

The Analysis Of Sharia Pension Fund Management According To Fiqih Muamalat (Case Study On Muhammadiyah Sharia Pension Fund)

Hifdhotul Munawaroh

Sharia Faculty, University of Darussalam Gontor
hifdhohzeyla@gmail.com

Dila Qonitah Sahitya

Sharia Faculty, University of Darussalam Gontor
dilaqs@gontor.ac.id

Abstract

In the past 5 years, pension fund institution tend to decrease, it can be seen from 2014 to 2018 a decrease of 36 pension fund from 267 pension funds to 232 pension funds at this time. However, when viewed from the perspective of participation, the total number of Pension Fund participants has increased from 4.455.712 people in 2017 to 4.635.074 people in 2018 or increased by 4.03%. It can be concluded that more people are aware of the importance of pension funds for welfare in their old age. Indonesia is a country with a majority Muslim population, this situation triggers the needs of the community for the presence of sharia – based pension funds. The purpose of this research is to know the management of Sharia pension fund in Muhammadiyah Sharia pension fund and to know the management of Sharia pension fund according to Fiqih Muamalat on Muhammadiyah Sharia pension fund. This type of research is qualitative research, data source used is primary data with direct research method in the form of an interview with investment director and participation of Muhammadiyah Sharia Pension Fund. In addition, researchers also use secondary data derived from writing materials directly related to the pension fund. The data collection methods used are interviews and documentation. The result of this study is the contribution obtained from the contribution of participants and employer dues, where the participants were deducted by 5% of the monthly salary on every 15th of each month. If the employer is experiencing delays in depositing dues after 2.5 months it will be charged ta'zir fund. Most of the agreement used is in accordance with the provisions of Fiqh Muamalat, but there is a contract between employers and participants who are not appropriate due to the lack of participant trust about the object represented by this will affect the legal requirements of the Agreement between the two parties, if there is no belief will cause discrepancies in this agreement. And also in the Mudharabah occurs a disability due to the management of funds in the Mudharabah Contract is allocated to the public creditor Bank which is conventional.

Keywords: pension fund, funding system, fiqh muamalat

Introduction

Work is necessity for everyone to earn income to fulfill the requirement. The things that relating to needs will not stop even if the individual is no longer productive at work. In the *Maqashid Sharia*, this need is seen in terms of principles that will be accepted by humans. The purpose of *Maqashid Sharia* is to achieve the goodness of life in the world and the hereafter.

The principles in the *Maqashid Sharia* is divided into 3 kinds namely, as follows:

1. *Maslahat Dhoruriyah*, a *maslahat* that relates to matters of human primary needs, with the parsing of primary needs divided into 5, namely religion, soul, intellectual, lineage (descent), and wealth. And if in this *maslahat* is not fulfilled in fulfillment of human needs it will pose a danger¹
2. *Maslahat Hajiyah*, a *maslahat* that relates to the things of the human secondary needs, it is something that can eliminate the human consciousness, relieve the burden that makes it difficult for man and make way to the road in it.²
3. *Maslahat Tahsiniyah*, a *maslahat* relates to the needs of human complements, the goal is to perfect the previous principles but when the *maslahat* is not fulfilled will not be troublesome man in fulfilling his life needs³

According to the *maslahat* above, the pension funds included in the *maslahat hajiyah*, where when fulfilled this *maslahat* in human life it will eliminate the sincerity of man in his old day, relieve the burden that makes it difficult for man and make way to the road in it.

Pension funds according to Law Number 11 of 1992 are legal entities that manage and run the programs that promise pension benefits, in the form of regular payments paid to participants. From this understanding, it can be seen that the pension fund is one of the funding system choices in forming the accumulation of funds, which is needed to maintain income continuity in old age. Trust in the sustainability of income will lead to work in peace, so that it will increase employee motivation which is a climate conducive to

¹Khoirul Umam, et all, *Ushul Fiqih 2*, (Bandung: Pustaka Setia, 2001), p. 125

²Ismail Muhammad Syah, *Filsafat Hukum Islam*, (Jakarta: Bumi Aksara, 1992), p. 67.

³Abdul Wahab Khallaf, *Kaidah – kaidah Hukum Islam Abdul Wahab Khallaf*, (Jakarta: Raja Grafindo Persada, 1996), p. 333.

increase productivity.⁴

According to *Fatwa DSN – MUI* No. 88/DSN-MUI/XI/2013, Sharia pension fund is a pension fund that is managed and executed based on sharia principles. Sharia pension fund that is developing in Indonesia is a pension fund of financial Institution which is implemented by several sharia banks and also some companies that hold retirement funds for its employees, namely employer Pension Fund.

The implementation and management of pension funds in accordance with Islamic teachings will have many benefits for society, especially the community loyal to the sharia. The Qur'an itself teaches its people not to leave alone a weak descendants and prepare tomorrow for better, found in Surah Al-Hasyr verse 18:

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَلِنَنْظُرْ نَفْسَ مَا قَدَّمْتُمْ لِغَدٍ وَاتَّقُوا اللَّهَ فَمَا كَانَ مِن شَيْءٍ إِذْ أَتَاكُمْ فِيهِ مَخَذٌ لِّمَا كُنْتُمْ تَعْمَلُونَ (الآية : ٨١)

It means “O people of Faith! Fear Allah SWT and be mindful of what has been made for tomorrow (the future). And fear Allah SWT. Indeed, Allah Almighty knows what you do”⁵

In the verse above it is explained about how important backup preparation is for the future. This is very important, given that after retirement human beings still have a basic need that must be fulfilled. With these backups when someone is less productive, it still has a source of income.

Currently, there are 230 financial institutions of pension Fund in Indonesia, consisting of 205 employer pension fund (originating from the company) and 25 pension fund of financial institution. With the large number of pension fund companies, not much has been recognized Sharia principle in its implementation. There are only 2 employer pension fund (DPPK) and 1 pension fund of financial institution (DPLK) that have been recognized and confirmed as a company sharia-based pension fund by the Financial Services Authority⁶

One of the pension fund which is considered as Sharia principle

⁴Usman Rachmadi, *Aspek – Aspek Hukum Perbankan di Indonesia*, (Jakarta: Gramedia Pustaka Utama, 2002), p.50 – 51.

⁵QS. Al Hasyr : 18

⁶Financial Services Authority, *Direktori Dana Pensiun Februari 2019*.

is the Muhammadiyah Sharia pension fund, which has recently converted to Sharia Employer Pension Fund in 2019 by Financial Services Authority. However, there is one of these funds invested in the conventional bank. Thus, the researcher is interested to review the management process of Sharia pension fund in Muhammadiyah Sharia pension fund.

Research Method

The type of this research is qualitative descriptive method. In this qualitative research, the main instrument is to make a conversation or an interview with Vice Director of Investment and Membership of Muhammadiyah Sharia Pension Fund and the data analysis technique used is inductive analysis, where researchers analyze a special primer in the form of transcripts interviews and guidelines for Sharia pension fund Regulation number: KEP-2/D. 05/2019 concerning ratification of pension fund regulation of Muhammadiyah pension Fund which has been ratified by the Financial Services Authority. With in-depth analysis using the Fiqh Muamalat as a special analysis tool, to then be drawn the appropriate conclusions and relevant to this discussion.

Literature Review

1. Pension Fund

The fund is an amount of money that has been saved or has been made available for a particular purpose.⁷ Meanwhile, retirement means pension i.e. an amount of money paid regularly by a government or company to somebody who is considered to be too old or too ill, sick to work.⁸

Some of the definitions of pension funds, are as follows:

- a. According to David L. Scott, a *Pension fund is a financial institution that controls assets and disburses income to people after they have retired from gainful employment*.⁹
- b. According to FE Perry, a *Pension fund is an investment maintained*

⁷AS Hornby, *Oxford Advance Learner's Dictionary*, (New York : Oxford University Press, 2010), Ed : 8, p. 631.

⁸*Ibid*, p. 1124.

⁹Veithzal Rivai, *Financial Institution Management : Manajemen Kelembagaan Keuangan*, (Jakarta : Rajawali Press, 2013), p. 233.

*by companies and other employers to pay the annual sum required under the business or organization's pension scheme;*¹⁰

- c. According to Franco Modigliani, Frank J. Jones and Michael G. Ferry, *Pension fund is a fund that is established by prepaye employers, governments, or unions from the payment of retirement benefits*¹¹
- d. According to David S. Kidwell, Richard L. Peterson dan David W. Blackwell, *Pension funds are contractual agreements that provide lifetime benefits upon an individual or employee's retirement*¹²
- e. According to Peter S. Rose, *Pension fund-plans that assist business owner and workers in preparing for the retirement years by accumulating and investing savings in order to pay out retirement income in future years*¹³
- f. According to Dictionary Accounting of Pension Fund, *Resources accumulated for the purpose of paying benefit employees upon their retirement, disability or death. The fund may be administered by the company establishing the pension plan by a trustee or by an insurance company or other agency.*¹⁴

From some of the definition above, it can be concluded that the funds or some money are intentionally collected specifically in the active period of employee's work to provide pension benefits either when it reaches the age of retirement, death or disability resulting from an accident. The goal is to give employees a sense of security in their old age.

Under Law No. 11 of 1992 the implementation of the pension program is based on the following principles are:¹⁵

- a. Principles of separation of the wealth of pension funds from the wealth of the founder's legal entity
- b. Basic implementation in funding system
- c. Principles of Coaching and supervision
- d. Principles of Delay Benefit
- e. Principles of freedom to form or not form retirement funds

¹⁰Ibid, p. 233.

¹¹Franco Modigliani et all, *Foundation of Financial Market and and Institution*, (United States : 1994), p. 3.

¹²Veithzal Rivai, *Financial Institution Management...* p. 233.

¹³Peter S. Rose, *Financial Institution : Understanding & Managing Services*, (Texas : Business Publication, 1988), p.3.

¹⁴Veithzal Rivai, *Financial Institution Management ...*, p. 233.

¹⁵Kasmir, *Bank dan Lembaga Keuangan Lainnya*, p. 296 - 297.

The function of Pension fund retirement program for participants among others, as follows:¹⁶

- a. **Insurance**, the participant who dies or defects before reaching the retirement age can be given the sum assured of the joint burden of the pension fund.
- b. **Savings**, the set of dues and the employer's dues is a savings for and on behalf of participants. Dues paid by employees can be seen every month as savings from participants.
- c. **Retirement**, the entire set of dues and employer dues as well as the results of management will be paid in the form of retirement benefits since the first month and reach the retirement age during the lifetime of the participant, and widows/widower participants.

2. Sharia Pension Fund in Fiqih Muamalat

In the *Fiqh Muamalat* itself there is no specific explanation about the pension fund because this problem is a contemporary problem. However, in the Qur'an and prophetic tradition there is a discussion about the importance of preparing for a life of welfare in the old days. No one knows how the life will come. Thus, pension fund is one form of effort to fulfilling the needs in the old days.

Rasulullah said in prophetic tradition, there are:

قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لِرَجُلٍ وَهُوَ يَعِظُهُ : اِغْتَنِمْ خَمْسًا قَبْلَ
خَمْسٍ : شَبَابَكَ قَبْلَ هَرَمِكَ، وَصِحَّتَكَ قَبْلَ سَقَمِكَ، وَغِنَاءَكَ قَبْلَ فَقْرِكَ،
وَفَرَاعَكَ قَبْلَ شُغْلِكَ، وَحَيَاتَكَ قَبْلَ مَوْتِكَ (رواه حاكم)¹⁷

Means :

"Rasulullah SAW said in order to advise a person, use five things before coming five things: your one before your sickness, your heart before your head, your mind before the poor, your free time before the narrow, your life before your death." (NARRATED by Hakim)

According to the decisions of the Islamic Jurisprudence Society: Sharia Pension Fund is a financial right required by law

¹⁶M. Nur Rianto Al Arif, *Lembaga Keuangan Syariah : Suatu Kajian Teoretis Praktis*, p. 303.

¹⁷أبو عبد الله الحاكم بن محمد بن عبد الله بن حمداوية بن نعيم، المستدرک علی الصحیحین للحاکم، (بیروت : دار الکتب العلمیة، ۱۹۹۰)، ص ۴۲.

or contract to the worker or employee on conditions, and is estimated according to the length of the service, the reason for its termination and the salary of the employee and paid at the end of the service to the worker, the employee or their family. Or it is the amount of money that the worker will pay the employer at the end of his service, under the laws and regulations if the conditions set out in them are met.¹⁸

The pension fund reward does not go beyond three conditions:

- a. Either you are conditioned on the complexity of the work, in which case it is a pure right of the worker, and he has to demand it, to say the Prophet Muhammad SAW and he has said: "Muslims are on their own, except for a law that is forbidden, *halal*, or *haram*.", narrated by al-Ramadi and others, and corrected.
- b. It must be a giveaway from the employer, in which case he may take it if the employer gives it to him, and he has no claim to it.
- c. The company's known wages must be paid for the end-of-service reward of their employees, in which case the employer must pay it, and the wage earners must claim it, because the known is known as conditional.

Sheikh Al-Zuhaili, a member of the council, said: Severance pay for workers is a project imposed by the laws, and it has become a prescribed custom, and is a deferred part of the wage for the end of service, unless the worker waives it by choice without material or moral coercion.¹⁹

With the development of sharia finance institutions, there is a regulation based on sharia principles to fulfill the needs of life of Muslims in Indonesia, because the majority of the population in Indonesia is Islam.

Therefore, there are some basic legal bases regarding sharia pension funds, as follows:

¹⁸المشرف العام الشيخ محمد صالح المنجد حفظه الله، <https://islamqa.info/ar/answers/252545>

، مقتبس في ٢٥ أبريل ٢٠٢٠

¹⁹خالد عبد المعتم الرفاعي يعمل مفتيًا ومستشارًا شرعيًا بموقع الألوكة، وموقع طريق الإسلام، [https://](https://ar.islamway.net/fatwa/69920)

، مقتبس في ٢ أبريل ٢٠٢٠

a. Al-Qur'an

يَأْيُهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا (النساء : ٩٢) ٢٠

Meaning :

“O Believers! Do not be willing to eat your neighbor’s possessions with the way that is not right, except in the trades that apply on the basis of the same likes among you. And do not kill yourself. Truly, Allah is the most merciful to you.” (QS. An – Nisa : 29)

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا..... (النساء : ٨٥) ٢١

Meaning :

“Allah Almighty tells you to convey the mandate of the right to receive it..... (QS. An-Nisa : 58)

إِنَّ اللَّهَ عِنْدَهُ عِلْمُ السَّاعَةِ وَيُنَزِّلُ الْغَيْثَ وَيَعْلَمُ مَا فِي الْأَرْحَامِ وَمَا تَدْرِي نَفْسٌ مَّاذَا تَكْسِبُ غَدًا وَمَا تَدْرِي نَفْسٌ بِأَيِّ أَرْضٍ تَمُوتُ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ (لقمان : ٤٣) ٢٢

Meaning :

“Verily, Allah SWT is the only knowledge of the Day of Resurrection, and He who sends down rain, and knows what is in the womb. And nobody can know for sure what he’ll do tomorrow. And no one can know on earth where he will die. Indeed, Almighty knows.” (QS. Lukman : 34)

b. Prophetic Tradition

قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لِرَجُلٍ وَهُوَ يَعِظُهُ : اِغْتَنِمَ حَمْسًا قَبْلَ حَمْسٍ : شَبَابَكَ قَبْلَ هَرَمِكَ، وَصِحَّتَكَ قَبْلَ سَقَمِكَ، وَغِنَاءَكَ قَبْلَ فُقْرِكَ، وَفَرَاغَكَ قَبْلَ شُغْلِكَ، وَحَيَاتَكَ قَبْلَ مَوْتِكَ (رواه حاكم) ٢٣

²⁰QS. An – Nisa’ : 29

²¹QS. An – Nisa : 58

²²QS. Luqman : 34

²³ أبو عبد الله الحاكم بن محمد بن عبد الله بن حمداوية بن نعيم، المستدرک علی الصحیحین

Meaning :

“Rasulullah SAW said in order to advise a person, use five things before coming five things: your one before your sickness, your heart before your head, your mind before the poor, your free time before the narrow, your life before your death.” (NARRATED by Hakim)

c. Fiqih Legal Maxim

الأَصْلُ فِي الْأَشْيَاءِ الْإِبَاحَةُ حَتَّى يَدُلَّ دَلِيلٌ عَلَى التَّحْرِيمِ²⁴

“Basically, all forms of rulings can be done unless there is a proposition that impositions it.”

الضَّرَرُ يُزَالُ²⁵

“All harm (danger, loss) must be eliminated.”

تَصَرَّفُ الْإِمَامِ عَلَى الرَّعِيَّةِ مَنْوُطٌ بِالْمَصْلَحَةِ²⁶

“The act or policy of the priest (government) against the people must be oriented to the Maslahat.”

d. Fatwa DSN-MUI No: 88/DSN-MUI/XI/2013 about General Guidelines for Implementation Pension Program based on Sharia Principles (*Pedoman Umum Penyelenggaraan Program Pensiun Berdasarkan Prinsip Syariah*)

In this fatwa, explain about the provision of defined benefit plan and defined contribution plan at Employer Pension Fund and Financial Institution of Pension Fund. So, some of this provisions of the parties and the contract of defined contribution plan on Employer Pension Fund is, as follow:²⁷

للحاكم، (بيروت : دار الكتب العلمية، ٠٩٩١)، ص ٢٤ .
^{٢٤}عبدالرحمن بن أبو بكر وجلال الدين الشيوطي، *الأشباه والنظائر*، الجزء ١، دار الكتب العلمية، ص ١٠

^{٢٥}عبدالرحمن بن أبو بكر وجلال الدين الشيوطي، *الأشباه والنظائر*، ص ٨٤ .
^{٢٦}لجنة المكونة من عدة العلماء والفقهاء في الخلافة العثمانية، *مجلة الأحكام العدلية*، ص

²⁷Fatwa DSN-MUI No: 88/DSN-MUI/XI/2013 about General Guidelines for Implementation Pension Program based on Sharia Principles (*Pedoman Umum Penyelenggaraan Program Pensiun Berdasarkan Prinsip Syariah*), p. 8 - 9

- 1) The parties of defined contribution plan in the employer pension fund are employers, participant, Manager of employer pension fund (furthermore called Pension Fund), investee, and pension beneficiaries
- 2) The contract between employer and participant is *Hibah bi Syarth* contract, Employer as giver (*wahib*), and participant
- 3) as the recipient (*mauhub lah*)
- 4) The employer has the right to determine the parties who are entitled to receive retirement benefits with *Hibah Muqayyadah* contract in accordance with Sharia pension fund regulation
- 5) The contract between employer and Sharia pension fund is the *Wakalah* contract, Employers domiciled as *Muwakkil*, and Sharia pension fund as *Wakil* to conduct a pension program for its employees;
- 6) In the case of contributory, the contract between participants and Sharia Pension Fund is *Wakalah* contract; Participant domiciled as *Muwakkil*, and the pension fund as *Wakil*
- 7) The contract between Sharia pension fund and Investee/investment manager is *Wakalah bil Ujroh* contract or *Mudharabah* contract. Pension fund as *Muwakkil*, and Investee/investment manager as a *Wakil* in the *Wakalah Bil Ujrah* contract; and pension fund as *Shahib al-Mal*, and Investee/investment manager as *Mudharib* in *Mudharabah* contract
- 8) The contract between the pension fund and Bank, investment advisor and public accountant is *Ijarah* contract; Pension fund as *Mu'ajir*, And banks, investment advisors, and public accountants as *Ajir* (*Musta'jir*)
- 9) to conduct investment and non-investment activities, Sharia pension fund may make agreements (contract) with other parties based on sharia principles that do not contradict the prevailing laws and regulations.

Muamalah is the activity of the level of human relation with other human beings that is different from the worship of the *Mahdah* which is a pure vertical relationship between man and his God. According to some scholars, there are several terms of *Muamalat* as follows:²⁸

²⁸ محمد عثمان ثبير، المدخل إلى فقه المعاملات الإسلامية، (قطر : دار النفائس، ١٩٩٤

هـ)، ص ٢١-١١ .

- a. *Muamalah* is a law governing the relationship between one man and another in daily life, the law relating to wealth, marriage, *talaq*, and settlement of disputes, inheritance treasures and so forth. Ibn ' Abidin says that it is divided into 5 treasures, marriage, disputes, mandate and inheritance
- b. *Muamalat* relates to the laws of the *Syara'* which govern the relationship between man and the other in the sphere of wealth, family and so forth.
- c. *Muamalat* is the law of *Syara* that regulates the relationship between man and other in the sphere of wealth.

So with the explanation above, it can be concluded that *Muamalat* is a rule or law that discusses the horizontal relationship between humans and other human beings as in terms of buying and selling, inheritance, family, dispute resolution and others.

In the *Fiqh Muamalat* there are principles and rules that must be in the activities that are, as follows:²⁹

- a. The existence of voluntary between the two parties

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ (النساء : ٩٢) ³⁰

It means : "O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful"

- b. The existence of the contract in accordance with the terms

يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ (المائدة : ١) ³¹

It means : "O you who have believed, fulfill [all] contracts."

- c. Prohibition in performing *Gharar* action

وعن أبي هريرة رضي الله عنه قال : نهى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ

²⁹محمد عثمان ثبير، المدخل إلى فقه المعاملات الإسلامية، ص ٢٢-١٩.

³⁰Q.S. An - Nisa : 29

³¹Q.S. Al - Maidah : 1

عَنْ بَيْعِ الْحِصَاةِ وَعَنْ بَيْعِ الْعَرْرِ (رواه مسلم) ٣٢

Abu Hurairah *Radliyallaahu 'anhu* said: Rasulullah SAW prohibits sale by throwing stones and buying and selling Gharar (which is unclear price, goods, time and place). (Narrated by Muslim)

d. Prohibition on the Act of interest

إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا (البقرة : ٥٧٢) ٣٣

It means : "Trade is [just] like interest."

e. Prohibited acts in the act of speculation or gambling

يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّمَا الْحَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رِجْسٌ مِنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ (المائدة : ٩٠) ٣٤

It means : "O you who have believed, indeed, intoxicants, gambling, [sacrificing on] stone alters [to other than Allah], and divining arrows are but defilement from the work of Satan, so avoid it that you may be successful".

f. Prohibitions to do *dzalim* between the parties and must be fair

وَلَا تَبْخَسُوا النَّاسَ أَشْيَاءَهُمْ (الأعراف : ٨٥) ٣٥

It means : "and do not deprive people of their due"

Discussion

A. Management of Sharia Pension Fund in Muhammadiyah Sharia Pension Fund

Sharia pension fund management system is based on the results of interviews with the Director of investment and the membership. And took from the decision of the head of the center Muhammadiyah founder of Muhammadiyah Sharia Pension Fund

٣٢ الحافظ ابن حجر العسقلاني، بلوغ المرام من أدلة الأحكام، (بغداد : دار الكتب الإسلامية، ٢٠٠٢ م)، رقم الحديث : ٨١ : ٨٧٦، ص ٠٨١

٣٣Q.S. Al – Baqarah : 275

٣٤Q.S. Al – Maidah : 90

٣٥Q.S. Al – A'raf : 85

number: 328/KEP/1.0/B/2017 on the regulation of pension fund from Muhammadiyah sharia pension Fund which has been ratified by the Financial Services Authority. And also taken from a copy of regulation of Financial Services Authority No. 3/POJK. 05/2015 on Investment pension Fund.

Due to the registration of participants of pension funds conducted by the founding partners or employers, who are entitled to make deposits or fundraisers are the founding partners. However, there are some membership requirements listed in the Pension fund regulation in Muhammadiyah Sharia pension fund namely, as follows:

1. Any employee who is 18 years of age or married, has the right to be a participant
2. The membership of the pension fund begins since the employee is registered as a participant and ends at the time the employee dies or retires or stops working and has transferred his rights to another pension fund.
3. A participant is unable to resign or prosecute the right of the pension fund if it is still eligible for membership.

In this case, Muhammadiyah Sharia pension fund distinguishes 3 kinds of retirement age namely, as follows:

- a) Normal retirement age is defined as follows:
 - a. For non-educative personnel aged 55 years
 - b. For educative people aged 60 years
- b) retirement age accelerated lack of 10 years
- c) Mandatory retirement age shall be stipulated as follows:
 - a. For non-educative personnel aged 60 years
 - b. For educative power 65 years.

With the prescribed dues, approximately the amount of funds raised by the Muhammadiyah Sharia pension fund as much as Rp. 700.000.000 if rounded with a normal contribution of participants is 5% of the principal salary. However, this number will continue to move because usually each month there is a basic salary that has increased both periodically and individually.

The collected funds will be reserved in advance for operating costs by 10% and the remainder will be used for investment. The portfolio of Muhammadiyah Sharia pension fund in 2019 is, as

follows:

Portfolio of Muhammadiyah Sharia Pension Fund			
at 2019			
No	Instrument	Amount	Percentage
1	State Marketable Securities	74.821.002.500	25.24%
2	Term Deposit	120.575.000.000	40.68%
3	Stock	4.511.793.802	1.52%
4	<i>Sukuk</i>	1.999.600.000	0.67%
5	Reksadana Fund	39.698.352.045	13.39%
6	Direct Inclusion	37.858.445.000	12.77%
7	Real Estate	3.832.074.240	1.29%
8	Lands and Buildings	13.130.820.314	4.43%
Total Amount		296.427.087.901	100.00%

By looking at the table above, it can be concluded that the largest funds are invested into the form of term deposit of Rp. 120,575,000,000 with a percentage of 40.68%. And the least amount of funds invested in the Sukuk form amounted to Rp. 1,999,600,000 with a percentage of 0.67%.³⁶

In this case, the Muhammadiyah Sharia Pension Fund has not been using it to its fullest and has not updated the agreement of Muhammadiyah Sharia pension fund with founding partners. If viewed from some of the contracts listed in the regulation of Muhammadiyah Sharia pension fund as for the most frequently used contract is *Mudharabah* contract and *Ijarah* contract. Based on the interviews with the vice director of investment and membership, this is because most of the investors or banks offer a *Mudharabah* contract as one of the contracts used in the management of investment funds.

³⁶Interview with Vice Director of Investment and Membership at Muhammadiyah Sharia Pension Fund at Yogyakarta

As for other reasons, this contract can give a benefit the results of the development of investment funds greater than the other contract. Nevertheless, this *mudharabah* is also fairly high risk because of the risks that are often up and down. However, in the implementation of the Muhammadiyah Sharia pension fund is not too influential in the management of funds in Muhammadiyah Sharia pension fund.³⁷ And most of the pension funds managed by the Muhammadiyah Sharia pension fund are allocated to sharia public creditors Bank. And since the new Muhammadiyah Sharia pension fund was converted in 2019, there are funds allocated to the public creditors Bank. However, the Bank's crediting of the people is in the process of becoming a sharia.

B. Review of Fiqih Muamalat Concerning Management of Sharia Pension Fund in Muhammadiyah Sharia Pension Fund

In the *Fiqh Muamalat*, discusses the existence of pension funds that every man should be able to take advantage 5 matters before comes the 5 matters, as mentioned in the Hadith Rasulullah SAW narrated by Al-judge and Al-Bayhaqi of Ibn ' Abbas, namely:

إِعْتِنِمْ خَمْسًا قَبْلَ خَمْسٍ : شَبَابَكَ قَبْلَ هَرَمِكَ، وَصِحَّتَكَ قَبْلَ سَقَمِكَ،
وَعِنَاكَ قَبْلَ فُقْرِكَ، وَفَرَاغَكَ قَبْلَ شُغْلِكَ، وَحَيَاتَكَ قَبْلَ مَوْتِكَ³⁸

Means:

“Take the Opportunity in five conditions before coming to another condition: your youth before your old, your health before your sickness, your wealth before your destitute, your free time before your busy, and your life before your death.”

From the prophetic tradition above, it can be understood that the importance of preparing of fulfilling in the old days. Because no one knows what will happen in the next day. And pension fund is one form of containers or applications as an effort to prosperity in the old days. Most importantly in the principles of sharia financial institutions that should not contain *Maghrib* (*Maysir*, *Gharar*, and *Riba*). However, in the Muhammadiyah Sharia pension fund, there

³⁷Interview with Vice Director of Investment and Membership at Muhammadiyah Sharia Pension Fund at Yogyakarta

³⁸Fatwa Dewan Syariah Nasional Majelis Ulama Indonesia No: 99/DSN-MUI/XII/2015 about Sharia Annuity for Pension Program (*Anuitas Syariah untuk Program Pensiun*).

are no principles governing in its activities. Therefore, this pension fund does not have a strong foundation in carrying out its activities.

With this regulation, in the condition of the participation of Muhammadiyah sharia pension fund is deemed to have been in accordance with the *Fiqh Muamalat* by reason of having included the conditions that must be fulfilled by the 'Aqid i.e *Ahliyah* and *Wilayah*. In terms of *Ahliyah*, 18-year-old participants are considered to have been puberty and *mumayyiz* here a person can distinguish between good and bad, between dangerous and harmless, and between profitable and detrimental. Then, in terms of the *Wilayah* that is the employee of Muhammadiyah where the right and authority of a person who is entitled to perform a transaction in Muhammadiyah Sharia pension fund.

According to the analysis of the researcher, in the application of the agreement between Muhammadiyah Sharia pension fund and investor in every contract above is in accordance with the *Fiqh Muamalat*, because therein has fulfilled every pillars and requirement of the agreement-. However, there is a defect in the *Mudharabah* contract due to an error in the management of pension funds that invests its funds into the conventional-based credit Bank.

In the *Fiqh Muamalat*, each contract must be Shariah-compliant and must fulfill its pillars and conditions. There can be no element of *Maghrib* (*Maysir*, *Gharar* and *Riba*). Therefore, in allocating the funds to be invested we should not allocate it to places of unclear, investment of something used for illegal goods or conventional institutions that still use the interest system. Because in interest contains the element of *riba*. We must avoid usury because his practice is not only for perpetrators of *Riba* all the dimensions related to him will get the damnation of Allah SWT. As in prophetic tradition:

حَدَّثَنِي عَبْدُ اللَّهِ بْنُ مَسْعُودٍ عَنْ أَبِيهِ قَالَ : لَعَنَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَكِلَ الرِّبَا، وَمُؤَكَّلَهُ وَشَاهِدَهُ وَكَاتِبَهُ

From Abdullah R.A., Rasulullah SAW said: Has told us Abdurrahman bin Abdullah bin Mas'ud, from his father, he said: Rasulullah SAW did the man who ate *Riba*, the one who fed *Riba*, his witness and author (Narrated by Abu Dawud).

According to the analysis of the reseracher, in terms of the management of pension funds in the Muhammadiyah Sharia pension

fund is not in accordance with the Fiqh *Muamalat* because there is still an investment of pension funds to the conventional institution of the Bank of creditors. Because, conventional institutions still use the bank's interest that contain the element of *riba*. And *Riba* is not allowed in Islam. And the analyzes of researcher about the reason of the Muhammadiyah Sharia pension fund continues to use Public Credit Bank as a fund management partner for investment is this institution is more guarantee to gain greater profit and stable compare with Sharia Public Credit Bank. And the lack of understanding to the managers of Muhammadiyah Sharia pension fund about the importance of blessing in the management system of investment funds versus profit. And also, the lack of supervision from the Sharia supervisory board as the person responsible for the supervision of activities conducted and stipulated in the Muhammadiyah Sharia pension fund.

Conclusion

Based on the result of research about the management of Sharia Pension Fund in Muhammadiyah Sharia Pension Fund according to fiqh *muamalat*, several conclusions can be drawn, namely :

1. In the collection of Muhammadiyah Sharia pension fund collects dues from the contribution of participants and the employer's dues. Because Muhammadiyah Sharia Pension fund is an employer's pension fund, the contribution of the participant is deducted by 5% of the income or salary that has been given by the employer. Payment is made every month on the 15th, if there is a delay in payment or a deposit of dues up to 2.5 months then it will be charged *ta'zir* funds as one form of discipline in the depositing of dues. The contract that used in the Muhammadiyah Sharia pension fund in the management of funds there are 6 kinds of contracts, *Hibah bi Syarth* Contract, *Hibah Muqayyadah* Contract, *Wakalah* Contract, *Wakalah bil Ujroh* Contract, *Ijarah* Contract and *Mudharabah* Contract. However, the most widely used contract in the management of the Fund is *Mudharabah* Contract and *Ijarah* Contract. Because most of the investors and banks offer *Mudharabah* contract as one of the contract used in the management of investment fund. As for other reason, because in this contract can give a benefit the results of development of investment funds greater than the other contract. And in its management system,

the Muhammadiyah Sharia pension fund allocates its funds into the Sharia public crediting Bank with the form of a term deposit or deposit on call. However, one of the funds allocated to the people's creditor Bank.

2. After analyzing the management of pension fund in Muhammadiyah sharia pension fund, the researcher concluded that some management procedures have been in accordance with the provisions in Fiqih Muamalat and some others are not in accordance with the provisions of Fiqih Muamalat. With the following explanation:
 - a. In the requirement of membership has the element of *Ahliyah* and the *Wilayah* of the people who are in the field. *Ahliyah* is where the people who have puberty and *mumayyiz*, *'aqid* can distinguish which are good and bad, which are dangerous and no danger and which are beneficial and detrimental. In the tuition collection procedure, in determining the monthly salary deduction has been agreed between participants and employers so that it contains willingness between the two parties. In the use of *Hibah* contract, between employers and Sharia pension fund Muhammadiyah then, *Ijarah* Contract, *Wakalah* Contract and *Wakalah bil Ujroh* Contract between the Muhammadiyah Sharia pension fund and investor has fulfilled all pillars and conditions.
 - b. In the managing of *Wakalah* Contract between the employer and the participant is not in accordance with the provisions of *Fiqh Muamalat* because the participant lack of confidence in the determination of the Agreement and Investment fund that has been deposited and it may be damage of the unwillingness between the parties. Its mean, the ignorance will contain an element of distrust between the participants and the employer. If an agreement is not based on trust it will cause unwillingness between one party and the other. And this, is not in accordance with the *Fiqh Muamalat* because the main principle in the tool is a willingness between the parties who do the agreement. And also on *Mudharabah* Contract in the management of funds occurred disability due to the placement of investment funds in the conventional-based credit Bank. According to the analysis of the researchers, the reason of the Muhammadiyah Sharia pension fund continues to use public credit bank as a fund management partner

for investment is this institution is more guarantee to gain greater profit and stable compare with Sharia public creditor bank. And the lack of understanding to the managers of Muhammadiyah Sharia pension fund about the importance of blessing in the management system of investment funds versus profit. And also, the lack of supervision from the Sharia supervisory board as the person responsible for the supervision of activities conducted and stipulated in the Muhammadiyah Sharia pension fund.

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