic law). Previously, in 1986, bank interest was considered *mutshabbihat* (uncertain in terms of halal-haram). However, in 2006 and 2010, the fatwa changed to declare it as haram, in line with the prohibition of *riba* (usuri) (Kamto 2022). This shift in the fatwa reflects a more aligned view with Islamic principles and a better understanding of the concept of *Maqasid al-Shari'ah* (Muzalifah, 2020). According to the perspective you've mentioned, the function of banks in the modern economy is not only as a source of income for the banks themselves but also as a tool for a country's economic policy to promote the well-being of its people and stabilize the economy. This perspective likely emphasizes the role of banks in not only generating profits but also contributing to the economic and social welfare of the nation. Additionally, the existence of relevant legislation may have played a role in shaping this viewpoint. (Fatwa Majelis *Tarjih* Dan Tajdid Pimpinan Pusat Muhammadiyah 2006). Therefore, currently, bank interest is more harmful than beneficial.

Based on the above issue, this research intends to examine the arguments for the renewal of the legal fatwa on bank interest within the Muhammadiyah *Tarjih* Assembly. After that, the author will analyze the renewal of the legal fatwa within the Muhammadiyah *Tarjih* Assembly, both those that prohibit and permit, as well as those that consider bank interest a matter of doubt (*syubhat*). Among these fatwas, which one is the most relevant to the primary objectives of Islamic Sharia (*maqashid syari'ah*) falling under the five necessities (al-Daruriyyah al-Khams) or the fundamental goals of Islamic law, to promote the benefit and prevent harm.

## Methods

In writing this article, the author uses qualitative research methods where which can be used as the basis for study material rather than various aspects of scientific disciplines such as sharia, socio-cultural, economic, and others. Qualitative

research is to build knowledge through finding and understanding situations, both textually and contextually. In addition, qualitative investigations use a naturalistic approach to seek and understand phenomena in a typical contextual setting. According to Denzin and Lincoln, qualitative research is an investigation that uses a natural setting, which is to interpret phenomena that apply and are carried out by involving various existing methods (Moleong, 2005). Qualitative research aims to examine a phenomenon and social phenomena that arise from the causes of a case that is included in the values and norms of society, even problems can occur during people's lives.

## **Results and Discussion**

### **Majlis *Tarjih* as a forum for Muhammadiyah Islamic legal products**

On 8 Dhulhijjah 1330 H or November 18, 1912, AD, Muhammadiyah was born as a modern Islamic movement in Indonesia (Hidayat 2011) Kyai Haji (KH) Ahmad Dahlan was the founder of Muhammadiyah. He coined the organization's name to align with Prophet Muhammad, emphasizing followership and recognition (Mukhaer Pakkanna dan Nur Achmad 2005). Muhammadiyah, an Islamic renewal organization, faces challenges due to complex societal issues. It's grown into one of Indonesia's largest organizations, expanding internationally (Hidayatullah, 2010). According to James L. Peacock, Muhammadiyah organization is the strongest reform movement in Indonesia and even among Muslims in Southeast Asia and perhaps in the entire Islamic world (Hidayatullah 2010). In addition, Muhammadiyah has a wide range of services such as schools, hospitals, orphanages, etc (Hidayatullah, 2010). Muhammadiyah, a religious movement, adopts a socio-cultural perspective to respond to diverse developments, notably religious diversity in Indonesia. The organization is motivated to generate thoughts and studies, shaping its Islamic thought manhaj through the concept of *Tajdid wa iftikar*. This involves a structured renewal program grounded in historical motivation and application in society (Abdullah 210). Muhammadiyah hopes that Islam will become *rahmatan lil alamin* and Islamic ideas are ready to accept involvement from all levels of society, whether Muslim or non-Muslim Darsitun, (Darsitun, 2020).

In 1927, the *Tarjih* and *Tajdid* Councils were established following the XVI Muhammadiyah Congress, proposed by KH. Mas Mansyur to purify Islamic worship from non-Qur'anic and hadith-based practices influenced by local cultures. The *Lajnah Tarjih* institution addressed community issues, emphasizing the ongoing

openness of *ijtihad*. In 1928, the Yogyakarta Muhammadiyah Congress deliberated on the commission's earlier formulation

According to Syamsul Anwar, Chairman of the PP Muhammadiyah *Tarjih* Council, the Muhammadiyah *Tarjih* Council has changed. The volume of the organization was getting bigger and the tasks carried out by the central leadership continued to increase so that differentiation was needed, meaning the division of tasks so that religious issues needed to be handled specifically, so in 1927 it was decided that a decision was made to establish an assembly, a part of Muhammadiyah that specifically handles religious issues. -Religious issues which are named the *Tarjih* Council. so the *Tarjih* and *Tajdid* Council from 1995 to 2005 was named *Majlis Tarjih* and the Development of Islamic Thought.

In early 1928 the *Tarjih* Council was formed but it was only a decision. It was debated whether the year of the establishment was 1927 or 1928. From the results of the debate, it was determined that the *Tarjih* Council was founded in 1927, but the organization and its rules were formed in 1928. So, from the beginning, the *Tarjih* Council carried out the works and fields studied in the form of faith, and worship issues, then developed into social problems outside of worship, and *aqidah* and worship.

Syamsul Anwar, Personal interview (March 11, 2022).

*“After discussion, the forum accepted and ratified the Qaidah Tarjih and the structure of the Tarjih Council. The Tarjih Assembly consists of KH. Mas Mansur as chairman, RKH Haddid as deputy chairman, KH Aslam Zainuddin and KH Jazari Hisyam as secretary and deputy secretary, and members including KH Ahmad Badawi, KH Hanad, KH Washil and KH Fadhil (Pusat Tarjih. tt.h.). It was not until 1929 that the Tarjih Assembly began its first session at the 18th Muhammadiyah Congress in Solo (Niponingrat, 2020). The decisions that resulted in this trial included the guidance of 'Aqidul Iman, the guidance of prayer, and several issues that have become differences of opinion among scholars”.*

According to Syamsul Anwar, Muhammadiyah has two assemblies, namely the *Tarjih* Council and the Tablighi Assembly. The Tablighi Assembly is in charge of broadcasting Islam, while the *Tarjih* Council is in charge of conducting an assessment of the problem if there is a problem that needs to be answered.

The method of assessment in the *Tarjih* Assembly consists of 2 ways: *first*, by looking at what developments need to be responded to, then reviewing and bringing it to the *Tarjih* National Deliberation. The problem was discussed again

under a mature concept, then a decision was made so that it became *Tarjih's* decision (Anwar, Personal Interview, March 11, 2022).

In the *Tarjih* Council, there is a Special Fatwa Division that analyzes questions from the public. If the question is considered important, it will be discussed in the *Tarjih* Assembly, but not brought to Congress. The results of the analysis in answering this problem are referred to as fatwas. Since 1985 until now Muhammadiyah has published 8 volumes of *Fatwa* books.

The products of the *Tarjih* Council are 3 decisions from the results of the National deliberations, fatwas issued once a week which are then published in the Suara Muhammadiyah magazine or published in the form of books, and discourses. The discourse is also in the form of a book that we publish (Anwar, Personal Interview, March 11, 2022)

Manhaj *Tarjih* is a system consisting of four components that become the basis for *Tarjih* or making decisions about religious law consisting of 4 components that become *Tarjih* activities. The *tarjih* activity is broad, not only taking the law but responding to various social and humanitarian problems that arise and are seen from the point of view of the Islamic religion. These components include:

## Insights

Insight includes a point of view or perspective that produces several opinions in one religious understanding. In addition, there is *tajdid*, as our orientation in preaching, not affiliated with *madhhab* (studying all the opinions of ulama' means not being bound to one opinion), open (anyone can criticize), and tolerant (does not consider oneself always right).

## Source

Sources such as in Islam in general are in the form of texts and not texts. Not texts are like *qiyas*, *ijma'*, *Istislah*, and *istishab*, but the guidelines still return to *usul fiqh* books. Like the decision about whether it's legal to make a statute. Where there was a hadith at that time, a lecturer who teaches in the field of sculpture asked about the law to the *tarjih* assembly. Which is then discussed in the national deliberation. Among the arguments is the Shari'a of Prophet Sulaiman who has an army of humans and jinn. They made Prophet Solomon palaces and statues. The requirements of Shar'u man *qabalana* here must also be told by the Quran and al-Hadiht not taken from books of other religions.

Told here also can not be used as a law for us. We also respond to the destruction of statues by Prophet Ibrahim, so there is a debate between destroying and preserving the statue. Those are examples from nash and non-nash sources. There is also a fatwa of friends, among which the discussion is that the pilgrims who stop at the mosque then seek advice from the muqim. There is no hadith, but there is an 'amalus *shohabi* from Ibn Umar. We just require that the friend's *fatwa* does not stand alone, meaning that there are other supports such as hadith, even though the hadith is *da'if*.

For example, the hadith about Eid prayers in the field, because the Messenger of Allah never prayed Eid in the mosque, except when it was raining. This hadith is *da'if*, but this hadith is still used because there is an 'amalu al-Sahabi in which Umar also did the same thing, narrated by Imam al-Baihaqi. So the friend's fatwa in this hadith serves to strengthen it by having other support, even though the hadith is *da'if*.

In the case of praying outside, according to the Shafi'i *madzhab*, the Prophet interpreted it because the mosque did not fit. If the Hambali, Maliki, and Shafi'i schools interpret it as *syiar*, so if the Shafi'i *madzhab* prays in the mosque if we are in the field. The prayer in the field in Indonesia began in 1926. The first time was performed by Muhammadiyah in the Asri field. (Anwar, Personal Interview, March 11, 2022)

## Approach

The approaches used in Muhammadiyah are Bayani, Burhani, and 'Irfani.

## Technical procedures (methods).

The method is a technical procedure based on two main assumptions: hierarchical assumptions and integralist assumptions. In religious norms, there is an arrangement in the form of basic values, general principles, and concrete legal regulations (*al-Ahkam al-Far'iyah aw al-Furu*). Legal products must be covered by religious norms in the form of basic values, general principles, and concrete regulations.

These basic values are the universal teachings of Islam. Teachings about justice, equality, freedom, benefit, morality, and monotheism. For example, benefit, benefit is concretized, described in al-Asl al-Kulliyah, so the general principles consist of two. Al-Qawaid al-Fiqhiyah and al-Nazariyah al-Fiqhiyah. The basic values can be from the Quran and Hadith, such as justice can be from the

abstraction of the scholars by paying attention to the Koran, paying attention to the hadith, and then abstracting the basic value of *maslahah*. Where is the benefit in the Quran? Where is the benefit in the hadith? But it is accepted from the results of the abstraction of verses and hadith.

The basic value does not have to be from the Quran, there is even an abstract result. But if justice is stated in the Koran. And if there are similarities in the hadith, so this equation has a text. Although the text of this equation is *da'if*, it is abstracted. Some are taken from hadith such as *la darara wa la dirar*. This is the principle. And this principle is included in the rules of *fiqhiyah*.

What is the concretization in the rules of *fiqhiyah*? *al-Mashaqqah tajlib al-Taysir*, so for the benefit of people should be given convenience. From there, the *far'i* law came down. The *far'i* law is that the worship of the traveler is shorted, and fasting is replaced by another day, so that's where there is a hierarchy of norms. Then the *second* assumption is integralists, so it is not permissible in Ijtihad to take one verse directly in ijtiḥad. That's not allowed, so we collect everything thoroughly. That's the assumption of the method. Then the various methods. The various methods in *ushul fiqh* are the same, namely *bayani*, *tablili*, and *taufiqi*. Bayani is the object of the text. If *tablili* studies are illat, so there are two, *al-Taklil bi al-'Illah al-Qiyasiyah* and *al-Ta'lim bi al-'Illati al-Ghayah*, and then the synchronization of monotheism, so if there is a hadith and the Quran contradict each other then we synchronize (Anwar, Personal Interview, March 11, 2022).

The *Tarjih* council was born to respond to the socio-religious context of Muslims and the demands to unite Muslims in the Dutch East Indies. At that time, Muslims experienced symptoms of narrow thinking, excessive fanaticism towards certain sects, difficulty accepting differences, and even tended to be easy to disbelieve among fellow Muslims. The spirit of the birth of the *Tarjih* Council was to realize the unity of Muslims with different views, understandings, and schools of thought.

The *Tarjih* and *tajdid* Councils remain consistent in providing services to the community in the religious aspect. Starting from things that are ritualistic guidance such as *fiqh* worship, to the purification of faith. The *Tarjih* Council also plays an important role in providing creative interpretations of religion as a normative basis for community dynamics. The fatwa produced through the *Tarjih* assembly is not only in the field of religion in a narrow sense, but also in fields outside of religion such as disputes among Muslims, family planning, IVF, banks, and others.



The *Tarjih* Council is a jama'i (organizational) ijtihad institution within Muhammadiyah whose members consist of people who have *ushuliyah* and scientific competitions in their fields. Intellectual activities that are the task of the *Tarjih* Council are carried out by following a set of *manhaj Tarjih* guidelines (Suara Muhammadiyah, 2020). In *usul fiqh*, the levels of Ijtihad include absolute ijtihad (in ushul and branches), ijtihad in branches, ijtihad in schools, and *Tarjih* ijtihad (Anwar, 2012).

According to Syamsul Anwar, Chairman of the PP Muhammadiyah *Tarjih* Council, the task of the *Tarjih* Council is to study and discuss problems that occur among the people.

This *Tarjih* assembly does not carry out preaching duties, he conducts studies on problems, such as some questions that need to be answered. So, there are two ways to study it. *First*, by looking at what developments need to be responded to. Then it is studied and brought to the national *Tarjih* meeting. There, under a mature concept, it is discussed again and a decision is made so that it becomes a *Tarjih* decision. However, in daily life, there may be questions from the community that is not brought to congress, o in the *Tarjih* assembly, there is a special fatwa division. This fatwa is brewing questions from the public. Then if these questions are deemed necessary, they are discussed by the *Tarjih* assembly but are not brought to congress. This is called a fatwa. And our fatwas that have been published have been in 8 volumes written since 1985. The products of the *Tarjih* council are 3: decisions from the results of national deliberations, fatwas issued once a week and published in the Suara Muhammadiyah magazine. In addition, it is also published in the form of books and discourses. The discourse is also in the form of a book that we publish. (Anwar, Personal Interview, March 11, 2022).

This task of the *Tarjih* Council then influenced the change of the name of the *Tarjih* council in the development of its duties. The name Majelis *Tarjih* arrived in 1995. Starting in 1995 it was added to the development of Islamic thought. In 2005 it was shortened again to Majelis *Tarjih* and Tajlid. The inclusion of the word tajlid coincided with the official inclusion of the word tajlid in the articles of association of Muhammadiyah in Article 4 of 2005 officially including the word tajlid and the assembly was added to the *Tarjih* and tajlid assemblies. (Anwar, Personal Interview, March 11, 2022).

The name Majlis *Tarjih* changed its name to Majelis *Tarjih* and *Tajdid* as an adaptation to the existence of recitation. The name change adjusts the legal *Istinbat* of the *Tarjih* majlis, where every time there is an unproductive and rigid

law, it is necessary to have *tajdid al-Ahkam*. The Need for *maqasid* al-Shari'ah in Renewing Islamic Law in the Fatwa of Majelis Tarjih Muhammadiyah.

*Maqasid* al-Shari'ah is a scientific discipline that has an important role in human life that gives direction and purpose. Some *Maqasid* al-Sharia that can give birth to benefits are as follows: *first*, *Maqasid* al-Shari'ah can help find out the laws that are kully (general) and specific (special). *Second*, understanding the *nas syara'* correctly at the level of practice. *Third*, limiting the correct meaning of *lafadz* because texts related to law are very diverse (varied) and there are *lafzi* and meanings so *Maqasid* al-Shari'ah limits the meaning. *Fourth*, if a legal issue does not have any evidence from the Quran or hadith, then the mujtahids need to use *Maqasid* al-Shari'ah as the stipulation of Islamic law. *Fifth*, *maqashid* Shari'ah can help mujtahids in determining legal issues that are by current developments (Az Zuhaili 2007).

According to al-Qardawi, *Maqasid* al-Shari'ah aims as a target text and particular laws to be developed in human life every day (Yusuf al-Qardawi, 2007: p.17). There is a *Maqasid* al-Shari'ah which is used for individuals, families, congregations, and people as commands, prohibitions, and permissible. 'Izz al-Din ibn Abd al-Salam explained that *Maqasid* al-Shari'ah has the aim of maintaining the legal rules ordered by Allah SWT utilizing *tahqiq al-masalih* (realizing goodness) and *dar al-Mafasid* (rejecting damage) ('Abd al-Salam, 1998: Anwar Ajim Harahap, 2014). It is different with al-Shatibi, *maqashid* al-Shari'ah is a spirit for every practice and al-Dahlawi's view is that he knows *asrar* al-Din (religious secrets) as a true necessity (Mohd Rumaizuddin Ghazali, p. 16).

Al-Shatibi stated that the development of good Islamic law should realize *al-Daruriyat*, *al-Hajiyat*, and *al-Tahsiniyat maslahah*, and if these three requirements are not implemented, they will become a threat to the world and the hereafter (Sya'bani, 2015). Thus *Maqasid* al-Shari'ah is a form and a *matlamat* to maintain human welfare and create benefits to avoid damage to the world and the hereafter.

Muhammadiyah in principle is *tajdid* (renewal, Salafi, and thathwiri) meaning it is necessary to review past products to evaluate and clarify, even if it need to be corrected. The Muhammadiyah *Tarjih* council is aware of using its legal *istinbat* method which is quite strong (required or adequate) (Faisal Amri al-Azhari, 2021). The working guidelines of the *Tarjih* Council and the Development of Muhammadiyah Islamic Thought are generally grouped into two parts: the legal *ijtihad* and the Islamic thought development (Mubarok, 2022).

In 1935 an attempt was made to take the law to study *mabadi' al-Khamsah* (problem five). The effort to formulate the methodology, named *Manhaj Tarjih*, continues to be carried out from year to year and has captured the attention of Muhammadiyah scholars for a long time (Al Azhari. 2018). In 1985-1990 the formulation succeeded in establishing 16 main points of *Manhaj Tarjih* Muhammadiyah. The hope is that Muhammadiyah scholars have a clear and standardized framework for *istinbat* (Basyir, 2020). Although there has been a formulation, another problem still arises, namely the socialization of the methodology to all members of the organization, especially regarding the material of *mabadi' al-Khamsah* and the 16 points of *Manhaj Tarjih* Muhammadiyah because both of them still contain general provisions and are not detailed, and most of the members of the association are not familiar with scientific studies. classical/traditional Islam.

Based on *Tarjih* there are three procedures in *ijtihad*, namely: *First*, *Bayani*. It can be said as an attempt to interpret one verse of *zanni* with another verse. In the rules of the science of interpretation, this method is also called *tafsir bi al-Ma'thur*; interpret one verse to another. *Second*, *qiyasi*. *Qiyasi* is intended as an attempt to analogize a problem that has no law to a problem that already has a law because of the equality of Allah. *Third*, *istislahi*. This method is based on the concept of *maslahah* in any law in Islam. *Istislahi* is carried out for a case that is not at all contained in the texts, either *qath'i* or *zanni* that discuss it (Amalia, 2019).

The method was eventually developed by *Tarjih* into five kinds of considerations, namely *istihsan*, *saddu al-Dzari'ah*, *istislah*, *al-'Urf*, and *ijtihad kauniyyah*. In its development, the method became the *bayani* method (text), *burhani* (reason and benefit), and *'irfani* (intuition). The two methods are not much different. The last two methods from the first type of method are merged into one *burhani*, and at the same time add *'irfani* based on the intuitive ability of each individual to get the truth (Amalia, 2019). Then, there is the *maqāṣid al-Sharīah* method as a method used to solve problems for which there is no direct text regarding it. The process is carried out by exploring cases, both efficient and finalists, which can provide a basis for the law of the case (Chabiba, et.al. 2021).

## Ulama's view of bank interest law

Interest is a new term in the banking world which is a translation of interest which means usury. In the banking dictionary, the interest itself means usury. With

the existing definition, it can be concluded that usury has characteristics similar to interest.

By definition, bank interest is remuneration for loans of money or goods paid by the debtor to the creditor (Hasibuan, 1997). Some argue that the Rate of Interest is the price of the use of money or can also be seen as rent for the use of money for a certain period (Hasibuan, 2006). In conventional bank activities, there are two kinds of interest: *First*, deposit interest, namely the interest provided by the bank as a stimulus or reward for customers who save their money in the bank, such as demand deposit services, savings interest, or deposit interest. For the bank, deposit interest is the purchase price. *Second*, loan interest, namely the interest charged to borrowers or the price the borrower must pay to the bank, such as credit interest. For the bank, the interest on the loan is the selling price (Haq, 2018).

Deposit interest and loan interest are the main components of cost and income factors for banks. Deposit interest is the cost of funds that must be issued to customers, while loan interest is income received from customers. The difference between the loan interest and the deposit interest is the profit or profit received by the bank (Muslich, 2010).

The issue of halal and haram interest as a financial instrument has been a source of controversy throughout the Islamic world for a long time. The source of this controversy is the verses of the Qur'an which prohibit usury, an ancient Arabic practice that is, if a person owes a debt, the debt will be doubled if he is in arrears, the debt will be doubled again if the debtor does not pay on time. For centuries, many Muslims have concluded from these verses that a loan contract that stipulates certain benefits for the lender is immoral, illegal, or unlawful regardless of the purpose, amount of the loan, or the institution involved (Eva Y.N. et al., 2001).

Then whether interest includes usury or not, *first*, according to the consensus of scholars among all schools of fiqh interest in all its forms is included in the category of usury (Ibn Taymiyah, 1963). This opinion is the same as Yusuf al-Qardawi, Mutawalli Sya'rawi, Abu Zahrah, and Muhammad al-Ghazali, stating that bank interest is haram because it includes usury. because usury is all the required additions to the principal property. That is, what a person takes without going through a trading business and without trying in addition to the principal of his property, then that is usury. This opinion is also the opinion of the forum of Islamic scholars, including Majma' al-Fiqh al-Islami, Majma' Fiqh Rabitah al-'Alam al-Islamic, and the Indonesian Ulema Council (MUI) (Haq, 2018).

The argument for the prohibition of usury is the word of Allah subhanahu wa ta'ala said: Allah has permitted buying and selling and forbids usury. (Q. 2: 275)

*“if you are believers. 279. So if you do not do (leaving the rest of usury), then know that Allah and His Messenger will fight you and if you repent (from taking usury), then for you the principal of your property; you are not persecuted and not (also) persecuted”.* (Q. 2: 275).

Then, the hadith of the Prophet Muhammad S.A.W. narrated by Jabir ibn Abdillah:

*From Jabir, he said: "The Messenger of Allah -peace, and prayer of Allah be upon him- cursed the one who eats (takes) usury, gives it, writes it down, and the two who witness it." He said: "They have the same legal status" (Sahih Muslim 2994)*

Second, some other contemporary scholars, such as Sheikh 'Ali Jum'ah, Muhammad Abduh, Muhammad Sayyid Tantawi, Abd al-Wahab Khalaf, and Mahmud Saltut, assert that bank interest is legal and does not include usury (Document: 28 November 2002 M). They hold on to the word of Allah S.W.T:

*O you who believe, do not falsely eat each other's wealth, except by way of commerce which is carried out with mutual consent between you (Q. 4: 29).*

In the verse above, Allah forbids eating other people's property in a vanity way, such as stealing, exploiting, and using usury. On the other hand, Allah justifies it if it is done with a business that runs with mutual pleasure. Therefore, the pleasure of both parties in the transaction to determine the amount of profit at the beginning, as happened in a bank, is justified in Islam. In addition, they also reasoned that if bank interest is haram, then the addition to the principal of the loan is also haram, even though the addition is not required at the time of the contract. Meanwhile, according to Abdullah Saeed tends to use a moral basis, by doing analogies (qiyas) based on wisdom, not *illat*, so it has implications for his view that conventional bank interest is permissible because it does not contain elements which are the main purpose of the prohibition of usury in the Qur'an is the creation of injustice which is clearly stated in the sentence, *la taz'limuna wa la tuz'lamun* (Hartono, 2019).

However, if the addition is legally allowed, then bank interest is also allowed because there is no difference between bank interest and additional on the principal of the loan. In the fatwa Majma 'al-Buhuth al-Islamiyyah mentioned:

*“Indeed, investing wealth in banks that determine profit or interest in front of the law is lawful according to the Shari'ah, and that's okay (Mar'i: 134-158; and Husnul Haq 2018).”*

In Indonesia, there are several Islamic organizations issuing bank interest fatwas. NU through its Bahthul Masail study forum has forbidden it, this is because bank interest is equated with the pawn used in the jahiliyyah era, if the owner of the pawned item cannot pay the money on time, then the pawned item is separated from the owner and becomes the property of the pawner and this has been determined to be unlawful in the 2nd NU Conference in 1927 in Surabaya.

Even though an agreement has been reached on the law on bank interest, it seems that the *muktamirin* still have different opinions, especially in the General Conference of Alim Ulama in Bandar Lampung, 21-25 January 1992, especially regarding the law on conventional bank interest. Indeed, some scholars forbid it, but some allow it for reasons of emergency and other reasons.

In 2003, the MUI issued a legal fatwa regarding the prohibition of bank interest (DetikNews, 2010)). By definition Interest (Interest/*Fa'idah*) and Riba: *first*. Interest (interest/*fa'idah*) is an additional charge in money loan transactions (*al-qardh*) which is calculated from the principal of the loan without considering the utilization/yield of the principal, based on the period, calculated with certainty in advance, and generally based on a percentage. *Second*, Riba is an additional (*ziyadah*) without compensation (*bila 'awdin*), which occurs due to a delay in payment (*ziyadatu al-Ajl*), which was agreed in advance, (*uthturita muqaddiman*), And this is what is called usury *nasi'ah* (Himpunan Fatwa MUI Sejak 1975, 2015).

Islamic organizations such as NU and MUI have both issued Fatwa regarding the prohibition of bank interest which is equated with usury so these organizations call for using banks that are by the sharia concept because banks that are following the concept of finance in Islam are sharia banks.

Table 1. Halal Bank Interest

No.	Ulama's View	Legal Basis	Information
1	Jumhur Ulama' Fuqaha' Classic		
2	Yusuf al-Qardawi,	al-Baqarah verse 275, SQ:	Haram
3	Mutawalli Sha'rawi,	al-Baqarah: 278-279, and	
4	Abu Zahrah, and	the Hadith of the Prophet	
5	Muhammad al-Ghazali,	as the main reason that	
3	Indonesian Ulema Council	bank interest is unlawful	
		because usury is all	
4	Nahdlatul Ulama	required additions to the	
		principal property.	Haram and, Halal if the
			condition is blood

Tabel 2. Halal Bank Interest

No.	Ulama's View	Legal Basis	Information
1	Abd al-Wahab Khalaf	In sura QS: an-Nisa 'verse 29, Allah forbids eating other people's property in a vanity way, such as stealing, exploiting, and utilizing usury. On the other hand, Allah justifies it if it is done by buying and selling with mutual pleasure. Because, the pleasure of the two parties who transact to determine the amount of profit at the beginning, as happened in the bank, is justified in Islam.	Halal
2	Sheikh Ali Jum'ah		
3	Muhammad Abduh		
4	Muhammad Sayyid Tantawi		
5	Mahmud Shaltut		
6	Abd Allah Sae'd	Tend to use a moral basis, by doing analogies (qiyas) based on wisdom, not 'illat.	Bank interest is allowed because it does not contain the main purpose of prohibiting usury in the Qur'an

### Analysis of the Fatwa of the Majlis *Tarjih* in Renewing the Law on Bank Interest in Indonesia

In the bank interest law, Majlis *Tarjih* and *Tajdid* Muhammadiyah have updated/issued three fatwas. *First*, at the Muhammadiyah congress through the *Tarjih* Sidoarjo Congress on 27-31 July 1968, decided: (1) Riba is haram with the Sharia of the Quran and the Sunnah; (2) Banks with usury are illegitimate and banks without usury are lawful; (3) Bank interest given by state-owned banks to their customers or vice versa, which has been in effect so far, is a case of *musytabihat*; and (4) Suggested to PP Muhammadiyah to strive for the realization of the conception of an economic system, especially banking institutions that are following Islamic principles.

In determining the Majlis *Tarjih*, the law on state-owned bank interest is *musytabihat*, not necessarily halal or haram. This means that bank interest is subject to *mutasyabihat* for banks managed by the government, not from private banks which are condemned to usury or haram. Because bank interest managed by the government will later be used for the needs of the Indonesian people. Meanwhile, private banks only return to individuals or groups.

In the results of this congress, Muhammadiyah used the *Bayani*, *Burhani*, and *Istislahi* methods. *Bayani* method is seen from the side of the text of the Quran and al-Sunnah on whether bank interest is included in the category of usury. However, after the Islamic financial institution bank's establishment, the benefits

changed, one of which was to support the development of financial institutions in Indonesia. Therefore, it was relaxed at the 1968 Sidoarjo congress. The basic principles of fiqh that are used as evidence for the *Tarjih* Majlis are: The harm is removed. And a job when it is narrow, becomes broad. (Hakim, 1927.)

This fiqh rule is used as an excuse if someone is in *dadrurah* then it is permissible, such as regarding the fatwa of the *Tarjih* Majlis regarding bank interest. At the Muhammadiyah Congress through the *Tarjih* Sidoarjo Congress on 27-31 July 1968, it was still recommended to establish an Islamic bank that was free of usury. At that time, the types of bank interest were tolerated: (1) came from the government, because the proceeds were returned to the state; and (2) cooperatives, because the results were returned to the members. Because the interest will return to the giver of interest, it is considered not a problem. However, this is only an exception (emergency exit), it does not mean that interest was allowed in 1968.

The Muhammadiyah *Tarjih* Council uses qiyas to determine bank interest law. Wisdom and *illat*, which are the determining factors in this method, are understood as terms that cannot be separated from each other. Because of this, Muhammadiyah has difficulty deciding on this bank interest case. Muhammadiyah also uses *istihsan bi al-mashlahah* to determine bank interest law. However, this method is also not fully implemented. For him, although based on qiyas jali, it turns out that bank interest is the same as usury, but for the interest of Muslims, the law of usury is forbidden to be fully applied to the case of bank interest (Pakkana & Achmad, 2002).

*Second*, Majlis *Tarjih* reformed the law on bank interest and continued the results of the *Tarjih* Decision at Wiradesa Year 1972 concerning Banking number 1 which "mandated PP Muhammadiyah to immediately fulfill the decision of the *Tarjih* Congress in Sidoarjo in 1968 regarding the realization of the conception of an economic system, especially banking institutions that are following with Islamic creed.". On Sunday, 21 Jumadil Awal 1427 H which coincided with 18 June 2006 M no. 8. From some of these considerations, it resulted in 8 decisions (Nofandra, 2010): first, Islamic economics is an economic system based on values, among others, in the form of justice, honesty, and interest-free, and commits to improving mutual welfare. Second, for the establishment of Islamic economists, Muhammadiyah as an Islamic da'wah movement *Amar ma'ruf nahi Munkar* and *tajdid* need to be actively involved in developing and advocating Islamic economics within the framework of shared welfare. Third, Interest is usury because: (a). It is in addition to the principal of the capital lent when Allah says, and if you repent (from taking usury), then for you the principal of your property; (b) Additional mitu



are binding and agreed upon, while those that are voluntary and not agreed upon are not included in usury (Muhammadiyah, Nomor 06/2010-2015/Ramadhan 1435 H/Juli 2014, 2014); (c) Islamic financial institutions are asked to continue improving their operations' conformity with sharia principles; (d) Calling on all ranks of Muhammadiyah residents and Muslims, in general, to convert by the principles of Shari'ah, when encountering difficulties, they can be guided by the rule of "anything when experiencing difficulty is given spaciousness and difficulty brings ease"; (e) Muslims in general and Muhammadiyah members, in particular, to increase their appreciation of the economy based on sharia principles and develop an economic culture based on sharia values; (f) So that this fatwa is disseminated for understanding; (g) Everything will be reviewed as it should be if in the future it turns out that there is an error in this fatwa.

The fatwa prohibiting *muamalah* with conventional institutions is not absolute. For areas where there is no office or network of Sharia financial institutions, it is allowed to carry out transaction activities based on the principle of emergency or *hajat* (need). As for areas where there are already many offices or networks of Islamic financial institutions, it is not allowed to conduct transactions based on interest calculations (Berita Resmi Muhammadiyah, Nomor 06/2010-2015/Ramadhan 1435 H/Juli 2014, 2014).

In addition, the background behind the prohibition of bank interest is that all Muslims have agreed (*ijma'*) that the basic law of usury is haram, especially usury on loans or debts. They have agreed on it at every time and place. Fiqh scholars of all schools have quoted this consensus. Indeed there are differences of opinion on some of the forms of application, but they do not conflict with the origin of the *ijma'* that has been decided in that matter (Muslih, 2004: 6).

*Third*, the Fatwa of the Muhammadiyah *Tarjih* and *tajdid* assembly number: 8 of 2006 which was submitted to the fidz on Saturday, April 3 2010 evening, through the 27th plenary meeting of the *Tarjih* and *Tajdid* Muhammadiyah National Deliberations at the University of Muhammadiyah Malang (UMM) in Malang. banks are no longer excluded because Muslims already have alternatives such as Islamic banks and bait al-Mal, which at the Siodarjo *Tarjih* congress did not yet exist. The emergency door began to close. The next consideration is to encourage the development of Islamic financial institutions, on that basis in 2010 the fatwa on bank interest in 2006 was used as a reference for the decisions of Muhammadiyah institutions (Interview with Mrs. Endang, 2017, and Iqbal, 2017: 53).

Therefore, Muhammadiyah in its *Majlis Tarjih* Decrees in 1968, 1972, 1976, and 1989, failed to explicitly establish the prohibition of bank interest. Although

it states that banks with a usury system are haram, the assembly believes that the interest given by state-owned banks to their customers or vice versa, which has been in effect so far, is a case of *musyabihat* (not necessarily halal-haram). This is contrary to the results of the Commission VI *meeting* in Muhammadiyah which officially issued a fatwa against bank interest on Saturday, April 3, 2010 evening, through the 27th plenary meeting of the *Tarjih* and Tajdid Muhammadiyah National Deliberations (MUNAS) at the University of Muhammadiyah Malang (UMM). The fatwa against bank interest was decided at the Muhammadiyah National Conference in 2006 (Hidcom, 2010).

Table 3. Bank Interest in the Fatwa of Majelis *Tarjih* Muhammadiyah

No	Event & Years of FMTJ	FMTJ	description
1	At the Muhammadiyah Congress through the <i>Tarjih</i> Sidoarjo Congress on 27-31 July 1968,	Bank interest given by state-owned banks to their customers or vice versa, which has been in effect so far, includes <i>musyabihat</i> cases.	This means that bank interest is subject to <i>mutasyabihat</i> for banks managed by the government, not from private banks which are condemned to usury or haram.
2	On Sunday, 21 Jumadil Awal 1427 H which coincided with 18 June 2006 M. No. 8.	Interest is usury because: <i>first</i> , it is an addition to the principal loaned capital when Allah says, and if you repent (from taking usury), then for you the principal of your property. <i>Second</i> , the <i>ambahan</i> mitu is binding and agreed upon, while the voluntary and non-agreed ones are not included in usury.	Continuing the results of the <i>Tarjih</i> Decision at Wiradesa in 1972 concerning Banking number 1 which mandated PP Muhammadiyah to immediately fulfill the decision of the <i>Tarjih</i> Congress in Sidoarjo in 1968
3	<i>Tarjih</i> Council Meeting Saturday, April 3, 2010.	that bank interest is no longer excluded because Muslims already have alternatives such as Islamic banks and <i>baitul maal</i> , which at the Siodarjo <i>Tarjih</i> congress did not yet exist. Therefore the emergency door began to close.	Through the plenary meeting of the 27th National Deliberation (Munas)

The difference between the 2006 Muhammadiyah *Tarjih* and Tajdid Assembly and the 1968 Sidoarjo *Tarjih* Congress lies in the method of *ishlahiyah*. The *Ishtilahi* method in terms of problems, if we reject what the people want to

use, that's why it was relaxed in 1968. But then in 2006, it began to be narrowed or closed. That's why Muhammadiyah ordered all charitable institutions to move their finances to Islamic banks in 2010 to support the decision of the *Tarjih* assembly. And has been instructed by the central leadership, so there should be no universities, hospitals, or Muhammadiyah related to conventional banks (Interview with Mrs. Endang, 2017; Iqbal, 2017: 61).

### **Fatwa on Bank Interest from the Perspective of *Maqasid al-Shari'ah* and the Muhammadiyah *Tarjih* Council**

Maslahah, as the goal of Islamic law, is achieved when human life is preserved and protected. The Quran and hadith, with various legal provisions and sanctions for violations of these provisions, aim to realize *maslahah* and prevent harm (Asiah 2020). Since the purpose of Islamic law is to realize *maslahah*, humans are required to seek knowledge to understand the *Maqasid al-Shari'ah* (the objectives of Islamic law itself) (Anwar, et, al, 2021). Furthermore, humans are also required to seek the right solutions and considerations in applying Islamic law by the teachings of Islam, so that the *maslahah* achieved from the application of the law is the true welfare as demanded by the Shari'ah, not relative welfare (Al-Ghazali t.th). This relative *maslahah* may be apparent *maslahah* on the surface, but behind it, there may be harm, or it could be a small *maslahah* that leads to greater harm, or temporary *maslahah* that results in long-term harm.

Abd al-Wahhāb Khallāf, in his book *Ilm Usul al-Fiqh*, explains that the *Maqasid al-Shari'ah* (objectives of Islamic law) encompass essential objectives (*daruriyyah*), complementary (*hajiyyah*), and embellishing (*tahsiniyyah*). The issues that fall under the category of *daruriyyah* objectives include the five essentials (*al-Kulliyah al-Khams*), which are the preservation of religion, life, intellect, progeny, and wealth. Islamic law demands that all five of these aspects are realized in their entirety and that their preservation is ensured, including in the determination of penalties for anyone who violates these objectives (Wahhab, 2009).

If the Muhammadiyah *Tarjih* Council's fatwa on bank interest is related to the concept of *al-Daruriyyah al-Khams*, which is linked to the preservation of wealth (*hifdz al-Mall/harta*), Islamic law commands people to seek good sustenance (*rizqi*) through work or trade and economics (Wahhab, 2009). Additionally, the implementation of *hadd* punishments for theft, the prohibition of fraud, unjust acquisition of others' wealth, and the prohibition of *riba*, including bank interest, are all by the explanation of *Maqasid al-Shari'ah* mentioned above. Therefore, any rulings or regulations established by a *mujtahid* when determining a law for a

specific issue should be within the framework of these five welfare objectives (al-Yubi 1998). Any actions that threaten these five objectives should be prohibited because if any of these five objectives is violated or not realized, human life will not attain happiness and well-being in this world and the hereafter. In connection with the five aspects of welfare from the perspective of *Maqasid* al-Shari'ah, when related to the issue of bank interest, a comprehensive understanding of the reasons behind the prohibition of bank interest in Islam is something that must be properly and deeply understood (Ghazali 2014). Islam prohibits bank interest for the Muslim community with a specific and clear purpose. Besides regulating human life, the establishment of an economy based on Sharia is intended to improve and honor the lives of people (Supyadillah, et, al, 2023). One of the purposes behind the prohibition of bank interest is to establish an economy for a society based on religious values so that the banking world can achieve a prosperous community economy.

Meanwhile, the concept of *hifdz al-Mal* (preservation of wealth) in the realm of *hajiyyat* will lead to the prohibition of people engaging with banks, borrowing, and depositing money in conventional banks, even though almost all financial transactions, from salaries to religious needs, are closely tied to banks that use interest-based systems (Syihab 2022).

The *Maqasid* al-Shari'ah in the prohibition of bank interest equated with *riba*, as expressed in Surah al-Baqarah (2:279), is to ensure that no one is oppressed or oppresses others in matters of wealth. As for the reality and the wisdom behind it, as explained above, the argument for its prohibition will be presented to both Muslims and non-Muslims, as the prohibition of *riba* in Islamic governance applies to both Muslims and non-Muslim *dhimmi*s (Ahyani, et, al, 2020). It is a historical fact that Umar ibn al-Khattab expelled the Jewish community of Fadak, the Jewish community of Khaibar, and the Christian community of Najran from the Arabian Peninsula. This action was taken because they violated the terms set by the Prophet Muhammad (peace be upon him) for non-Muslims to coexist with Muslims, including the prohibition of engaging in usury (*riba*) (Baltaji 2005).

The stance of the Muhammadiyah *Tarjih* Council is that the renewal of the fatwa on bank interest, from being *mutasyabbihat* (ambiguous) to being haram (forbidden), is because any addition, whether small or large, is still considered *riba* when it involves an element of *zhulm* (oppression) as indicated by the verse mentioned above (Kamto 2022). In other words, the *riba* prohibited by the Quran is *riba* that leads to the exploitation of humans and results in injustice. For the Muhammadiyah *Tarjih* Council, what makes *riba* haram is the presence

of calculation or exploitation of the borrower, not just the addition of money. Therefore, if this condition is present in bank interest, then bank interest is considered the same as *riba* and is deemed haram. On the contrary, if the element of exploitation is not present in bank interest, even if there is an addition of money, then bank interest is not considered *riba*, and it is not considered harm (Djamil 1995).

## Conclusion

In this study, the author can conclude that a critical assessment of conventional economic systems reveals their shortcomings in promoting equality, justice, and religious values, especially within the framework of interest-based transactions (*riba*). This highlights the importance of eliminating self-interest and prioritizing moral values and shared interests to build a fair economic system. The stance of the Fatwa Council of Muhammadiyah on bank interest, shifting from uncertainty to prohibition, indicates a significant change. Examining the role of the Muhammadiyah *Tarjih* Council in shaping religious norms and legal products can explain the institutional framework. Analyzing the bank interest fatwa through *Maqasid al-Shari'ah* provides a valuable perspective on the goals of Islamic law, contributing to a deeper understanding of the historical and religious context of the prohibition of *riba* in Islamic law. In the context of the Muhammadiyah *Tarjih* Council's fatwa on bank interest, related to *Maqasid al-Shari'ah* under *al-daruriyyah al-khams*, it is aimed at safeguarding wealth. This encourages people to seek lawful sustenance and implement *hadd* punishment for theft while prohibiting fraud and interest, including bank interest. Thus, the author recommends further research to explore the practical implications of transitioning to an interest-free economic system and to assess the broader social impact of such a transition. This study also suggests ongoing dialogue and collaboration with academics, policymakers, and financial institutions to facilitate the development of a different and widely accepted framework to address economic justice within the Islamic context.

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