



İSLAM EKONOMİSİ VE FİNANSI DERGİSİ

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DergiPark AKADEMİK **SOBİAD**



Amaç ve Kapsam

Türkiye'nin son 10 yılda dünya ekonomisinde ve finansında almış olduğu yol, kısa sürede İstanbul'u küresel finansın önemli merkezlerinden biri haline getirmiştir. Tarihsel mirası ve kültürü İstanbul'u İslami finans kuruluşlarının da gözdelelerinden biri yapmıştır. Yüzyıllık moladan sonra Türkiye'nin kendi gerçek kimliğine dönme çabasının bir sonucu olarak Ortadoğu, Balkanlar, Kafkasya, Kuzey Afrika ve Orta Asya toplumları Türkiye'nin geleceğine daha çok ilgi duymaya başlamıştır. Böyle önemli tarihsel bir süreçte İslam ekonomisi ve finans gibi tarihsel ve kültürel olarak doğal mirasçısı olduğumuz alanda yapılan araştırmaları daha geniş kitlelere ulaştırmak amacıyla İslam Ekonomisi ve Finans Dergisi (ISSN 2149-3820) Uluslararası İslam Ekonomisi ve Finansı Araştırmave Uygulama Merkezi tarafından 2015'ten itibaren yayımlanmaktadır. İslam Ekonomisi ve Finansı Dergisi, İslam ekonomisi ve finansı alanında özgün fikir ve araştırmaların yer aldığı, asırların mirasının tekrar günümüze aktarıldığı, yeni düşünce ve araçlarla bualana yön verebilecek araştırmaların yayımlanmasını temel alan bir dergidir.

Aim and Scope

Istanbul has become one of the most critical centres of global finance, thanks to Turkey's economic and financial developments in the last decade. Historical heritage and culture have made Istanbul one of the attractions of Islamic financial institutions. A hundred years after the break, the Balkans, the Caucasian, North African, and Central Asian societies began to hear much more interest in the future of Turkey as a result of the efforts to return to its true identity. Journal of Islamic Economics and Finance (ISSN 2149-3820) has been published since 2015 by the International Research Centre for Islamic Economics and Finance in order to convey the research on the field that we are historically and culturally natural inheritors of Islamic economics and finance to the large masses in such a necessary historical process. The Journal of Islamic Economics and finance aims to publish novel studies, which carry the historical heritage to the current era and lead the field with new ideas and methods.

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Yazım Kuralları

İslam Ekonomisi ve Finansı Dergisi (ISSN 2149-3820) , APA 6. sürüm atf formatını kullanmaktadır. Dergiye gönderilen yazılar, referans sistemi, dipnot gösterme biçimi ve kaynakça düzenlenmesinde American Psychological Association (APA) stilinde hazırlanmalıdır.

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Çalışmaların uluslararası görünürlüğünü artırmak için yapılan bu uygulamada, **1000-1500 kelimelik** İngilizce genişletilmiş özet sunulması gerekmektedir. Bu özet makale ile beraber sunulabileceği gibi çalışma basım için kabul edildiğinde de sunulabilir. Fakat ikinci durumda çalışmanın genişletilmiş İngilizce özeti, İngilizce editörlerine tekrar iletilip değerlendirilecektir.

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Journal of Islamic Economics and Finance (JIEF-ISSN 2149-3820) adopts APA 6 referencing style. Manuscripts sent to Journal of Islamic Economics and Finance (JIEF-ISSN 2149-3820) should have citations, footnotes and bibliography prepared in American Psychological Association (APA) style.

In Microsoft Word, you can set and automatically generate a bibliography in APA 6 citation style.

Attention should be paid to presenting the articles sent to JIEF in accordance with the guidelines listed below. In case of non-compliance with the stated rules, the article shall be returned to the author without being sent to the referees, hence it is highly recommended to be framed in accordance with the following rules:

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Örnek kaynakça yazımları

Bulut, M. (2011). Gelişen Avrupa Genişleyen Osmanlı'dan Günümüze Dünya Ekonomisi'nde Değişen Dengeler ve Yeni Merkez. *İEFD Sosyal Bilimler Dergisi*, 1(1), 11-28.

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Shaw, S. (1982). *Osmanlı İmparatorluğu*. Çev. Mehmet Harmancı, İstanbul: Sermet Matbaası.

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2. Pre-Evaluation Process

In the pre-evaluation process, the field editors examine the studies, introduction and literature, methods, findings, results, evaluation and discussion sections in detail in terms of journal publication policies, scope and authenticity of study. The manuscript which is deemed not suitable as a result of this examination shall be returned to the author together with the field editor's evaluation report within four weeks at the latest. The accepted manuscripts will be sent further through the referee process.

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Hakemler bir çalışmanın düzeltmelerini inceleyerek uygunluğuna karar verebilecekleri gibi gerekirse birden çok defa düzeltme talep edebilir.

Hakem Raporları

Hakem değerlendirmeleri genel olarak çalışmaların özgünlük, kullanılan yöntem, etik kurallara uygunluk, bulguların ve sonuçların tutarlı bir şekilde sunumu ve literatür açısından incelenmesine dayanmaktadır.

Bu inceleme aşajdaki unsurlara göre yapılır:

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4. Sonuç ve öneriler: Değerlendirme raporu literatüre katkı, gelecekte yapılabilecek çalışmalara ve alandaki uygulamalara yönelik öneriler hakkında görüş içerir.

5. Stil ve anlatım: Değerlendirme raporu, çalışma başlığının içeriği kapsamı, Türkçe'nin kurallara uygun kullanımı, gönderme ve referansların APA 6 kurallarına uygun olarak tam metnin diline uygun verilmesi ile ilgili de görüşler içerir.

6. Genel değerlendirme: Değerlendirme raporu çalışmanın bir bütün olarak özgünlüğü, eğitim literatür ve alandaki uygulamalara sağladığı katkı hakkında görüş içerir.

Değerlendirme sürecinde hakemlerin çalışmanın tipografik özelliklerine göre düzeltme yapmaları beklenmemektedir.

4. Referee Evaluation Process

The period given to the referee for the evaluation process is 6 weeks. Proposals for corrections from referees or editors must be completed by the authors within **1 month** according to the "corrections instruction".

Referees can decide on the suitability of the study by reviewing the corrections and may also request additional corrections if necessary.

Referee Reports

Referee evaluations are based in general on the originality of the studies, the method used, the conformity with the ethical rules, the consistence of presentation of the findings and results, and the examination of the literature. This review is based on the following elements:

1. Introduction and Literature: The evaluation report contains the presentation and purpose of the problem addressed in the study, the importance of the topic, the scope of the relevant literature, the timeliness and the originality of the study.

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4. Conclusion and suggestions: The evaluation report contains opinion on the contributions to the literature, future studies and recommendations for the applications in the area.

5. Style and narration: The evaluation report assesses the compatibility of the manuscript's title with the content, appropriateness of the usage of Turkish/English in the study, and referencing in accordance with the language of the study and APA 6 rules.

6. Overall evaluation: The evaluation report contains opinion on the authenticity of the study as a whole, its contribution to the academic literature and the applications in the area. Referees are not expected to make corrections on typographic characteristics during the evaluation process.

TÜRKİYE VE BAE'DEKİ KİTLE FONLAMA PLATFORMLARINA YÖNELİK YASAL DÜZENLEMELERİN KARŞILAŞTIRILMASI

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ÖZ

Küçük ve orta ölçekli işletmeler (KOBİ) milli hasılaya, istihdama ve teknolojik gelişmelere katkıları açısından ekonomiler için oldukça önemli bir konumdadır. Söz konusu katkılarına rağmen KOBİ'lerin finansmana erişim meselesi henüz çözüme kavuşturulamamıştır. KOBİ'lerin tam anlamıyla karşılanamayan finansman ihtiyacı ve teknolojik imkanların gelişmesi finansal teknolojiler bağlamında yeni çözümleri beraberinde getirmiştir. Bunlar arasından son on yılda ciddi büyüme kaydeden kitlesel fonlama sektörü ön plana çıkmaktadır. Bu çalışmada kitlesel fonlama platformlarına yönelik 2019 yılında yürürlüğe giren Türkiye'deki yasal düzenlemeler ile bu hususta Orta Doğu ve Kuzey Afrika'da en fazla referans alınan Birleşik Arap Emirlikleri'ndeki (BAE) düzenlemeler kitlesel fonlama platformlarının kapsamı, Şer'i uyumu, girişimci ve yatırımcı olmak için gereken şartlar ve ikincil piyasalar açısından karşılaştırmalı olarak analiz edilmektedir. Karşılaştırmanın neticesinde elde edilen bulgular, BAE'deki yasal çerçevenin Türkiye'dekine kıyasla daha esnek ve daha az sınırlandırıcı olduğuna işaret etmektedir. Her ne kadar iki ülkedeki düzenlemeler girişimciler ve yatırımcılar için benzer koşullar barındırsa da Türkiye'deki düzenleyiciler her bir koşul için belirli sınırlar tayin ederken BAE'deki düzenleyiciler sadece koşulları tanımlamakla yetinerek limitlerin ve diğer detayların belirlenmesi hususunda platformlara sorumluluk yüklemektedir. İkinci yaklaşımın, BAE'de daha rekabetçi bir kitlesel fonlama piyasasına imkân tanıdığı söylenebilir.

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**COMPARISON BETWEEN CURRENT LEGISLATIVE FRAMEWORKS FOR
CROWDFUNDING PLATFORMS IN TURKEY AND UAE**Safa YILDIRAN^a*Istanbul Sabahattin Zaim University, Turkey*Monzer KAHF^b*Istanbul Sabahattin Zaim University, Turkey***ARTICLE INFO****Article history:**

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Small and medium enterprises (SMEs) are crucial for economies in terms of their contributions to gross national product, employment, and innovation. Besides their contribution, the issue of financial inclusion of SMEs has not been solved yet. The unsatisfied needs of SMEs for financing and the improvements in the technological facilities lead to new financial solutions within the scope of financial technologies. Among them, crowdfunding comes into prominence with its enormous growth in the last decade. In this study, the current regulatory framework for the crowdfunding platforms in Turkey launched in 2019 has been analyzed comparatively with the regulation in the United Arab Emirates (UAE), the most benchmarked jurisdiction in the Middle East and North Africa, in terms of the scope of the crowdfunding platforms, Shari'ah-compliance, the conditions for the entrepreneurs and the investors, and secondary markets. Based on the comparison, the findings imply that the legislative framework of the UAE is more flexible and less restrictive compared to that of Turkey. Although both regulations consist of the same type of conditions for the entrepreneurs and the investors, regulators in Turkey specify each condition with specific limits, while the regulators in UAE only define the types of conditions and charge the platforms with setting the limits and other details. It can be said that the second approach leads to a more competitive crowdfunding market in the UAE.

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INTRODUCTION

Small and medium enterprises (SMEs) are crucial for economies in terms of their contributions to gross national product, employment, and innovation. The importance of SMEs reflects on the statistics representing the mentioned indicators, especially in emerging countries. Even for the Organization for Economic Co-operation and Development (OECD) member countries, SMEs constitute 99% of the businesses and 65% of the total employment (OECD, 2019). Besides their contribution to economies, the issue of financial inclusion of SMEs has not been solved yet. According to the International Finance Corporation (IFC) estimation, 40% of SMEs, including micro-enterprises, are not able to satisfy their financing needs (*World Bank SME Finance*, 2020). The potential effects of an increase in the financial inclusion of SMEs have been calculated as a 1 percent increase in the annual economic growth and 16 million new jobs by 2025 in the Middle East, North Africa, Afghanistan, and Pakistan (MENAP), and the Caucasus and Central Asia (CCA) (Blancher et al., 2019).

The data and the estimations above show the inability of conventional financial institutions to meet the need of SMEs for financing. However, the unsatisfied need and the improvement in the technological facilities lead to new financial solutions within the scope of financial technology (fintech). Fintech companies provide financial services such as digital banking, P2P lending, crowdfunding, insure-tech, investment, market aggregation, etc., through digital platforms (Batunanggar, 2019).

Among these services, crowdfunding platforms directly assist SMEs in reaching the funds they need. It is an open call for providing financial needs based on different forms to support enterprises for particular goals through the Internet (Belleflamme et al., 2013). The emergence of crowdfunding in an organized way corresponds to the 2008 financial crisis (infoDev & World Bank, 2013). The starting point of the crowdfunding industry coincides with the primary motivation behind the fintech initiative because of the fact that most SMEs face difficulties in finding funds from conventional financial institutions, especially after the crisis.

When the performance of the crowdfunding industry over the last decade is considered, its significance and potential will be recognized. The total transaction value in the crowdfunding industry increased from US\$ 2.7 billion to US\$ 305 billion between 2012 and 2018 (Massolution, 2015; P2PMarketData, 2020). According to these figures, the transaction value in the crowdfunding industry experienced enormous growth within eight years. The number of campaigns in 2019 was 171.8 thousand all over the world, and the

average funding per campaign was realized as US\$ 5,942 in the same year (Statista, 2020a).

The distinctive features of a crowdfunding, such as the ability to transfer money directly to the real sector and inclusion of ethical and social perception to the financing process, along with other advantages, make it a potentially convenient tool for Islamic finance (Saiti et al., 2019). In addition, the shares of Islamic finance based on profit and loss sharing (PLS), which is *mudarabah* and *musharakah*, are 1.7% and 4.2% in the total credit facilities of Islamic finance institutions, respectively, and this phenomenon has been criticized by some of the scholars (Nor & Ismail, 2019). Since there is almost a consistency between Islamic finance principles and the different forms of crowdfunding, and the principle of PLS is present in equity-based crowdfunding, Islamic finance can utilize crowdfunding as a new tool to improve Shari'ah-compliant finance, mainly based on PLS (Taha & Macias, 2014).

Besides the potential of crowdfunding and the possibility of its application in Islamic finance suggested by the facts provided in the previous paragraphs, there are some regulatory issues regarding Shari'ah-compliance of the contracts and investment areas, transparency, conditions that need to be satisfied by the entrepreneurs, and the investors, fraud and misleading projects, lack of liquidity and the secondary market, and so on (Ata, 2018; Saiti et al., 2019). These issues imply that a balanced regulatory framework is necessary for the crowdfunding industry to realize its potential and possible positive effects on economies.

Throughout the study, the current legislation in Turkey regarding the crowdfunding industry will be analyzed comparatively with that in United Arab Emirates (UAE) in terms of the scope of the crowdfunding platforms, Shari'ah-compliance of the contracts and investment areas, the conditions for the entrepreneurs and the investors, and secondary markets. The reason for preferring UAE is that it has the most benchmarked jurisdiction in the Middle East and North Africa (World Bank & Cambridge Centre for Alternative Finance, 2019). Since the studies in the literature on the crowdfunding industry of Turkey generally involve remarks and examination of the initial regulation in 2017 rather than the secondary regulation in 2019, the study is expected to contribute to the current literature considering the latest regulations in Turkey. Another contribution of the study is the underlying comparative approach with the regulations in UAE.

The methodology adopted throughout the study is mainly based on the literature review for getting reliable secondary data from reports and other studies and considering the remarks and examination on the legislative framework of Turkey and UAE. Regarding the comparison between the legislative frameworks, the regulations titled *Paya Dayah Kitle Fonlaması Tebliği*

(Communique on Equity-Based Crowdfunding) and the Dubai Financial Services Authority (DFSA) Rulebook Conduct of Business Module have been selected as the main law texts of Turkey and UAE, respectively (The DFSA Rulebook Conduct of Business Module, 2020; Paya Dayalı Kitle Fonlaması Tebliği, 2019). The details about the legislations of the countries have been explained in the fifth section. Finally, instead of creating a separate section for the literature review, the findings of the literature are attributed in the related sections.

The outline of the study is as follows. After the introduction, the history, definition, and forms of crowdfunding will be described in the second section. The third section will consist of the applications of and the legislations for crowdfunding platforms in the world. Then, the current situation of the Islamic crowdfunding industry in the world and the crowdfunding legislations of the selected Muslim-majority countries will be summarized in the fourth section. The content of the fifth section will be the comparison between the legislations in Turkey and UAE in terms of the scope of the crowdfunding platforms, Shari'ah-compliance of the contracts and investment areas, the conditions for the entrepreneurs, and the investors, and secondary markets. The sixth and final section of the study will include the concluding remarks.

DEFINITION, HISTORY, AND FORMS OF CROWDFUNDING

This section will present the definition of crowdfunding and the main actors involving the crowdfunding processes. Also, it includes a brief history of crowdfunding in the world. Finally, different forms of crowdfunding and their share in the total crowdfunding volume will be provided, and the patterns in the figures will be interpreted.

Similar to every concept, there are various definitions for crowdfunding as well. However, all of the definitions have two common components: the idea or initiative of the entrepreneur and collecting funds from the crowd through the Internet (Ata, 2018). One of the most comprehensive definitions of crowdfunding belongs to Belleflamme et al. (2013). According to them, crowdfunding is an open call for providing financial needs for particular aims through the Internet, based on different forms such as donation, exchange for the good produced, or reward (Belleflamme et al., 2013). The shortcoming of the definition is that it does not include all forms of crowdfunding.

As seen in the definition above and the common components of the other definitions stated by Ata (2018), three main actors are necessary to bring crowdfunding into being. The first one is the entrepreneur who calls for the fund to realize his/her specific objectives regarding his/her initiative. The

entrepreneur does not have to establish a start-up company, he/she may already have an operating firm, but it is required to have well-designed projects that will be realized by the collected funds. The second actor in crowdfunding is the crowd who supply the fund based on different forms of agreements/contracts with the entrepreneurs. These forms of crowdfunding will be described and elaborated on in the following paragraphs. The last actor is the crowdfunding platform which is crucial for establishing a connection between the entrepreneurs and the crowd. It operates as an intermediary and charges a fee from each entrepreneur who published his/her project on the platform.

The emergence of crowdfunding in an organized way corresponds to the 2008 financial crisis (infoDev & World Bank, 2013). However, it is possible to find examples of crowdfunding starting from the end of the 1990s. One of the earlier examples is that Marillion, a British rock band, opened a call on the Internet to finance its concert tour in the United States of America (USA) and collected US\$ 60,000 in 1997 (Hemer, 2011). Although many film and technology projects have been funded by crowdfunding between 1999 and 2002, the first crowdfunding platform established in the modern sense was a website called ArtistShare which has come into operation in 2003 in the USA according to consideration of the researchers in the field (Anbar, 2020; Doğan & Vural, 2019). It is worthy to note that there existed many examples for crowdfunding throughout history, such as calling citizens to finance the cost of the military expedition when the concept of crowdfunding is extended beyond the platforms on the Internet.

There are different forms of crowdfunding, and each of them constitutes a different relationship between the entrepreneurs and the crowd. The forms of crowdfunding are classified into two main categories: non-financial and financial crowdfunding. The former includes donation- and reward-based crowdfunding, and the latter consists of debt- and equity-based crowdfunding (Massolution, 2015). The main four forms of crowdfunding, the return provided by each of them, and their complexity level are summarized in Table 1 below.

It is evident that complexity in financial crowdfunding is higher than that in non-financial crowdfunding. Therefore, financial crowdfunding necessitates more profound legislative regulations in order to minimize disputes among the actors. Another issue in terms of Islamic crowdfunding is that the presence of interest in debt-based crowdfunding. There are some suggested models to eliminate the interest in this form of crowdfunding through Murabahah (Saiti et al., 2019).

Table 1. *The Forms of Crowdfunding*

Category	Form	Types of Returns	Complexity
Non-financial	Donation-based	None	1
	Reward-based	The asset produced	2
Financial	Debt-based	Interest	3
	Equity-based	Share of ownership/future earnings	4

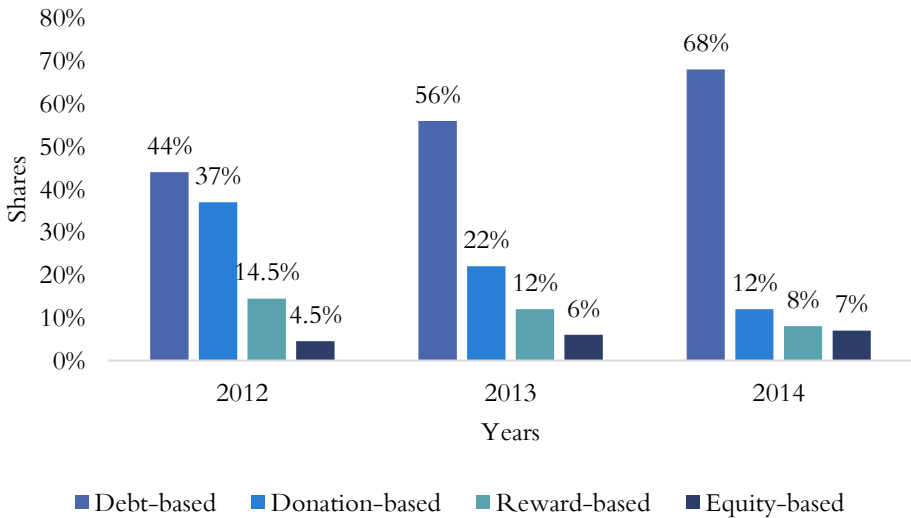
Source: (Hemer, 2011; Massolution, 2015)

Note : *Regarding the complexity of the crowdfunding forms, 1 represents the lowest complexity while 4 stands for the highest complexity.*

The last point of the second section of the study is the share of each form of crowdfunding in the total crowdfunding volume globally. Figure 1 presents the change in the shares of different forms of crowdfunding between 2012 and 2014. The new forms of crowdfunding called royalty and hybrid, which occurs in 2013, are not included in the Figure because of their minor share in the total crowdfunding volume. Thus, the summations of the shares in 2013 and 2014 do not reach 100%. As seen in Figure 1, debt-based crowdfunding continues to become a dominant form in the crowdfunding industry. Although the shares of non-financial forms of crowdfunding decreased between 2012 and 2014, it is observed that the share of equity-based crowdfunding slightly increased from 4.5% to 7% during the same period.

The lack of publicly available data between 2015 and 2020 prevents us from following further changes in the shares. However, data for 2018, which is available but prepared based on a different methodology, shows that the share of debt-based crowdfunding reached 97.9% (P2PMarketData, 2020). Keeping in mind the methodological differences between the two data sources, it can be noted that debt-based crowdfunding keeps going to be more dominant among the other forms of crowdfunding. Also, the evolution of the crowdfunding industry decreases the possibility of the complementary role of Islamic crowdfunding as a tool based on PLS. However, this phenomenon needs to be investigated more profoundly, considering the effect of legal frameworks for crowdfunding platforms.

Figure 1. The Shares of Different Crowdfunding Forms in the Total Crowdfunding Volume between 2012 and 2014



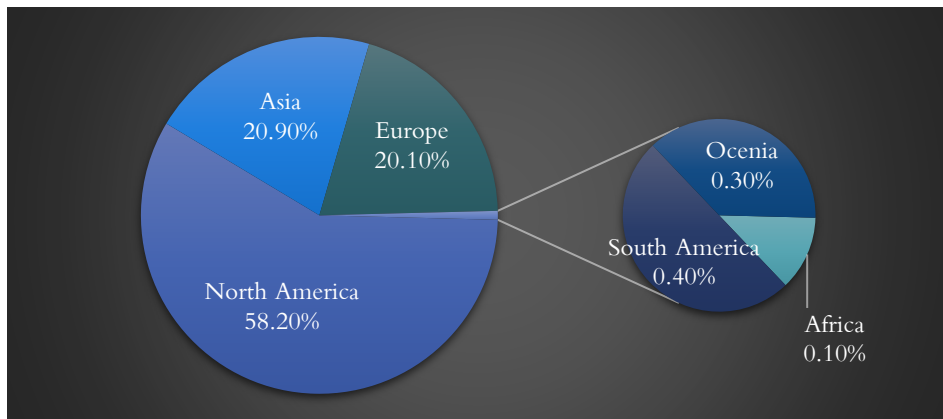
Source: (Massolution, 2015)

CROWDFUNDING IN THE WORLD: APPLICATION AND LEGISLATION

In this section, the current situation of the crowdfunding industry in the different regions and countries will be summarized based on the publicly available data. Another focus of the section is the legislative regulations for crowdfunding. Instead of going into detail, the general picture of the developments in the legislation will be presented.

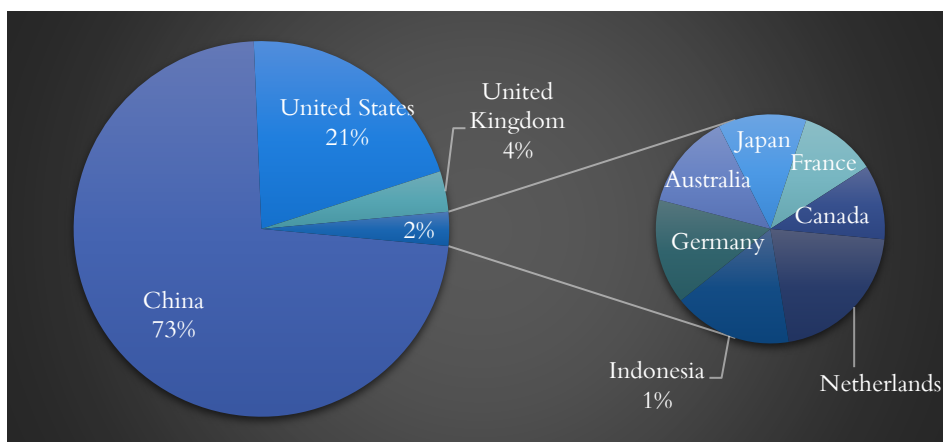
The crowdfunding industry has grown highly in the last decade. However, the contribution of each region or country to the development of the crowdfunding industry is not at the same level. Figure 2 shows the global crowdfunding volume by region in 2014. North America was the leading region of the industry in terms of crowdfunding volume in 2014. However, this picture has changed in the last four years after the improvements in the Chinese crowdfunding volume. Although we do not have aggregated data by region for the current years, the data of crowdfunding volume provided for the selected countries in 2018 shows China's position in the crowdfunding industry. In Figure 3, the share of selected countries in their total crowdfunding volume has been calculated in order to give an idea about the relative crowdfunding volume of the selected countries compared to that of China. If we assume that the total crowdfunding volume in the world is equal to the sum of those of countries, China will represent 73% of the market.

Figure 2. Shares of the Regions in the Total Crowdfunding Volume in 2014



Source: (Massolution, 2015)

Figure 3. Shares of the Selected Countries in Their Total Crowdfunding Volume in 2018



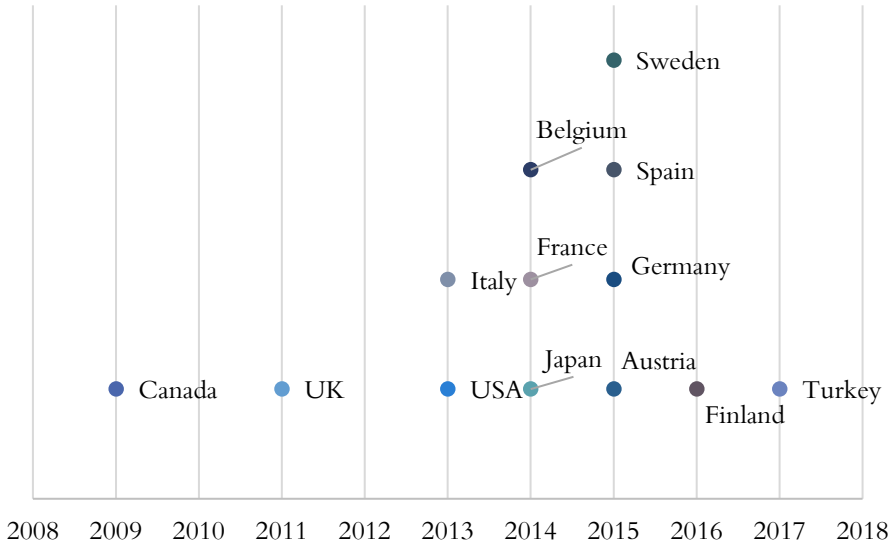
Source: (Statista, 2020b)

Note : *The total crowdfunding volume used to calculate the countries' share is the summation of the crowdfunding volumes of the listed countries.*

The second issue that will be discussed in the third section is the timing of legislative regulations for crowdfunding platforms in different countries around the world. A regulatory framework is an essential tool to eliminate the concerns regarding integrity, sustainability, and consumer protections in the crowdfunding industry (World Bank & Cambridge Centre for Alternative Finance, 2019). Because of the fact that regulations generally come after applications, the establishment of the first regulations regarding crowdfunding

started with more than ten years delay compared to the first applications. Figure 4 provides a timeline of initial regulations in the selected countries, especially the European Union members.

Figure 4. *The Timeline of the Initial Regulations for the Crowdfunding Industry in the Selected Countries*



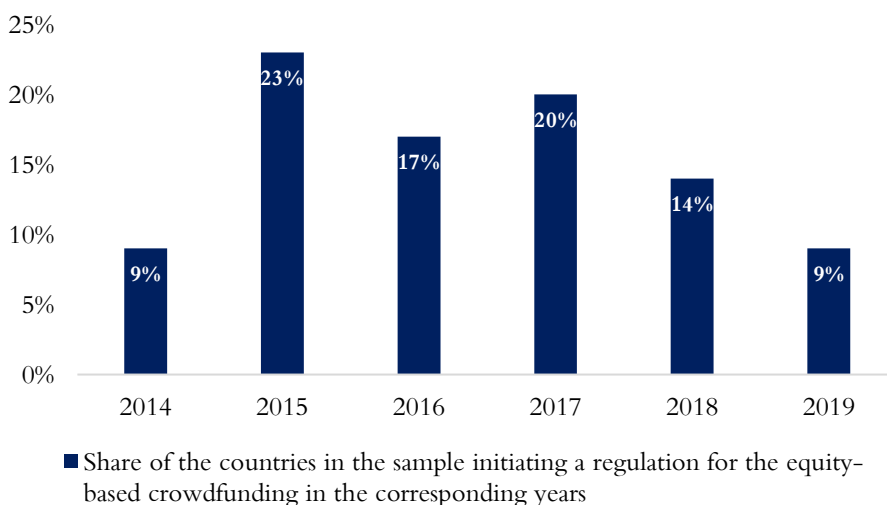
Sources: (Ata, 2018; CrowdfundingHub, 2016; Gajda, 2017)

As seen in the timeline above, the first regulations for crowdfunding industries mainly appeared between 2013 and 2015. According to available information in the literature and the reports, the first step has been taken by Canada. United Kingdom (UK) is seen in the second place, and then, the USA and Italy have approved crowdfunding regulations. It is important to note here that the scope and content of regulations may differ from country to country. Although some countries regulated all forms of crowdfunding, including equity-based crowdfunding, others have not addressed the complicated forms of crowdfunding in the first regulations and extended the scope of the regulations in the following years.

The timing of the regulations for the most complicated form of crowdfunding supports the idea given in the previous paragraph. As summarized in Figure 5, the regulations for equity-based crowdfunding generally appear between 2015 and 2017. 60% of the sample have approved regulations for equity-based crowdfunding between those years. Even if the number of the selected

countries for the samples of Figures 4 and 5 is different, it is possible to draw the following conclusion. The regulations addressed equity-based crowdfunding one or two years later compared to other forms of crowdfunding.

Figure 5. *The Timeline of the Regulations for the Equity-Based Crowdfunding Industry*



Source: (World Bank & Cambridge Centre for Alternative Finance, 2019)

Note : *The sample used in the cited source consists of 111 jurisdictions*

ISLAMIC CROWDFUNDING IN THE WORLD: APPLICATION AND LEGISLATION

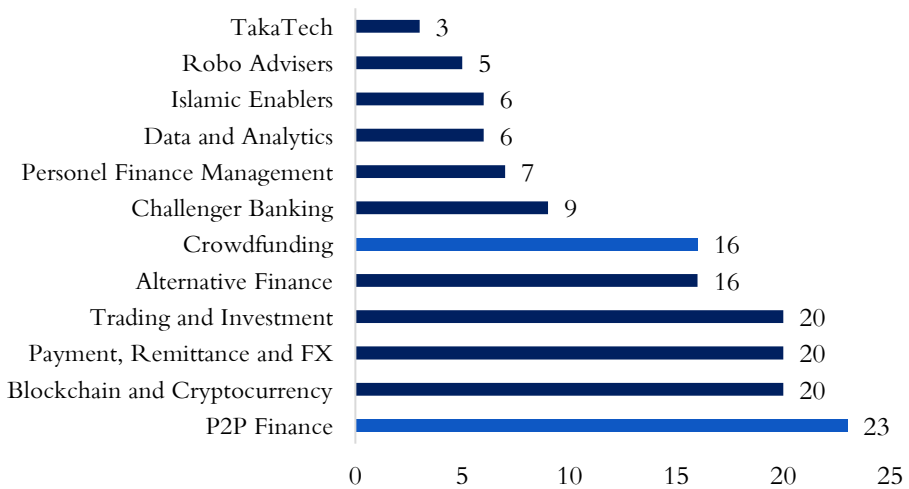
In this section, the current situation of the Islamic crowdfunding industry in the world will be examined in terms of its application and legislation. Throughout the section, the overall picture of the Islamic fintech market will be presented first. Then, the position of the crowdfunding platforms in the Islamic fintech industry will be determined based on available information. The last thing covered in the section is the current legislative framework for the crowdfunding industry in Muslim-majority countries.

Fintech companies provide financial services such as digital banking, P2P lending, crowdfunding, insure-tech, investment, market aggregation, etc., through digital platforms (Batunanggar, 2019). However, to be able to consider a fintech company as Islamic, it should offer Shari’ah-compliant financial services. As briefly summarized by Taha and Macias (2014), Islamic crowdfunding must invest in Shari’ah-compliant products, share the risk

among contracting parties, and perform without interest rate. These are the general principles, and one may present further important points considering the details of the crowdfunding process.

IFN Fintech provides up-to-date information regarding the companies that operate in the Islamic fintech sector. According to the latest landscape of the Islamic fintech industry published by the IFN Fintech, there are 151 active Islamic fintech companies worldwide (IFN Fintech, 2020). They classify the Islamic fintech companies into 12 categories based on the services provided by them, such as crowdfunding, P2P finance, alternative finance, challenger bank, and so on. The number of Islamic fintech companies in each category of the classification is given in Figure 6 below.

Figure 6. The Number of Islamic Fintech Companies in Each Category of the Classification of IFN Fintech



Source: (IFN Fintech, 2020)

As seen in Figure 6, there are 16 crowdfunding companies which constitute 10.6% of the total number of Islamic fintech companies in 2020. However, the explanations for the P2P Finance category show that they correspond to debt-based crowdfunding, which is one of the forms of crowdfunding defined before. Also, the companies listed in the category of P2P Finance, such as Ethis, Kapital Boost, and Nusa Kapital describe themselves as crowdfunding platforms in their websites (Ethis, 2020; Kapital Boost, 2020; Nusa Kapital, 2020). Therefore, the total number of Islamic crowdfunding companies becomes 39

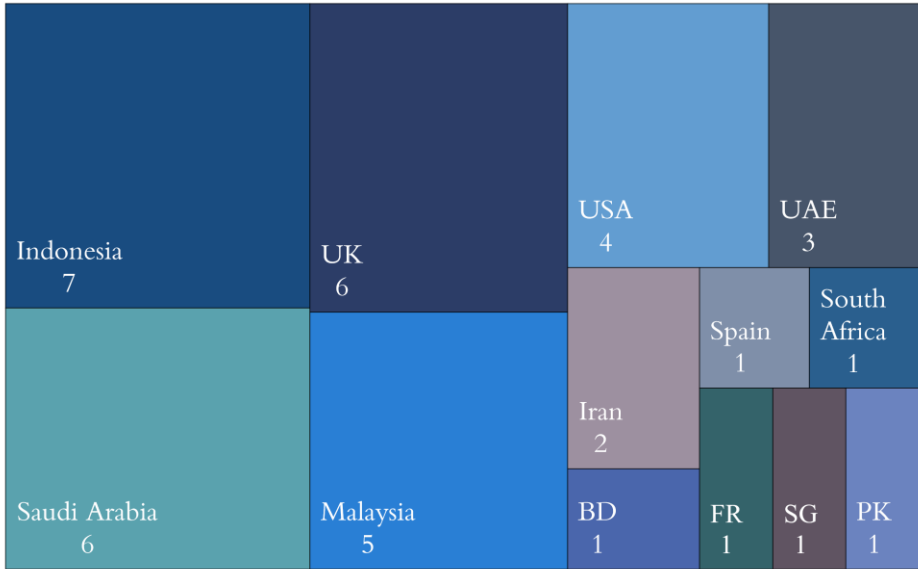
and represents 25.9% of the Islamic fintech companies when the P2P Finance category is considered debt-based crowdfunding.

The high share of the Islamic crowdfunding companies in the total Islamic fintech companies is also supported by other findings in the literature regarding the potential of the Islamic crowdfunding industry. For instance, crowdfunding / P2P is listed in the first place among the Islamic fintech companies that are expected to grow in 2020 (Elipses, 2019). In addition, World Bank estimates that the crowdfunding market value in developing countries will reach US\$ 96 billion by 2025, although it is a prediction far below the current trend (infoDev & World Bank, 2013; Saiti et al., 2019). Since most Muslim-majority countries who are applicants to establish Islamic crowdfunding platforms are considered developing countries, the estimation of the World Bank shows the potential of Islamic crowdfunding by implication.

The next issue that will be discussed in this section is the regional distribution of the Islamic crowdfunding companies listed in the Crowdfunding and P2P Finance categories of the IFN Fintech. According to the latest available data on the number of Islamic fintech companies classified by countries, Indonesia is the leading actor with a share of 33.3% in the total number of Islamic fintech companies. USA, UK, and UAE follow Indonesia with shares of 12.9%, 11.8%, and 10.7%, respectively. Malaysia has 7.5% of Islamic fintech companies (IFN Fintech, 2020). Figure 6 illustrates the shares of the mentioned countries in the total number of Islamic crowdfunding companies.

The lack of aggregated data on the volume of Islamic crowdfunding in the world calculated using the same methodology prevents us from comparing the countries in terms of their share in the total volume of Islamic crowdfunding. The last issue that can be mentioned here before passing on to the crowdfunding legislation in Muslim-majority countries is the share of the Islamic crowdfunding platforms in the whole crowdfunding industry in the world. As mentioned in the third section and illustrated in Figure 3, Indonesia appears to be the only Muslim-majority country among the first five countries with the highest share in the total crowdfunding volume of the selected countries in 2018. Since Indonesia, with the highest number of Islamic crowdfunding companies, as shown in Figure 7, has only a 1% share in the total crowdfunding volume of selected countries, it can be concluded that the share of the total volume of Islamic crowdfunding platforms in the total crowdfunding volume in the world is minor.

Figure 7. The Distribution of Islamic Crowdfunding Companies by Country as of December 2020



Source: (IFN Fintech, 2020)

Note : The abbreviations BD, FR, SG, and PK represent Bangladesh, France, Singapore, and Pakistan, respectively.

In order to have a general view about the introduction of legislation for the crowdfunding platforms in Muslim-majority countries, the dates and the scopes of the regulations in the selected Muslim-majority countries are identified as follows. As far as I am concerned, the first regulation was introduced by Malaysia for equity-based crowdfunding in 2015. In the following year, in 2016, Malaysia extended its crowdfunding regulation to include P2P financing, which corresponds to debt-based crowdfunding (World Bank & Cambridge Centre for Alternative Finance, 2019). One of the other pioneering countries in terms of the regulatory framework for the crowdfunding industry among the Muslim-majority countries is UAE. In 2017, Dubai International Financial Centre (DIFC), one of the financial free zones of UAE had launched legislation for the debt- and equity-based crowdfunding platforms (STA Law Firm, 2019). The regulation in Indonesia, which focuses on equity-based crowdfunding, has gone into operation in 2018 (Batunanggar, 2019). Although crowdfunding has been included in the legislation by the changes in the Capital Market Law of Turkey in 2017, the secondary regulation on equity-based crowdfunding has been launch in 2019 (Anbar, 2020).

When the dates of the initial regulations for the crowdfunding industry are compared with that of other countries, as demonstrated in Figures 4 and 5, it is seen that the selected Muslim-majority countries follow the general trend in legislation with negligible delays. Even if having regulation is better than a market without regulation, what matters is the content of the regulation that facilitates the growth of the market on a sound basis. Therefore, in the next section, the current legislative framework of Turkey for equity-based crowdfunding platforms will be detailly investigated in comparison to that of UAE with regards to the scope of the crowdfunding platforms, Shari'ah-compliance of the contracts and investment areas, the conditions for the entrepreneurs and the investors, and secondary markets.

THE EQUITY-BASED CROWDFUNDING REGULATION OF TURKEY IN COMPARISON TO THAT OF UAE

In the literature, the positive effect of crowdfunding regulation on the development of the crowdfunding industry has been emphasized, although the relative contribution of the regulation among the other determinants of the development of the industry differs. In a research on the factors that affect the success of a crowdfunding platform in Malaysia, it is found that crowdfunding regulations have a significant positive effect, but the magnitude of its impact comes after other determinants such as social awareness, entrepreneurship culture, technological readiness (Wahjono et al., 2019). In another study conducted by surveying 3,000 crowdfunding platforms globally, the findings show that the rule of law represented by corruption controls and quality of regulation significantly explains the crowdfunding volume of the countries in the sample (Rau, 2018).

The findings regarding the significant effect of the crowdfunding regulation necessitate further research of the content of the regulations because it may lead to either development or setback of the crowdfunding industry. Therefore, in this section, the current legislation in Turkey regarding the crowdfunding industry will be analyzed comparatively with that of UAE in terms of the scope of the crowdfunding platforms, Shari'ah-compliance of the contracts and investment areas, the conditions for the entrepreneurs and the investors, and secondary markets. The reason for conducting a comparative analysis is the fact that the most common element of the regulatory change process is investigating the regulatory frameworks of other jurisdictions in the world (World Bank & Cambridge Centre for Alternative Finance, 2019). The rationale behind the selection of UAE to compare the legislation in Turkey with it is that UAE has been considered the most benchmarked jurisdiction in

the Middle East and North Africa (World Bank & Cambridge Centre for Alternative Finance, 2019).

Before examining the legislation in terms of the mentioned aspects, the current situation of the crowdfunding industry in Turkey and the UAE will be summarized. The first crowdfunding platform in Turkey, called Projemefon, was established in 2010 (Anbar, 2020). Although other platforms were operating for a certain period of time but then closed for various reasons between 2010 and 2020, the active platforms, their establishment year, and the form of crowdfunding they use are listed below, mainly based on a study that consists of more up-to-date information compare to other studies in the literature (Yüksel Akbaş, 2019). However, the platform called FonlaBeni is removed from the list because it is confirmed that it is not an active platform based on a web search. In addition, there are relatively new equity-based crowdfunding platforms in Turkey. One of them is actively operating but the other two platforms are in process of establishment. These new platforms were added to the list as well. So, as summarized in Table 2, the crowdfunding industry of Turkey currently consists of 7 active platforms plus 2 platforms in process of establishment. Among 9 platforms, 6 of them are providing reward and/or donation-based crowdfunding facilities and 3 of them are operating based on equity crowdfunding.

Table 2. *Crowdfunding Companies in Turkey*

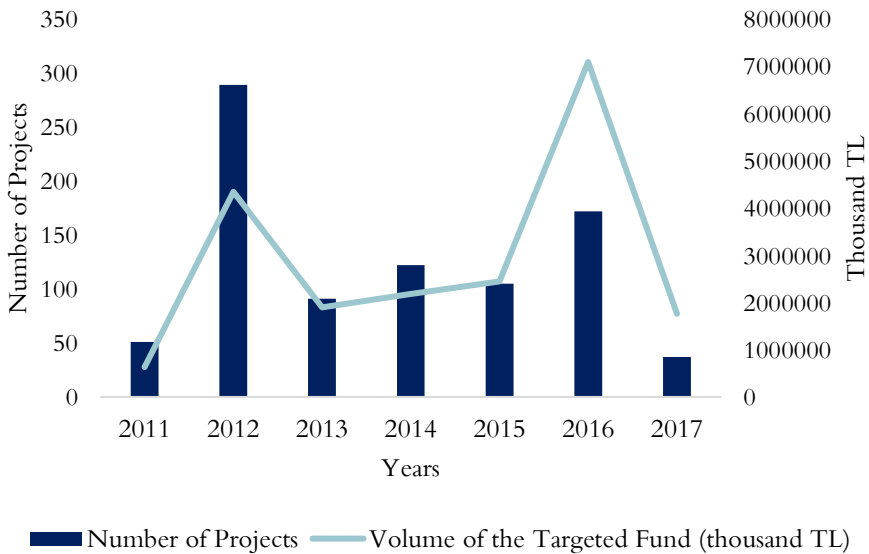
Name of Platform	Establishment Year	Form of Crowdfunding
CrowdFon	2010	Reward & Donation-based
FonGoGo	2013	Reward & Donation-based
Buluşum	2016	Donation-based
ArıKovam	2016	Reward-based
FonBulucu	2017	Reward-based
Ideanest	2017	Donation-based
StartupFon	2018	Equity-based
FonGoGo Pro	in process	Equity-based
FonBulucu Invest	in process	Equity-based

Source: (Demiray & Burnaz, 2019; Muradoğlu, 2020; Yüksel Akbaş, 2019)

Note : *Projemefon has passed into other hand in 2013 and started to operate with a new name called CrowdFon (Anbar, 2020; Demiray & Burnaz, 2019).*

To understand the performance of the crowdfunding industry of Turkey, the available data in the literature will be used. Doğan and Vural (2019) share the number of projects applied to crowdfunding platforms and the total volume of the targeted fund by the projects yearly between 2011 and 2017. Figure 8 illustrates the changes in the number of projects and the annual volume of the targeted fund in the mentioned period. According to Figure 8, the total number of projects between 2011 and 2017 was 867, and the total volume of the targeted fund was around 20 billion Turkish Lira (TL) in the same period. Although the data for the volume of targeted funds in 2018 and 2019 could not be found, the total number of the projects has exceeded 900 in 2018 and has reached 1117 as of 2019 (Demiray & Burnaz, 2019; Yüksel Akbaş, 2019). In addition, the high volume of targeted funds might be misleading because of the fact that only 25% of projects published in the platforms has collected the fund they targeted. This means that the number of successful projects is 303, and they collected only 8.9 million TL in total from 23,759 different investors (Yüksel Akbaş, 2019).

Figure 8. *The Number of Projects and the Volume of the Targeted Fund in the Crowdfunding Industry of Turkey between 2011 and 2017*



Source: (Doğan & Vural, 2019)

When we consider the crowdfunding industry of the UAE, it is observed that there exist five crowdfunding platforms operating in the UAE. These are Eureeca, Smart Crowd, Pi-slice, Beehive, and Humming Crowd Realty

(Amuna, 2019; Amuna & Aburahma, 2019; Central Bank of United Arab Emirates, 2020; Tom, 2020). Each form of crowdfunding is provided by at least one of the platforms mentioned. The establishment years of each platform could not be identified. However, there were only two crowdfunding platforms in 2014 (Amuna et al., 2017). Beehive, established in 2014, is currently one of the leading fintech companies located in the MENA region (Amuna & Aburahma, 2019).

Since there is no publicly available data produced with the same methodology, the figures found in the literature are presented chronologically. The crowdfunding volume in 2014 was realized as US\$ 1.7 million (Amuna et al., 2017). In 2016, the crowdfunding volume was US\$ 13.5 million, which consists of US\$ 3.61 million from equity-based crowdfunding, US\$ 8.6 million from debt-based crowdfunding, and US\$ 1.29 million from reward-based crowdfunding (Ziegler et al., 2018). The crowdfunding volume of Eureeca was US\$ 5 million, and that of Beehive was US\$ 43 million in 2018 (Amuna & Aburahma, 2019). Although the average success rate of the projects published in crowdfunding platforms of UAE could not be calculated because of the lack of available data, it is stated that the success rate of the projects in Eureeca is over 67% (Tom, 2020).

The general overviews of the crowdfunding industries in Turkey and the UAE do not allow us to compare the performance of the two countries in detail because there are not enough standard parameters for the same time intervals. However, it is evident that there exist approximately the same number of active platforms (7 in Turkey, 5 in UAE). Regarding the establishment date of the platforms, both countries had only two crowdfunding platforms in 2014. The form of crowdfunding is more diversified in the UAE compare to that of Turkey. The primary reason is that debt-based crowdfunding is not allowed in Turkey, as will be explained in the following parts. Finally, the total crowdfunding volume of the UAE is much higher than that of Turkey.

The main issue discussed in the remaining parts of this study is the legislative frameworks for crowdfunding platforms in Turkey and the UAE. Even if the first crowdfunding platform in Turkey was established in 2010, only donation- and reward-based crowdfunding had been available on the platforms until the amendment to the Capital Market Law of Turkey in 2017 (Doğan & Vural, 2019). With the amendment, crowdfunding platforms have been included in the corporations of the capital market (Canbaz & Çonkar, 2018). Also, the Capital Markets Board of Turkey (SPK) has been authorized to prepare the secondary regulations for crowdfunding platforms (Kurt Cihangir, 2018). Based on this authorization, SPK launched Communiqué on Equity-Based

Crowdfunding in 2019 (Anbar, 2020). As the title of Communiqué indicates, it only covers and regulates equity-based crowdfunding. Donation- and reward-based crowdfunding are not subject to this Communiqué, and they continue to be regulated by prevailing laws in Turkey as before (Anbar, 2020). Finally, debt-based crowdfunding and real estate crowdfunding are considered illegal in Communiqué.

In UAE, four institutions regulate financial services or activities (Central Bank of United Arab Emirates, 2020). These are the Central Bank of the UAE, The Securities and Commodities Authority (SCA), Financial Services Regulatory Authority (FSRA) in Abu Dhabi Global Market (ADGM), and Dubai Financial Services Authority (DFSA) in Dubai International Financial Center (DIFC). Since 2016, DFSA has been regulating crowdfunding platforms through interim arrangements (Central Bank of United Arab Emirates, 2020). For the first time in the Gulf Cooperation Council (GCC), DFSA launched regulation for the debt- and equity-based crowdfunding platforms in 2017 (Dubai Financial Services Authority, 2017). Another regulation for debt-based crowdfunding in UAE is prepared by the Central Bank of UAE (CBUAE) on the 28th of October 2020 (IMC, 2020). It is important to note that the previous regulation by DFSA is for DIFC, one of the financial free zones of UAE, and the second regulation by the CBUAE is for the mainland of the country. The last thing which is worthy to emphasize here is that both regulations do not include donation- and reward-based crowdfunding, similar to the case in Turkey. However, debt-based crowdfunding is allowed and regulated by both DFSA and CBUAE, and DFSA permits real estate crowdfunding in contrast to the prohibition of debt-based crowdfunding in Turkey.

The studies in the literature on the crowdfunding industry of Turkey mainly involve remarks and examination regarding the amendment to the Capital Market Law of Turkey in 2017 (Bayraktar, 2019; Canbaz & Çonkar, 2018; Demiray & Burnaz, 2019; Doğan & Vural, 2019; Kurt Cihangir, 2018; Yüksel Akbaş, 2019). Among these studies, Kurt Cihangir (2018) discusses the results of a forum on the future regulatory framework for crowdfunding platforms in Turkey. Demiray and Burnaz (2019) summarize the content of the draft Communiqué on Equity-Based Crowdfunding prepared by SPK. Only one study written after the launching of the final version of Communiqué could be found during the literature review, and it includes a summary of new regulations (Anbar, 2020). The literature overview shows the necessity of new research on the current regulation for crowdfunding platforms in Turkey. Therefore, the study is expected to contribute to the literature with a detailed

analysis of the latest regulation and the underlying comparative approach adopted in the study.

The following sub-sections consist of the comparison of the legislation in Turkey and UAE for equity-based crowdfunding platforms. Communique on Equity-Based Crowdfunding by SPK and regulation of DFSA in UAE will be the primary law texts while comparing the regulations (The DFSA Rulebook Conduct of Business Module, 2020; Paya Dayalı Kitle Fonlaması Tebliği, 2019). The numbers of related articles (art) and paragraphs (para) will be written in parentheses when it is necessary.

The Scope of Crowdfunding Platforms

Crowdfunding platforms in Turkey are not allowed to provide debt-based crowdfunding and real estate crowdfunding (Art 12, Para 1). On the other hand, crowdfunding platforms in the UAE can use different forms of crowdfunding, such as debt-based, equity-based, and real estate crowdfunding. (Art 11.4, 11.5, and 11.6).

The other issue related to the scope of the crowdfunding platforms is about the other forms of crowdfunding such as donation- and reward-based. According to the regulation of DFSA, crowdfunding platforms are not permissible to provide both regulated and unregulated crowdfunding (donation- or reward-based) services under the same legal entity (Art 11.3.4). If they want to have a donation- or reward-based crowdfunding facility, they have to use a separate legal entity. Although there is no explicit restriction in SPK regulations regarding the same issue, the crowdfunding platforms, which have been operating as donation- or reward-based platforms and decided to offer equity-based crowdfunding, started to use slightly different names and websites for the platforms they opened for equity-based crowdfunding. For instance, FonGoGo and FonBulucu have created new platforms for equity-based crowdfunding with new names as FonGoGo Pro and FonBulucu Invest, respectively, as shown in Table 2 above.

Shari'ah-Compliance of The Contracts and Investment Areas

According to the distribution of Islamic crowdfunding companies by country as of December 2020, illustrated in Figure 7 above, there are three Islamic crowdfunding companies in UAE, although there is no company from Turkey in the list prepared by IFN Fintech. However, it is not possible to make an inference from this finding regarding the countries' legislations. It is because of the fact that IFN Fintech selects the companies based on whether they have a

Fatwa certifying the Shari'ah compliance of their products (IFN Fintech, 2020). Therefore, the contents of the regulations need to be examined to check the absence or presence of Shari'ah compliance requirements stated by regulators.

When the two legislations are considered, there is no clear requirement to ensure the Shari'ah compliance of the contracts and investment areas. According to the regulation of DFSA, the business applying to the crowdfunding platform to collect fund have to be lawful in the place it operates (Art 11.3.6, Para 2). Therefore, if the mainland or financial free zones of UAE has some other regulations that only permit Shari'ah-compliant areas to invest, then the regulation of DFSA indirectly requires the Shari'ah compliance of the investment areas of the entrepreneurs in the platforms.

Similar to the case in the regulation of DFSA, there is no clear indication of Shari'ah compliance of the contracts and investment areas in SPK regulation. However, some articles can be considered in conformity with the principles of Islamic finance. For instance, the crowdfunding platforms shall not give loans in exchange for a pledge or consideration, whether it is called interest or otherwise (Art 12, Para 1), although this article might be considered an implication of prohibition of debt-based crowdfunding. The last thing worth mentioning here is that the participation (Islamic) banks in Turkey are eligible to establish crowdfunding platforms (Art 5, Para 4). This right can be used by participation (Islamic) banks to launch out Islamic Crowdfunding platforms.

Entrepreneurs and Firms

When the main conditions that need to be satisfied by the entrepreneurs who want to publish their project on the crowdfunding platforms are considered, the regulation of DFSA requires that only a body corporate can submit their project to the platforms (Art 11.3.5). On the other hand, the regulation of SPK permits individual entrepreneurs to apply and submit their projects to crowdfunding platforms, but they also need to establish a firm as a condition for the transfer of the collected funds to them (Art 17, Para 7).

According to SPK regulation, the upper limit of funds that a firm or entrepreneur can collect through crowdfunding platforms in a year is determined and published by SPK annually (Art 16, Para 7). Also, if the volume of a targeted fund by a firm or entrepreneur exceeds 1 million TL, at least 10% of the collected funds must be paid by professional investors (Art 16, Para 8). A firm or entrepreneur is eligible to publish two projects at most in a year (Art 16, Para 7). The duration of the campaign life, which corresponds to

the number of days in which the project published will be kept open for receiving funds from investors, is limited to 60 days (Art 17, Para 2). Finally, a firm or entrepreneur cannot open another campaign during the current campaign life of the previously published project (Art 17, Para 1).

Similar conditions are defined in the regulation of DFSA but without specifying the limits. The only thing stated through the regulations is the types of conditions that shall be determined and announced by crowdfunding platforms. For instance, the campaign life of projects is expressed as a type of the conditions, but the number of days depends on the decision of the platforms (Art 11.2.2). The minimum and maximum values of the volume of the targeted fund by firms, along with the many other issues, are also determined by the platforms (Art 11.3.3).

Investors

Both regulations in Turkey and UAE have a distinction between professional/accredited investors and non-professional/unaccredited investors. Bearing in mind that the definitions and conditions of professional/accredited investors might be slightly different in the two countries, it can be assumed that the distinction refers to similar meanings to some degree.

SPK regulation requires that a non-professional/unaccredited investor is eligible to invest 20 thousand TL at most in a calendar year (Art 15, Para 1). However, a non-professional/unaccredited investor can invest 10% of his/her net yearly income provided that it does not exceed 100 thousand TL (Art 15, Para 1). According to the regulation of DFSA, the limit in question is US\$ 50 thousand (Art 11.5.3).

An investor has a right to withdraw his/her money within 48 hours after ordering to pay the specified volume of funds based on SPK regulation (Art 17, Para 4). However, the regulation of DFSA assigns power to crowdfunding platforms for deciding until an investor may withdraw his/her commitment (Art 11.3.3, Para 1).

The Secondary Market

One of the most criticized aspects of crowdfunding platforms, especially equity-based ones, is the absence of a secondary market to sell the shares you bought through platforms to another investor (Demiray & Burnaz, 2019; Kurt Cihangir, 2018; Saiti et al., 2019). Therefore, it is crucial to look at how the regulations of the two countries deal with this issue.

In SPK regulations, the crowdfunding platforms are not eligible to mediate between the investor who wants to buy his shares and another investor looking for new shares (Art 12, Para 6). The only thing that the platforms can do is establishing a communication channel between parties who want to contact each other.

According to the regulation of DFSA, crowdfunding platforms can provide a facility that helps the investors to transfer their shares to each other (Art 11.3.16). However, some conditions for this facility are listed in the regulation. The most important condition is the necessity that both parties coming together through this facility have to be those who invest in the platforms previously (Art 11.3.16). As indicated in the guidance of the related article, the purpose of the facility is not to create a market for trading the shares. It is only an exit strategy for investors. Finally, the crowdfunding platform is eligible to demand a fee for the facility it provides to bear its costs rather than generate additional income sources.

CONCLUSION

Throughout the study, the history, definition, and forms of crowdfunding have been described to introduce the background information about the central theme of the study, which is crowdfunding. After this introductory part, the current situation of the crowdfunding industry in terms of application and legislation has been analyzed for both Muslim-majority and other countries based on the publicly available secondary data in the reports, articles, and other online platforms. During the analysis, the place of Islamic crowdfunding platforms in the sector has been tried to be determined. Finally, the crowdfunding legislations in Turkey and UAE have been compared with each other regarding the scope of the crowdfunding platforms, Shari'ah-compliance of the contracts and investment areas, the conditions for the entrepreneurs and the investors, and secondary markets.

According to the findings of the first parts of the study, it can be stated that the crowdfunding industry continues to grow with substantial acceleration in the world. Although similar patterns in the Islamic crowdfunding industry exist, the share of Islamic crowdfunding platforms in the total crowdfunding volume is relatively small. As a response to the development of the crowdfunding industry, most countries, including Muslim-majority countries, have been regulating crowdfunding platforms. When the timing of the regulations of the countries is considered, there are some countries that are leading actors such as Canada, the USA, UK, UAE, Malaysia, and Italy in terms of the regulatory

framework in their region. However, other countries follow leaders with negligible delays.

The fifth section of the study on the comparison between crowdfunding legislation of Turkey and UAE constitutes the focus of the research. Before expounding on the concluding remarks of this part, it is necessary to mention the limitations of inferences. First of all, there exist different regulations in the mainland and the two financial free zones of the UAE, but only the regulation launched by Dubai Financial Services Authority (DFSA) in Dubai International Financial Center (DIFC), which is one of the economic free zones of the UAE has been considered as a basis of the comparison with the legislation of Turkey. Secondly, the lack of standard parameters about the crowdfunding platforms in both countries and the fact that crowdfunding platforms operating in UAE may be subject to legislation other than that of DFSA prevent us from making inferences regarding the effect of the countries' regulatory frameworks on the performance of the platforms.

Keeping in mind the limitations mentioned above, the following results and inferences can be listed. The crowdfunding regulation of the UAE has been launched before that of Turkey. The platforms in the UAE are eligible to provide donation-, reward-, debt-, and equity-based crowdfunding along with real estate crowdfunding. However, debt-based crowdfunding and real estate crowdfunding are not permitted according to the crowdfunding regulation of Turkey. Therefore, there are more diversified forms of crowdfunding in the UAE compared to Turkey. Neither Turkey nor UAE has Shari'ah compliancy requirements directly in their regulations. Nevertheless, some of the articles in their regulations, such as the prohibition of debt-based crowdfunding in exchange for an interest in Turkey and the obligations of the businesses to be lawful in the place they are operated in UAE, can be considered as rulings that may lead to construct Shari'ah based crowdfunding environment.

Although both regulations consist of the same type of conditions for the entrepreneurs and the investors in the crowdfunding platforms, their approaches are different. The approach adopted by regulators in Turkey is specifying every kind of condition with specific limits. However, in UAE regulation, the regulators define the types of conditions that shall be determined and announced by the crowdfunding platforms. The limitations and other details are specified by each platform in the UAE and shared with their members. In other words, platforms in the UAE have more room for flexibility and differentiation regarding conditions for entrepreneurs and investors.

The issue of the secondary market seems to be unsolved in both regulations. In Turkey, the only thing that the platforms can do is to establish a communication channel between parties who want to contact each other to sell their shares. In UAE, the crowdfunding platforms can provide a facility that helps investors to transfer their shares to each other, provided that the conditions are satisfied. Also, they can demand a fee for the facility provided to bear the cost of the facility. However, the regulators in UAE stress that the purpose of the facility is not creating a market for trading the shares.

Based on the comparison between crowdfunding legislation of Turkey and UAE in terms of different aspects, it can be concluded that the legislative framework of UAE is more flexible and less restrictive compared to that of Turkey. There is more room for differentiating the conditions imposed by the platforms. This approach may allow for a more competitive crowdfunding market in UAE. By considering the limitations stated, the approach adopted by UAE seems to contribute to the relatively high crowdfunding volume in the UAE compared to that of Turkey. However, there is an obvious need to improve standard parameters in the same time interval and the empirical studies on this issue.

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İCARE SUKUK SERTİFİKALARININ ÖRNEK OLAY ÜZERİNDEN DEĞERLENDİRİLMESİ: NAKHEEL SUKUK ÖRNEK OLAYI

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ÖZ

Sukuk İslami sermaye piyasasının en hızlı büyüyen segmentlerinden biridir. İslami finans perspektifinden bakıldığında, en basit şekliyle *sukuk*, sahibine *sukuk*'un temel varlıklarında orantılı bir mülkiyet payına veya *sukuk*'un temel varlıklarında veya bir iş girişiminde mülkiyete sahip olma hakkı veren "yatırım sertifikaları" anlamına gelir.

Sukuk genel olarak; temelini oluşturan şer'i akitler (sözleşmeler), teknik ve ticari özellikleri ve dayanak varlıkların niteliğine göre sınıflandırılır. Kiraya dayalı sukuk (*icare sukuk*), en baskın ve yaygın olarak kullanılan yapılardan biridir. Kiralamaya dayalı *sukuk*, satış ve geri kiralama ile kiralama ve geri kiralama olmak üzere iki ana kategoriye ayrılır. Satış ve geri kiralama *icare sukuku* ayrıca, *sukuk ijarah muntahiyah bi al-tamlık* (mülkiyet devri ile biten kiralama) ve *sukuk ijarah mawsufah fi al-dhimmah* (vadeli kiralama) olmak üzere iki ana yapıya bölünür. Bu çalışma, *sukuk ijarah muntahiyah bi al-tamlık* adresinde *icare sukukunun* genel çerçevesine, tanımına, özelliklerine ve önemine ışık tutmakta ve Dubai'de ihraç edilen ve şu ana kadar dünyada gerçekleştirilen en kapsamlı icare sukuk ihracı olarak bilinen Nakheel Sukuk davasını incelemektedir.

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EVALUATION OF SUKUK IJARAH CONTRACTS: CASE OF NAKHEEL SUKUK

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ABSTRACT

Sukuk is one of the fastest growing segments of the Islamic capital market. From an Islamic finance perspective, *sukuk* in its simplest form refers to "certificates of investment" that entitle the holder to a proportionate ownership interest in the key assets of the *sukuk* or in a business venture. *Sukuk* in general are Shariah contracts, which are classified according to their technical and commercial characteristics, and the nature of the underlying assets. Lease based *sukuk* or *Sukuk ijarah* is one of the most dominant and widely used structures in *sukuk* market. Lease-based *sukuk* is divided into two main categories: sale and leaseback, and lease and leaseback. Sale and leaseback is further divided into two main structures: *sukuk ijarah muntahiyah bi al-tamlik* (lease ending with transfer of ownership) and *sukuk ijarah mawsufah fi al-dhimmah* (term lease). This study sheds light on the general framework, definition, characteristics and importance of *sukuk ijarah muntahiyah bi al-tamlik* and examines the case of Nakheel Sukuk, which is known as the most comprehensive *sukuk ijarah* issuance in the world so far.

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GİRİŞ

Sukuk, büyük ölçekli finansman arayan hükümetler ve şirketlerin ihtiyaçlarına uygun İslami sermaye piyasası aracını temsil eder. Bununla birlikte *sukuk*, İslami bankalara, tekaful şirketlerine ve İslami finans hizmetleri sunan diğer kurumlara, fazla likiditeyi uzun vadeli işlemlere yatırmak için uygun bir araç oluşturur. *Sukuk*'un tanımı; dilbilim, fıkıh ve İslami finans olmak üzere üç farklı açıdan incelenebilir. Dilbilimsel açıdan bakıldığında, *sakk* terimi Farsça kökenli olup 'iki şeyin yüksek etkiyle birbirine çarpması' anlamına gelmektedir. Ayrıca Arap edebiyatında *sakk*'ın anlamının 'vurmak' daha doğrusu 'bir belgeye mühür vurmak' anlamındaki 'vurmak' olduğunu belirtilmiştir (Adam ve Smith, 2004).

Konvansiyonel tahvillerin aksine, *sukuk*'un yapılandırılması faizsiz finans ilkeleri ile uyumlu temel varlıkları ve yapılarının İslam hukukuna bağlılığını gerektirir. Bu nedenle özü, varlıklardan elde edilmesi beklenen nakit akışlarını *sukuk* ihraç etme sürecinde yatırımcılara getiriye dönüştürmek için genellikle menkul kıymetleştirme olarak bilinen varlıktan para kazanma kavramında yatmaktadır. Menkul kıymetleştirme böylelikle likit olmayan varlıkların finansal menkul kıymetlere dönüştürülmesini, kupürler halinde ihraç edilmesini ve kıymetli / satılabilir olmasını sağlayarak onları yatırımcılar için daha çekici hale getirir. Bu şekilde, finansmanı tek bir finansörden temin etmek yerine, daha küçük miktarlarda sertifika verilmesi, daha büyük bir yatırımcı havuzunun finansman sağlamasına olanak tanır. Uluslararası piyasalarda ve yabancı para birimlerinde *sukuk* ihraç edilmesi, yabancı yatırımcılar da dahil olmak üzere daha geniş bir yatırımcı tabanını çekebilir (ISRA, 2017).

Bu nedenle, genel olarak, *sukuk*, varlığa dayalı menkul kıymetlere 'teorik olarak benzer', ancak geleneksel varlığa dayalı menkul kıymetler altında, temel varlıklar sadece faize dayalı ipoteklerden, kredi kartlarından ve diğer kredilerden gelen parasal alacaklardır. Konvansiyonel borcun satışı şeri kurallar kapsamında kabul edilemez, dolayısıyla geleneksel varlığa dayalı menkul kıymetler İslami olarak kabul edilemez hale gelir.

Sukuk, İslami sermaye piyasalarının önemli aracı haline gelmiş bulunmaktadır ve giderek daha fazla sayıda ülke, *sukuk* ihraçlarını kolaylaştırmak için destekleyici önlemler almaktadır. Bu önlemlerden bazıları, diğerlerinin yanı sıra, yasal ve düzenleyici altyapıyı *sukuk* ihraçlarını teşvik edecek şekilde uyarlamayı, şer'i kurallar çerçevesinde iyileştirmeyi, iyi işleyen bir takas ve ödeme sisteminin kurulmasını ve özel vergi teşviklerinin sağlanmasını içerir. Bu önlemler hem

yatırımcıları hem de ihraççıları sukuk piyasasına girmeye motive etme eğilimindedir.

Sukuk, ana akım sermaye piyasasının iç bir parçası haline gelmiş olup ülke ekonomisinin gelişimini finanse etmek için giderek daha önemli sermaye kaynağı oluşturmaktadır. Alternatif bir finansal araç olan *sukuk*, İslami finans kurumları (İFK) için de önemli likidite yönetimi aracı haline gelmiştir. *Sukuk*, İslami sermaye piyasasının en önemli direğini oluşturmaktadır. Teknik özelliklerine göre *sukuk* farklı şekillerde sınıflandırılabilir önemli bir sınıflandırma temeldeki şer'i akitlere dayanır. Bu açıdan *sukuk*; satış temelli, kira temelli, ortaklık temelli ve ajans temelli olmak üzere dört ana kategoriye ayrılır. Günümüzde, piyasaya hâkim olan *sukuk* türü satışa dayalı olandır (ISRA, 2017).

Kiraya dayalı *sukuk* (*icare sukuk*), hem yurtiçi hem de uluslararası ihraçlar için en baskın ve yaygın olarak kullanılan yapılardan birisidir. Bunun temel nedeni, ihracın basitliği, daha karmaşık yapılara uyarlanabilme esnekliği ve ihraççılar, yatırımcılar ve İslam hukukçuları da dahil olmak üzere çeşitli paydaşlar tarafından tercih edilmesidir.

Bu çalışma *sukukun* tarihsel gelişimi, genel özellikleri, tarafları ve işleyişi, sınıflandırılmasını ele aldıktan sonra *icare sukuk*'un genel çerçevesi, tanımı, özellikleri ve önemini incelemektedir. Bu çalışmada satış ve geri kiralama (*sukuk ijarah muntahiyah bi al-tamlık*) ele alınmaktadır. Ayrıca, dönemine göre büyük bir ihraç olan ve devamında bazı sorunlardan dolayı yükümlülüklerini yerine getiremeyen *Nakheel Sukuk* örnek olayı incelenmektedir.

SUKUKUN TARİHSEL GELİŞİMİ

Klasik literatürde “*sukuk*” teriminin ilk kullanımı Hicri 1. YY (Miladi 7.YY) Emevi iktidarında Halife Mervan bin el-Hakem'in dönemine dayanmaktadır. İmam Malik'in *el-Muvatta* adlı eserinden alıntılanan rivayette *sukuk* teriminden vadesi dolduğu zaman sertifika sahiplerine malları veya mahsülleri alma hakkı veren bir sertifika ya da daha özel anlamda emtia veya tahıl kuponları (*sakk-al badai*) olarak bahsedilmektedir. Bu sertifikaların sahipleri, vade sonunda malları/tahılları teslim almadan önce ellerinde bulundurdıkları sertifikaları nakit elde etmek için peşin olarak sattıklarından dolayı ikincil piyasanın oluştuğundan bahsedilebilmektedir. Bu uygulama, hamillerin malların/tahılların mülkiyetini almadan önce *sukukun* temsil ettiği dayanak varlıkların satışına sebebiyet

verdiğinden dolayı zamanın âlimleri tarafından onaylanmamıştır (İslam İşbirliği Teşkilatı Ekonomik ve Ticari İşbirliği Daimi Komitesi (İSEDAK), 2019, s. 9).

Varlıkların menkul kıymetleştirilmesi kapsamında geliştirilen yatırım araçları yukarıda bahsedildiği üzere ilk olarak Orta Çağda Müslüman tüccarların alışveriş ve diğer ticari faaliyetlerden kaynaklanan finansal yükümlülükleri gösteren bir kâğıt olarak ortaya çıkmıştır (Durmuş, 2010, s. 14). Günümüzde ise bu yapı farklılaşarak ilgili varlığın değeri ile orantılı olacak şekilde oluşturulan sertifikalar aracılığıyla varlığın mülkiyetinin geniş yatırımcı kitlelerine ulaşmasını sağlayan bir menkul kıymetleştirme mekanizması haline gelmiştir (Güçlü, 2014, s. 4).

Orta çağdaki kullanımından çok daha sonra Osmanlı İmparatorluğu (1299-1923), 1775'ten itibaren kamu borcunu finanse etmek için *esham* olarak bilinen benzer finansal sertifikalar ihraç etmiştir. Bu sertifikalarda dayanak varlık olarak vergileri toplama hakkı (bir tür finansal hak) kullanılmıştır. Finansman toplamak için devletin vergi gelirleri menkul kıymetleştirilmiştir.

Faizsiz bankacılık ve sigortacılık sektörünün gelişmesiyle birlikte faizsiz sermaye piyasaları da zamanla gelişme göstererek bu alanda ilk *sukuk* ihracı 1983 yılında Malezya hükümeti tarafından gerçekleştirilmiştir (Altaş, 2008, s. 19). Karz-ı hasen (faizsiz borç) yöntemine göre ihraç edilen bu *sukukun* ikincil piyasada işlem görmesi uygun görülmemiştir (Tok, 2009, s. 14). Aynı zamanda bu ihraç, günümüzdeki *sukuk* düzenlemelerinin tam olarak gerçekleşmesinden önce olduğu ve güncel manada *sukuk* uygulamalarını tam olarak yansıtmadığından dolayı ilk *sukuk* ihracı olarak literatürde yer almamaktadır (Aslan, 2012, s. 59).

Yakın tarihe bakıldığında, İslam İşbirliği Teşkilatı Uluslararası İslam Fıkıh Akademisi (İİT) 1986 ve 1988 yıllarında *mukarada* tahvilleri meselesini ele alınmıştır. Yapılan görüşme sonucunda *mukarada* sertifikalarının ihraç edilmesi için gereken koşullar belirlenmiş ve böylelikle *sukuk* kavramı ilk kez 1988 yılında meşrulaştırılmıştır (İslam İşbirliği Teşkilatı Ekonomik ve Ticari İşbirliği Daimi Komitesi (İSEDAK), 2019, s. 9). Bunun neticesinde dünya piyasasında geçerli olarak bilinen ilk *sukuk* 1990 yılında Malezya'da yabancı sermayeli bir enerji şirketi olan Shell Malezya tarafından ihraç edilmiştir. Malezya para birimi olan Malezya Ringgiti (RM) cinsinden ihraç edilen bu *sukuk* 125 milyon RM değerindedir. Bu ihraç aynı zamanda yerel para birimi kapsamında gerçekleştirilmiş ilk ihraç olmuştur (Sümer, 2020, s. 23).

Özellikle 2000’li yılların başında yaşanan siyasi gelişmelerle birlikte batıdaki finans piyasalarına alternatif olacak yeni piyasalara yönelme gerçekleşmiştir. Bu noktada *sukuk* özellikle 2000’li yıllardan sonra alternatif bir yatırım aracı olarak piyasalarda yerini almış ve piyasayı canlandırmaya başlamıştır (Fındık, 2020, s. 19).

Sukuk piyasasında ilk uluslararası *sukuk* ihracı 2001 yılında Malezya’da 150 milyon Amerikan Doları (USD) tutarında gerçekleşmiştir. İlk uluslararası devlet (sovereign) *sukuk* ihracı ise 2002’de Malezya hükümeti tarafından gerçekleştirilerek *sukuk* piyasasının önü açılmıştır (Fındık, 2020, s. 19). Daha sonraki dönemlerde özel sektör, finansal kuruluşlar ve devletlerin gerçekleştirmiş olduğu ihraçlar sonucunda *sukuk* piyasası hızla gelişme ve büyüme göstermiştir. Günümüzde ise, artan devlet ihraçları, özel sektör ihraç tutarlarını aşmaya başlamakta ve büyüme trendini sürdürmeye devam etmektedir (Ulusoy ve Ela, 2015, s. 142). Dünya genelinde, 2001-2006 yılları arasında 66,83 milyar USD olan *sukuk* ihraç hacmi 2019 yılında 145,70 milyar USD’ye ulaşmıştır (IIFM, 2020, s. 28). Şekil 1 *sukuk* gelişiminin ana aşamalarının özetlemektir.

Şekil 1: Sukuk Gelişiminin Ana Aşamaları

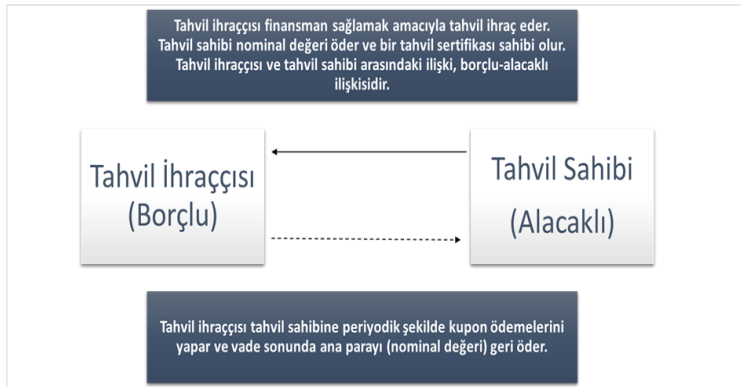
Sukukun Klasik Kullanımı	Sukukun Geliştirilmesine Yönelik İlk Girişimler	İlk Sukuk İhraçları	Sukuk Piyasasının Ortaya Çıkışı	Sukuk Piyasasının Yaygınlaşması
<ul style="list-style-type: none"> Hicri 1. yüzyılda Emevi iktidarındaki Halife Mervan bin el-Hakem’in döneminde sukuk, vadesi dolduğunda sertifika sahibine malları/mahsulleri alma hakkı veren mal/mahsul sertifikaları/kuponları olarak ihraç edilmiştir. 1775’ten itibaren Osmanlı İmparatorluğu (1299-1923), kamu borcunu finanse etmek için esham olarak bilinen finansal sertifikalar ihraç etmiştir. 	<ul style="list-style-type: none"> Ürdün’de 1978’de mukârada tahvilleri ihraç edilmiştir. Pakistan’da katılım sertifikalarının ihracına 1981’de başlanmıştır. Devlet Yatırım Sertifikaları (DYS) ilk olarak Malezya Hükümeti tarafından 1983’te sunulmuştur. Türkiye’de 1984’teGelir Ortaklığı Senetleri (GOS) ihraç edilmiştir. IFA-OIC 1988’de sukuk kavramını meşrulaştırmıştır. Geçici gelişim dönemi; aktif bir piyasa ortaya çıkmıştır. 	<ul style="list-style-type: none"> İlk kurumsal sukuk ihracı, 1990’da Shell MDS Malezya tarafından gerçekleştirilmiştir. Onun ardından genellikle Malezya’da olmak üzere küçük yerel ihraçlar olmuştur. Teori ve model kurma dönemi; aktif bir piyasa oluşumu meydana gelmemiştir. 	<ul style="list-style-type: none"> Piyasa, Bahreyn Hükümeti tarafından 2001’de ilk devlet sukuk (icare sukuk) ihracı ile ortaya çıkmıştır. Malezya Hükümeti tarafından ilk derecelendirilmiş uluslararası varlık temelli icare sukuk ihracı gerçekleştirilmiştir. Perakende sukuk, perpetual (daimi) sukuk, retail (perakende) sukuk ve SRI sukuk gibi daha yenilikçi ürün geliştirme çalışmaları olmuştur. 	<ul style="list-style-type: none"> Güçlü yatırımcıların sukuka yönelik iştahı ile sektörün büyümesi ve sukuk piyasasının daha da genişlemesi beklenmektedir. Daha fazla ülkenin ihraççı olarak sukuk piyasasına katılması beklenmektedir. Sukuk piyasasındaki inovasyonun, ihraççıların ve yatırımcıların ihtiyaç ve tercihlerine uyacak şekilde piyasayı her zamankinden daha esnek hale getirmeye devam etmesi beklenmektedir.
Tarihi	1990 öncesi	1990-2000	2001-2016	2017-gelecek

SUKUKUN GENEL ÖZELLİKLERİ

Sukukun ortaya çıkışı faiz getirisi sağlayan tahvillere alternatif bulma fikrinden kaynaklanmaktadır. Tahvil; ihraççıya uzun vadeli finansman sağlayan borçlanma aracını temsil eder. Tahvil sahibi (yatırımcı), tahvil ihraççısına borç para verir karşılığında ise vade sonunda anapara artı faiz getirisi elde eder. İslami finans sisteminin gelişimini müteakiben tahvillerin sunmuş olduğu avantajlara sahip İslami ilke ve esaslara uygun özellikler taşıyan alternatif aranmıştır. Bu özellikler;

- Orta ve uzun süreli bir vadeye sahip olmak,
- Yatırımcılara düzenli getiri imkânı sunmak,
- Farklı para birimlerinde ihraç edilebilen ve hem iç hem de dış piyasaları hedef almak,
- Piyasada listelenebilir ve derecelendirme kuruluşları tarafından derecelendirilebilir olmak,
- Yeniden planlanabilir ve yeniden yapılandırılabilir olmak,
- İkincil piyasada işlem görebilir olmak,
- Maddi ve maddi olmayan varlıklar ile çeşitli yapılarda güvence altına alınabilir olmak olarak sıralanmaktadır. Şekil 2’de tahvilin ihraç süreci özetlemektedir.

Şekil 2: Tahvil İhraç Süreci



(Kaynak: ISRA, 2017, s. 11)

Görüldüğü üzere tahvil ihraç sürecinde ihraççı ve yatırımcı arasında borçlu alacaklı ilişkisi vardır. Herhangi bir ticari işleme dayanılmamakta ve tamamen borç işlemine istinat edilmektedir. Tahvilleri alan yatırımcılar tahvil ihraç eden tarafa borç verip vadede getiri sağlamaya çalışmaktadırlar (Aktepe, 2018, s. 200).

Sukuk piyasası geliştikçe tahvillere benzer bazı özelliklerini korurken aynı zamanda kendine özgü ayırt edici özelliklerini de içerecek şekilde gelişme göstermiştir. *Sukuk* terimi artık bugünkü anlamda tahvillerle bağlantılı değil, daha çok İslam ilke ve kurallarına uygun bir mali sertifika olarak kabul edilmektedir.

Günümüzde devletler ve çeşitli kurumlar tarafından yatırımları genişletmek, sermaye harcamalarının finansmanını sağlamak ve İslami finans kurumlarının ve yatırımcılarının likiditeyi kârlılıkla yönetmesini kolaylaştırması için ihraç edilen *sukuk*, geleneksel sabit getirili menkul kıymete bir alternatif olarak İslami sermaye piyasalarındaki araçlar arasında önemli bir pozisyonda yerini almıştır (Ayub, 2017, s. 413).

Sukukun temelinde bir dayanak varlık söz konusudur. Söz konusu varlık ticari bir işleme konu olmaktadır ve bu ticari işlem *sukukun* türüne göre kâr-zarar ortaklığı, bir malın vadeli olarak alım-satımı ya da kiralanması şeklinde gerçekleşebilmektedir. *Sukuk* köprü, havaalanı, yol, elektrik, petrokimya, tarım gibi çeşitli projelerin finansmanı için ihraç edilebilmektedir. (Sümer, 2020, s. 25).

Yapısı ve oluşturulma şekli itibarıyla *sukukun* kendine has bazı temel özellikleri aşağıda sıralanmıştır:

- a) *Sukuk*, dayanak varlıkların orantılı sahipliğini temsil eder;
- b) *Sukuk*, reel sektör faaliyetleriyle doğrudan bağlantılıdır;
- c) *Sukuk*, İslam hukuku esaslarına uygun sözleşmeler kullanılarak yapılandırılır;
- d) Faiz, prensip gereği yasak olduğundan *sukuk* getirileri faiz yerine kira geliri veya kâr payı şeklindedir;
- e) *Sukuk* işlemlerinde, İslami finans ilkeleri gereği spekülasyon içeren işlemlerden uzak durulmaktadır;
- f) *Sukuk* ihracı ile yatırımcılardan elde edilen fonlar, İslami prensiplere uygun faaliyetlerde kullanılmalıdır;

- g) *Sukuk* likit bir finansman aracıdır. Çeşidine göre ikincil piyasalarda işlem görebilmekte ve likidite imkânı sağlamaktadır. İkincil piyasadaki *sukuk* alım-satımı şer'i kurallara uygun olmalıdır.
- h) *Sukukun* kısa, orta, uzun vadeli ve hatta kalıcı enstrümanlar olmak üzere çeşitli yapılandırılmış görev süreleri olabilmektedir;
- i) Çeşitli para birimlerinde ve çeşitli pazarları hedefleyen *sukuk* ihraç edilebilir;
- j) *Sukuk* ihracında yapılacak sözleşmeyle kaynak kuruluşun, ihraççının ve yatırımcının hak ve yükümlülükleri açıkça belirtilmelidir;
- k) *Sukuk* derecelendirilebilir, listelenebilir ve takas edilebilir;
- l) *Sukuk* yeniden planlanabilir veya yeniden yapılandırılabilir.

Bu özelliklere ek olarak Faizsiz Finans Kuruluşları Muhasebe ve Denetleme Kurumu (AAOIFI)'nin 17 No'lu standardında yatırım sertifikası olarak nitelendirdiği *sukuk* ile ilgili yayınlamış olduğu ilkeler şu şekildedir (AAOIFI, 2015, ss. 464-465);

- a) Yatırım sertifikaları, malikinin adına veya hamiline birbirine eşit değerde ihraç edilirler. İhracın bu şekilde yapılmasındaki amaç, sertifika sahibinin sertifikaların temsil ettiği mali haklar ve yükümlülüklerle ilgili yetkisini ispat etmektir.
- b) Yatırım sertifikaları, mevcut mal, menfaat veya hizmet hâlinde bulunan ya da karma nitelikli olarak tüm bunlardan ve manevi haklar ile alacaklar ve nakitlerden oluşan varlıklara, şayi hisseli olarak malik olmayı sağlayan ve şayi hisseli ortaklığı temsil eden sertifikalardır. İlgili sertifikalar, yatırımcıların ihraç edenin zimmetindeki alacaklarını temsil etmez.
- c) Yatırım sertifikaları fikhî bir akde dayalı olarak ihraç edilirler. Sertifikaların ihracında ve ikincil piyasalarda işlem görmesinde ve tedavülünde yine fikhî kurallar esas alınır.
- d) Yatırım sertifikalarının ikincil piyasalarda işlem görebilmesi, temsil ettiği varlığın ikincil piyasalarda işlem görme şartlarına bağlıdır.
- e) Yatırım sertifikası sahipleri, arz sırasında hazırlanan anlaşmaya göre, sertifikanın sağladığı kar/gelire sahip olurlar, zarar durumunda her biri sahibi oldukları *sukuk* oranında zarara katlanırlar.

SUKUKUN TARAFLARI VE İŞLEYİŞİ

Sukukun ihraç sürecinde *sukuk* yapılarına bağlı olarak çeşitli taraflar dahil olsa da temelde üç taraf bulunmaktadır. Bunlar;

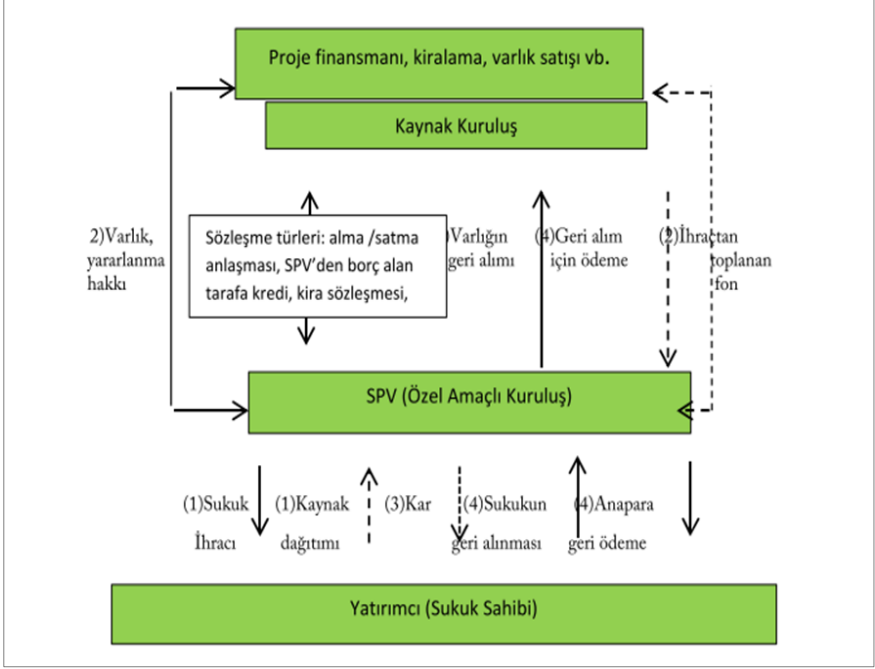
1. Özel amaçlı kuruluş / özel amaçlı şirket (ÖAK/ÖAŞ),
2. Kaynak kuruluş (Fon Talep Eden Taraf/Şirket) ve
3. Yatırımcılar (Fon Arz Eden Taraf) şeklindedir.

Bu üçlü ilişkide fon talep eden taraf yani kaynak kuruluş, özel amaçlı şirket aracılığıyla menkul kıymetleştirme yoluyla fon arz eden taraflardan fon sağlamaktadır. Kısaca; *sukuk* ihraç etmek için kaynak kuruluş, bir özel amaçlı şirket kurar ve yatırımcılardan kaynak toplamak üzere ÖAŞ ile sözleşme imzalayarak bu kuruluş aracılığıyla *sukuk* ihraç eder. ÖAŞ, yatırımcıların vekili olarak hareket ederek topladığı fonları kaynak kuruluş tarafından temin edilen bir varlığa, projeye veya işe (ticarete) yatırır. Ardından ÖAŞ, dayanak varlıktan elde ettiği gelirleri/ kârı yatırımcılara kâr payı (temettü) ödemek amacıyla kullanır. Kaynak kuruluş, dayanak varlığı *sukukun* vadesi geldiğinde tekrar satın alır ve bundan gelen gelir ile *sukuk* yatırımcılarına anapara ödemesi yapılır (Lackmann, 2015, s. 2).

Şekil 3'e göre:

- a) Kaynak kuruluş, ÖAŞ kurar ve ÖAŞ fon toplamak amacıyla *sukuk* ihraç eder.
- b) ÖAŞ tarafından toplanan fonlar kaynak kuruluştan dayanak varlığı almak için kullanılır.
- c) Varlıktan elde edilen gelir/kâr, yatırımcılara dağıtılır.
- d) Kaynak kuruluş, *sukukun* vadesi geldiğinde dayanak varlığı tekrar satın alır ve bundan elde edilen gelirler, *sukuk* sertifikalarını yatırımcılardan geri satın almak (anapara geri ödemesi) için kullanılır.

Şekil 3: Sukukun tarafları ve işleyişi



(Kaynak: (Ulusoy ve Ela, 2015, s. 143)

SUKUKUN SINIFLANDIRILMASI

Çeşitli *sukuk* kategorilerini sınıflandırmak için kullanılan üç ana temel vardır. En yaygın sınıflandırmalar aşağıdaki temellere dayanmaktadır:

- 1) Alttan yatan şer'i sözleşmelerine dayalı sınıflandırma,
- 2) Teknik ve ticari özelliklere göre sınıflandırma, ve
- 3) Varlıkların niteliğine ve türüne göre sınıflandırma.

Şekil 4'te *sukuk* kategorilerinin özeti sunulmuştur.

Şeri Sözleşmelerine Dayalı Sukuk Sınıflandırması

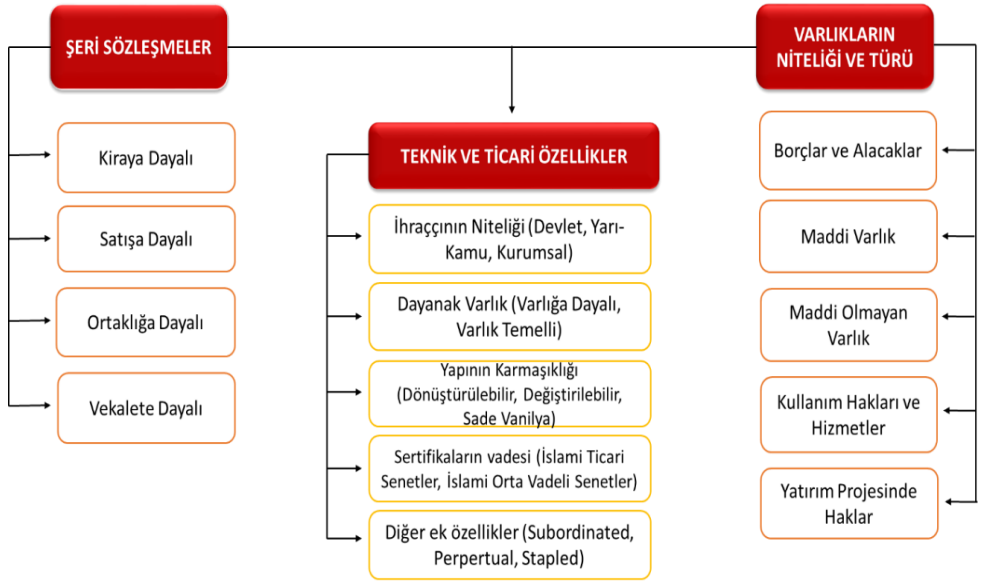
Sukuk, şer'i sözleşmelerine dayalı olarak çeşitli türlerde sınıflandırılmaktadır. AAOIFI'nin belirlediği standartlara göre (Faizsiz Finans Standartları/17) 14 farklı tipte *sukuk* uygulamasından bahsedilmektedir. Bunlar;

- a) Murabaha Sukuk
- b) Selem Sukuk

- c) İstisna Sukuk
- d) İcare Sukuk (4 tür)
- e) Ortaklık Temelli Sukuk (6 tür) ve
- f) Karma (Hibrid) Sukuk şeklindedir.

Bu çalışmada uygulama alanı olarak yaygın kullanılan *sukuk* türlerinden biri olan kiraya dayalı *sukuk* / *icare sukuk* incelenmiştir.

Şekil 4: Sukukun Ana Sınıflandırılması



(Kaynak: ISRA, 2017, s. 102)

İCARE SUKUK

İcare kelime anlamı olarak Arapçada “kiralama karşılığı bir şey verme” şeklinde tanımlanmaktadır. *İcare Sukuk* ise kira sözleşmesi temel alınarak oluşturulan yatırım sertifikalarıdır. Kira kontratlarının belirli bir mülkün kullanım hakkının, geçmişte belirlenmiş bir kiralama dönemi sürecinde önceden belirlenen bir kira ödemesi dikkate alınarak, mülkün sahibi tarafından kullanım hakkının başka bir kişiye aktarılmasıdır.

Günümüzdeki *sukuk* türleri arasında en çok kullanılan türlerden birisi *icare sukuk*udur. *İcare* sözleşmesinin *sukuk* ihraçlarında tercih edilmesinin en temel nedeni, *icare* sözleşmesiyle *sukukun* basit ve kolay bir şekilde satılabilir bir yapıda yapılandırılabilmesidir (Yanpar, 2021, s. 241).

Bir kira sözleşmesinde bulunan tüm yetki ve sorumluklar *icare sukukta* da bulunmaktadır. Bu kira kontratları; *icare sukukunun* da temelini oluşturan kontratlardır.

İcare sukuk kiralanan bir varlığın, kullanım hakkı veya varlığın mülkiyetini temsil eden sertifikalarla düzenlenerek menkul kıymetleştirilmesidir. Düzenlenen bu sertifikalar ikincil piyasalarda da değerlendirilmektedir.

İcare Sukuk 2018 yılında murabaha *sukuktan* sonra en çok ihraç edilen ikinci *sukuk* türü olmuştur (IFDI,2018). Diğer *sukuk* türlerine nazaran İslam hukukuna uyumluluk noktasında daha az sorunla karşılaşmaktadır. *İcare Sukuk* menkul kıymet olarak ihraç edilmesi için belli koşul ve özellikleri yerine getirmelidir. Bunlar;

- a) Kira konusu değerli bir varlığın üzerine kurulmalı; belirli bir tarih ve oran içinde kira gelirleri toplanmalıdır.
- b) Sözleşmeye dayanak olacak varlıklar açıkça belirlenmelidir.
- c) Sözleşmeye taraf olacak kurum veya kişiler; kiralanan varlığı ve kira bedelini bilmelidirler.
- d) Kira bedelinin hangi oranlara göre belirlenip, hesaplandığı açıkça sözleşmede belirtilmelidir.
- e) İslam Hukukuna göre; varlık veya malların temel özellikleri ile ilgili harcamalar mal sahibinin sorumluluğundadır, kullanımından dolayı doğan masraflar kiracı tarafından karşılanmaktadır.
- f) *İcare sukuk*; ikincil piyasalarda değerlendirilebilir.
- g) *İcare sukukun* dayandığı dayanak varlık; işlevini ve kullanılabilirliğini yitirdiğinde *icare* (kira) sonra erer. Eğer varlık onarılabilecek durumdaysa varlık onarılabilecek kadar ikame bir varlığın değerlendirilmesi yolu ile *sukuk* devam ettirilebilir.

İcare Sukuk Türleri

AAOIFI tarafından; *sukuk* çeşitleri içerisindeki iki *sukuk* türünde *icarenin* farklı kullanımlarından bahsedilmektedir (AAOIFI, 2015). Kiralanan Varlıkların Aşına

Malik Olmayı Sağlayan *Sukuk* ve Menfaate Malik Olmayı Sağlayan *Sukuk* olarak iki başlıkta incelenmiştir. Şekil 5'te İcare *sukuk* türleri şema halinde gösterilmiştir.

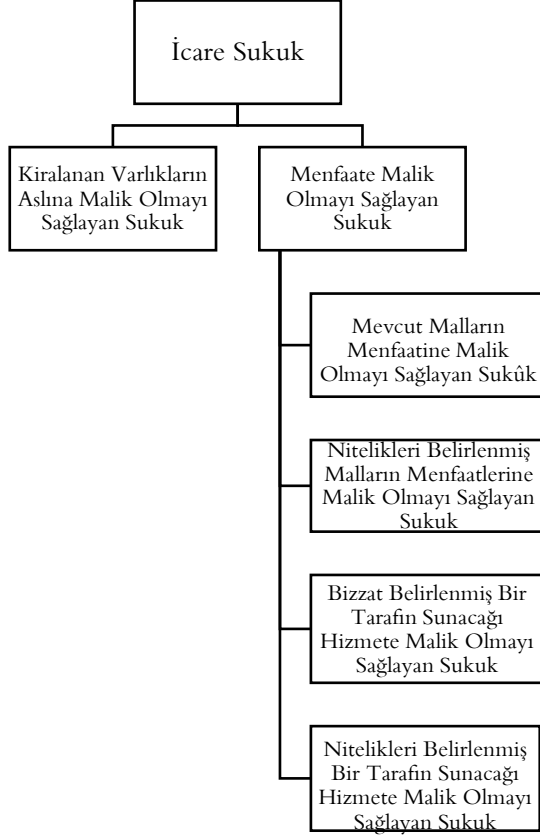
Kiralanan varlıkların aslına malik olmayı sağlayan *sukukta*; yapılan kira sözleşmesinde mülkün sahipleri *sukuk* sahipleridir. Bu *sukukta* malın mülkiyeti yatırımcılara devredilmiştir. Bu yüzden malın veya varlığın; gelir ve giderleri, oluşabilecek herhangi bir kaza veya malın kaybindan *sukuk* sahipleri sorumludur (AAOIFI, 2015, s. 461). Bu tanımlamaya rağmen uygulamada varlığın sorumluluğunu VKŞ (Varlık Kiralama Şirketi) almaktadır.

Menfaate malik olmayı sağlayan *sukuk* (*icare menfaa*); malın kullanım hakkının kiralınması olarak tanımlanabilir. Bu *sukuk* türünde *sukuk* süreci tanımlandığında malın mülkiyeti geri alınmayacak, belli bir süre içinde verilen kullanım hakkı geri alınacaktır. Malın kullanım hakkı, malın gelir ve giderleri *sukuk* sahiplerine aittir (AAOIFI, 2015, s. 461). Bu *sukuk* yapısının dört farklı alt türü vardır. İlki hali hazırda mevcut olan malın menfaatlerine sahip olmayı sağlayan *sukuktur*. Bu da ikiye ayrılır. İlki *sukuk* ihracını malın mülkiyetine sahip olanın ya da onun adına finansal aracı kuruluşun yaptığı *sukuk*; diğeri ise malın kullanım hakkına sahip olanın ya da onun adına aracı bir finansal kuruluşun *sukuk* ihraç etmesidir (AAOIFI, 2015, s. 461).

İkincisi ise nitelikleri belirlenmiş malların menfaatlerine malik olmayı sağlayan *sukuktur*. Bu *sukuk* türünde daha üretimde olan özellikleri belirlenmiş malların üzerine *ijara* (kira) sözleşmesi yapma ve bu malların kullanım haklarının ihraç edilmesi üzerine kurulmasıdır (AAOIFI, 2015, s. 462). Üretilen malın değeri; kullanım hakkı elde etmek için ödenen *sukuk* ihraç bedelleridir. Malın gelir ve giderleri; malın kullanım hakkını satın alan *sukuk* sahiplerine aittir (Güçlü, 2019).

Son olarak ise ihraca konu olan ürün, hizmettir. İlki bizzat belirlenmiş bir tarafın sunacağı hizmete malik olmayı sağlayan *sukuktur*. Bu *sukuk* yapısında ihraç edilen ürün, halihazırda verilen bir hizmet üzerine düzenlenmektedir. Diğeri ise ileride kullanıma sunulacak ve standartları belirlenmiş bir hizmetin sahipliği üzerine düzenlenen, nitelikleri belirlenmiş ve bir tarafın malik olmasını sağlayan bir *sukuktur*. *Sukuku* ihraç eden hizmetin satıcısı, *sukuk* sahipleri ise bu hizmetin alıcısı durumundadır. Burada *sukuk* ihraçlarından elde edilen gelir; sunulacak hizmetin bedelidir (AAOIFI, 2015, s. 462).

Şekil 5: İcare Sukuk Türleri

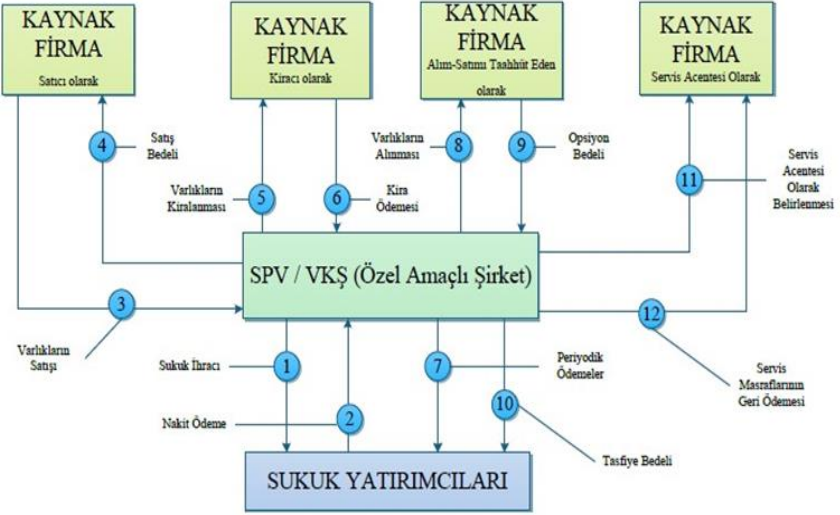


Sukuk İjarah Muntehiyah bi al-Tamlik

Sukuk İjarah Muntehiyah bi al-Tamlik yapısı kısaca sat ve geri kirala mantığı üzerine kurulmuştur. Fon ihtiyacı duyan firma veya kurum; sahip olduğu varlık üzerinden *sukuk* ihraç etme kararı alır. Çıkarılan *sukukta* malın mülkiyeti *sukuk* yatırımcılarına devredilir. Firma varlığını *sukuk* sahiplerine satmış olur. Sonrasında firma malı kiralar ve belirli bir dönem boyunca *sukuk* sahiplerine kira öder. Yapılan sözleşmede varlığı geri alım maddesi vardır. Sözleşmedeki vade sona erdiğinde firma anlaşılan fiyattan varlığı geri alır (purchase undertaking). Bu yapıda her iki taraf gelir elde etmiş olur. Finansman ihtiyacı duyan firma konvansiyonel yöntemlere başvurmadan ihtiyacını karşılamış olur. *Sukuk* yatırımcıları ise belirli bir dönem boyunca sahip oldukları sertifikadan kar sağlamış olurlar. Şekil 6'da *sukuk* ihracı yapacak olan firmanın VKŞ ve *sukuk* yatırımcıları ile kurduğu yapı anlatılmaktadır. Firma burada satıcı, malı kiralayan,

alım-satımı taahhüt eden ve servis acentesi hizmetlerini karşılayan olarak gösterilmiştir.

Şekil 6: Sukuk İjara Muntehiyah bi al-Tamlik'in İşleyişi



Kaynak: (Avcu & Aslan, 2012)

İşleyiş adımları şöyledir:

- 1) Fon ihtiyacı duyan firma sahip olduğu varlığı VKŞ (Varlık Kiralama Şirketi)'ye devreder.
- 2) VKŞ malın mülkiyetini aldıktan sonra *sukuk* ihracını gerçekleştirir.
- 3) İhraçtan elde edilen gelir yani malın değeri; firmaya ödenir.
- 4) VKŞ; mülkiyetine sahip olduğu malı firmaya kiralar.
- 5) Firma kirasını öder, VKŞ'de bu kira gelirini *sukuk* sahiplerine dağıtır.
- 6) Sözleşmenin sonu geldiğinde firma taşınmazı satın alır (leaseback).
- 7) Bu parayla *sukuk* sahiplerinin anaparaları ödenir ve *sukuk*; VKŞ'ye geri döner (Güçlü, 2019).

İCARE SUKUK ÖRNEK OLAYI: NAKHEEL SUKUK

Bu *sukuk* 2006 yılına kadar yapılmış en büyük *sukuk* ihracıdır. Birleşik Arap Emirlikleri'nin sahibi olduğu Dubai World Nakheel Company firması yeni bir finansman oluşturmak amacıyla Dubai İslam Bankasına başvuruda bulunmuştur.

Dubai World dünyanın en büyük holdingidir. Dubai World, Hong Kong adasının iki katı büyüklüğünde bir şehir oluşturmak amacıyla *sukuk* ihracı planlamıştır. Bu plana göre 1,5 milyon sakini ağırlama kapasitesinde bir şehir ile; Dubai kıyısında 75 km’lik kanal yapılması düşünülmekteydi. Tablo 1. Nakheel *Sukuk* detaylarını açıklamaktadır.

Tablo 1: Nakheel *Sukuk* Detayları

KONU	DETAYLAR
Sukuk Türü	<i>İcare</i>
Amaç	Dubai limanında şehir kurma
Varlıklar	Dubai limanı
Borçlu	Nakheel Holding 1, Nakheel Holding 2, Nakheel Holding 3
Yönetici Kurum	Dubai Islamic Bank/Barclays Capital
İhraç Edilen Miktar	3,52 Milyar \$
İhraç Tarihi	14 Aralık 2006
Vade Bitimi	14 Aralık 2009
Vade	3 Yıl
Hukuki Zemini	İngiliz ve BAE Hukuku
Garantör	Dubai World
Sözleşmeler	a) Satın alma anlaşması b) Kira Sözleşmesi c) Servis Acentesi Sözleşmesi d) Satış Taahhüdü e) Satın Alma Taahhüdü f) Acenta Beyanı g) Güven Beyanı h) Güven Acenta Anlaşması

Kaynak: (Sahadan *et al.* 2015)

Bu *sukuk* yapısı *menfaa icare* biçimindedir. Bu durum, mülkiyet devri yerine o varlıktan faydalanma üzerine dayanmasından kaynaklanmaktadır. *Sukuk Ijara Muntehiyah bi al-Tamlık* (Sat-geri al prensibi) bu *sukuk* ihracında gerçekleşmiştir. Nakheel *sukuk* ihracının amacı varlığın üzerine kurulacak yapıyla bu varlığın gelişmesini sağlayacak finansmanı sağlamaktır. Dubai kıyısına yapılması planlanan

yapılar şöyledir: Jebel Ali Köyü, Jumeirah Adaları, Lost Şehri, Jumeirah Köyü ve Parkı, Dubai Limanı, Uluslararası Şehir ve Discovery Apartment Binaları.

Nakheel Development Limited (Nakheel SPV) firması bu sukuk ihracıyla Dubai Limanını satın alacaktır. Nakheel Sukuk'un sorumluluğunu alması için Dubai World tarafından kurulan Nakheel Holding 1, Nakheel Holding 2, Nakheel Holding 3 firmaları Nakheel Properties firmasının hisselerinin %99'una sahiptir. Nakheel Properties, Dubai'de gayrimenkul projeleri geliştirmek, bu şehrin ekonomi yatırımlarını çeşitlendirmek, turizm ve emlak piyasasının büyümesini sağlamak için kurulmuştur.

Nakheel SPV firması yaptığı acente ve güven beyanı ile *sukuk* yatırımcıları adına bir temsilci ve mütevellî görevi üstlenmektedir. *Sukuk* ihracının baş yöneticisi olacak kurumlar; Dubai Islamic Bank ve Barclays Capital bankaları olacaktır. Barclays Capital, merkezi Londra olan Barclays Bankasının yatırım departmanıdır. Barclays Capital; kurumlara, şirketlere ve devlet iştiraklerine finansman ve risk yönetimi hizmetleri sunmaktadır. ABD Hazine ve Avrupa Devlet tahvillerinde birincil satıcıdır.

Sukuk ihracının toplam büyüklüğü 3,52 milyar USD'dir. Başlangıçta 2,5 milyar USD'lik *sukuk* alımı beklenirken; talebin fazla olmasından dolayı ihraç 3,52 milyar USD değerinde gerçekleşmiştir. *Sukuk* 14 Aralık 2006'da çıkarılmış ve vade sonu 14 Aralık 2009 olarak planlanmıştır.

Bu *sukuk* ihracının hukuki zemini İngiliz ve BAE kanunlarına göre olup, her iki ülkenin yasasına göre sözleşmeler düzenlenmiştir. İngiliz yasaları; Güven Beyanı, İşlem İdaresi Senedi, Ajans Sözleşmesi, Sertifikalar ve Ortak Yükümlülük Garantisi sözleşmesini kapsayacaktır; son olarak da Dubai World bu kontratların garantörü olarak görülmektedir. BAE yasaları ise; Satın Alma Sözleşmesi, Kira Sözleşmesi, Hizmet Ajansı Sözleşmesi, *Sukuk* Varlık Satış Taahhüdü, Satın Alma Taahhüdü, Abonelik Hakları Satış Taahhüdü, Ajans Bildirimi, Güvenlik Ajansı Sözleşmesi, İpotekler ve Hisse Senedi Sözleşmeleri gibi kontratları kapsamaktadır.

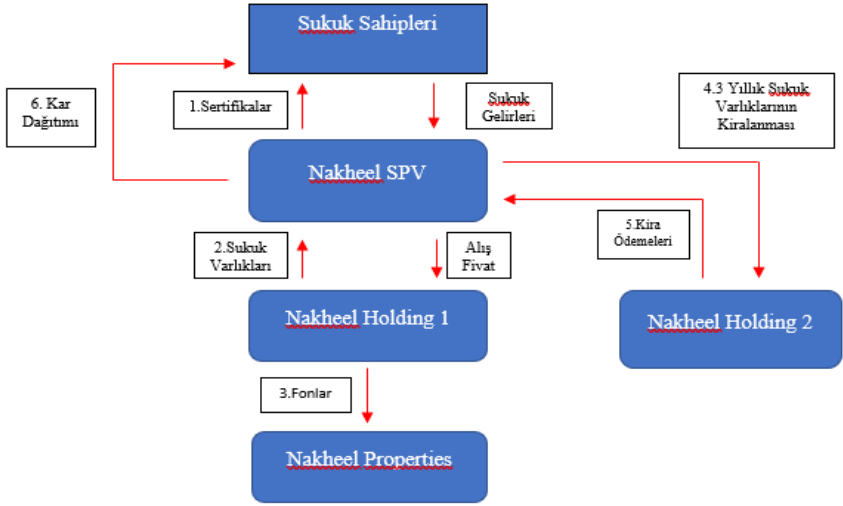
Dubai World bu *sukuk* ihracının garantörü olarak negatif taahhüt ve mülk üzerine taahhüdün sürdürülmesi gibi sözleşmeler yapmıştır. Negatif taahhüt, hisse senedi ve tahvil gibi senetlerde tarafların varlıklar üzerine faiz geliri koyarak kendini güvene almasını yasaklamak için yapılan sözleşmedir. Ayrıca *sukuk*

yatırımcılarına ödenecek kira geliri yükümlülüğünü Nakheel Holding 1 alırken, mülkiyet üzerine ipotek ve hisselerini rehin vermiştir.

Nakheel Sukuk'un Yapısı

Nakheel Sukuk'un yapısı ve işleyişi Şekil 7'de anlatılmıştır.

Şekil 7: Nakheel Sukuk'un Yapısı ve İşleyişi



Kaynak: (Sahadan *et al.* 2015)

Sukuk yapısı; sukuk yatırımcıları, Nakheel Development Limited (Nakheel SPV), Nakheel Holding 1, Nakheel Holding 2 ve Nakheel Properties olmak üzere beş taraftan oluşmaktadır.

İşlem adımları aşağıdaki gibidir:

1. İhraççı Nakheel Development Limited (Nakheel SPV) tarafından sukuk teslim edilir.
2. Bu ihraçtan toplanan 3,52 milyar USD'ye tekabül eden gelir Nakheel SPV tarafından Nakheel Holding 1'e verilir. Bu ihraç geliri; Dubai Liman Bölgesinden mülk satın alınmak için kullanılmıştır.
3. Nakheel Holding 1, Nakheel Properties'e inşaat işleri için elde edilen geliri verir.
4. Nakheel SPV, sukuk yatırımcıları tarafından satın alınan varlıkları Nakheel Holding 2 firmasına üç yıllığına kiralar.

5. Nakheel Holding 2, altı ayda bir olmak üzere Nakheel SPV'ye kira ödemesini yapar.
6. Nakheel SPV, topladığı kira geliriyle *sukuk* sahiplerine kar dağıtımını gerçekleştirir.

Nakheel Sukuk ile İlgili Sorun ve Problemler

Nakheel *sukuk* yenilikçi yapısı ve başarılı bir şekilde yönetilmesiyle birçok ödül kazanmıştır. Lakin, bu süreç *sukuk* vadesinin sona ermesine yakın Dubai World'un borçlarını yapılandırmak için başvurusuyla değişti. Dubai Hükümeti 25 Kasım 2009 tarihinde Dubai Yüksek Mali Komitesi adına hareket ettiğini açıklayarak; Dubai World'un borçlarının yeniden yapılanması için doğrudan ve dolaylı tedbirlerin derhal yürürlüğe gireceği açıklandı. Yapılan incelemeler sonucu Dubai World'un yükümlülüklerini yerine getiremeyeceği anlaşılmıştır.

2008 Dünya Küresel Krizinden dolayı gerileme ve kredi krizi baş gösterdiği için Aralık 2009 kâr payı ödemeleri gecikmişti. Bu noktadan sonra Dubai World'un 2008 yılında görülen ekonomik kriz yüzünden finansal tabloları kötü etkilendiği için firma garantörlüğünü yerine getirememiştir.

Sukuk yatırımcıları tarafından; Dubai World firmasının garantörlüğünün devlet adına güvenceye alındığı anlaşılmıştır. Fakat *sukuk* sözleşmesinde açıkça Dubai World'un borcu ve yükümlüklerinin; Dubai Hükümetini bağlamadığı maddesi bulunmaktadır.

Sonuç olarak; Dubai World firmasının kendine özgü tüzel kişiliğe sahip olduğu için yönetici ve çalışanları bu garantiden sorumlu görülmemelidir. Şirketler hukukunda açıkça kurumların tüzel kişilikleri olduğu için sorumluluğunun firma üzerinde olduğu belirtilmektedir.

BAE mahkemeleri; tarafların dava talebini kabul etmemiştir. BAE yasaları tarafından güven ve çıkar kavramları tanınmadığı için bu belirtilen güven beyanı belirsiz bulunmuştur. Fakat Dubai World ile *sukuk* yatırımcıları arasında yapılmış bir ajans bildirimini mevcuttur ve burada sözleşme konusu açıkça belirtilmişti. Ajans bildirimini, BAE yasaları tarafından tanınmış olmasına rağmen mahkeme bu bulguyu kanıt olarak kabul etmemiştir.

Nakheel *Sukuk*'un, neredeyse temerrüde düşmesi sonucu yükümlülüklerini yeniden yapılandırma kararı, temerrüde düşmenin eşliğinde olan ilk milyar dolarlık ve çok aranan *sukuk* olması nedeniyle Dünya çapında *sukuk* piyasalarında

şok etkisi yaratmıştır. *Sukuk* yatırımcıları, umdukları koruma düzeyine muhtemelen güvenemeyecekleri ihtimaline ilişkin endişeye kapılmışlardır. Ancak, gerçek Nakheel'in temerrüdü, Aralık 2009'da Abu Dabi Hükümeti'nden alınan 10 milyar USD tutarındaki kurtarma paketi ile önlenmiştir. Bu kredi, *sukuk* sahiplerine vade tarihinde anapara tutarlarını iade etmek için kullanılmış ve buna göre *sukuk* başarıyla itfa edilmiştir.

SONUÇ

Sukuk, İslami sermaye piyasasının en önemli direğini oluşturmaktadır. Teknik özelliklerine göre *sukuk* farklı şekillerde sınıflandırılabilir ve temelde şer'i akitlere dayanır. Bu açıdan *sukuk*; satış, kira, ortaklık ve ajans temelli olmak üzere dört ana kategoriye ayrılır. Kiraya dayalı *sukuk*, literatürde ayrıca *icare sukuk* olarak bilinir, hem yurtiçi hem de uluslararası ihraçlar için en baskın ve yaygın olarak kullanılan yapılardan birisidir. *İcare sukuk*, kiralanan bir varlığın kullanım hakkı veya varlığın mülkiyetini temsil eden sertifikalarla düzenlenerek menkul kıymetleştirilmesidir. Bu düzenlenen sertifikalar ikincil piyasalarda da değerlendirilmektedir. Bu çalışmada incelediğimiz *Nakheel Sukuk* örnek olayı ülkelerdeki yasal mevzuatların tam oturmamış olmasına örnek bir *sukuk* ihracı olarak gösterilebilir. Dolayısıyla, ülkelerdeki ticaret yasaları *sukuk* kontratlarını kapsama alacak şekilde güncellenmeli ve geliştirilmelidir. Sonuç olarak, *icare sukuk*ün başarılı olarak işlemesi için garantör olan firmanın finansal açıdan gerekli koşulları sağlaması gerekmektedir. Garantör firma yükümlülüğünü yerine getirmedeğinde ihraç edilen *sukuk* da yükümlülüklerini gerçekleştirememektedir. Bu yüzden garantör firmanın periyodik olarak finansal verilerinin kontrol edilmesi gerekmektedir. *Sukuk* sözleşmeleri ilgili ülkenin hukuk düzeni tarafından tanınmalıdır.

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EXTENDED ABSTRACT

Sukuk represent an Islamic capital market instruments suited to the needs of governments and companies seeking large-scale financing. At the same time, *Sukuk* creates a convenient tool for Islamic banks, *takaful* companies and other institutions providing Islamic financial services to invest excess liquidity in long-term transactions. *Sukuk* can be defined from three different perspectives: linguistics, *fiqh* and Islamic finance. From a linguistic perspective, the term *sakk* is of Persian origin and means 'two things colliding with high impact'. It has also been stated that the meaning of *sakk* in Arabic literature is 'to strike'. (Adam and Smith, 2004).

Contrary to conventional bonds, structuring of *Sukuk* requires adherence to Islamic law of its underlying assets and structures in line with the principles of Islamic finance. Its essence therefore lies in the concept of monetizing the asset, commonly known as securitization, to convert the expected cash flows from the assets into returns for investors in the process of issuing *Sukuk*. Securitization thus enables illiquid assets to be converted into financial securities, issued in clippings, and made valuable/tradable, making them more attractive to investors. In this way, issuing smaller amounts of certificates, rather than obtaining financing from a single financier, allows a larger pool of investors to provide financing. Issuing *Sukuk* in international markets and foreign currencies can attract a wider investor base, including foreign investors (ISRA, 2017).

Thus, in general, *Sukuk* are 'theoretically similar' to asset-backed securities, but under traditional asset-backed securities, the underlying assets are only monetary receivables from interest-backed mortgages, credit cards, and other loans. The sale of conventional debt is unacceptable under Shariah rules, thus making traditional asset-backed securities Shariah non-compliant.

Sukuk has become an important instrument of Islamic capital markets, and increasing number of countries are taking supportive measures to facilitate

Sukuk issuance. Some of these measures include, adapting the legal and regulatory infrastructure to encourage the issuance of *Sukuk*, improving Shari'a rules, establishing a well-functioning clearing and payment system, and providing special tax incentives. These measures tend to motivate both investors and issuers to enter the *Sukuk* market.

Sukuk have become an integral part of the mainstream capital market and is an increasingly important source of capital to finance the development of the country's economy. As an alternative financial instrument, *Sukuk* have also become an important liquidity management tool for Islamic financial institutions. *Sukuk* are the most important pillar of the Islamic capital market. According to their technical characteristics, *Sukuk* can be classified in different ways. An important classification is based on the underlying Shariah contract. In this respect, *Sukuk* are divided into four main categories: sales-based, lease-based, partnership-based and agency-based *Sukuk*. Today, the dominant type of *Sukuk* is the sale-based *Sukuk* (ISRA, 2017).

Lease-based *Sukuk* (*Sukuk al-Ijarah*) is one of the most dominant and widely used structures for both domestic and international issuances. The main reason is the simplicity of issuance, its flexibility to adapt to more complex structures, therefore, it is preferred by various stakeholders, including issuers, investors and Islamic lawyers.

This study discusses the historical development, general characteristics, parties and functioning, and classification of *Sukuk* and examines the general framework, definition, features and importance of *Sukuk al-Ijarah* with a special focus on sale and leaseback (*Sukuk Ijarah Muntahiyah Bi Al-Tamlik*). Also the case of *Nakheel Sukuk*, which was the largest issue for the time it was issued and could not fulfill its obligations due to some shortfalls, is examined.

Nakheel Sukuk is the largest *Sukuk* issuance made until 2006. Dubai World *Nakheel* Company, owned by the United Arab Emirates, applied to Dubai Islamic Bank to create a new financing. Dubai World is the world's largest conglomerate. Dubai World has planned a *Sukuk* issuance to create a city twice the size of Hong Kong. According to this plan, with a city capable of hosting 1.5 million residents; it was planned to build a 75 km canal on the Dubai coast.

Due to its innovative nature and successful management *Nakheel Sukuk* has won many awards. However, this process changed with Dubai World's application to restructure its debts near the expiration of the *Sukuk* maturity. On 25 November 2009 the Government of Dubai declared that it is acting on behalf

of the Dubai Higher Financial Committee and announced that direct and indirect measures for the debt restructuring of Dubai World will come into effect immediately. As a result of the investigations, it was understood that Dubai World could not fulfill its obligations.

December 2009 dividend payments were delayed due to the 2008 Global Financial Crisis. Consequently, the company could not fulfill its guarantor, as the financial statements of Dubai World were badly affected due to the economic crisis in 2008.

According to the understanding of *Sukuk* investors the Dubai Government provided a guarantee Dubai World Company. However, in the *Sukuk* prospectus, it was clearly stated that Dubai World's debts and obligations does not bind the Dubai Government.

Consequently, since Dubai World has its own legal personality, the managers and employees should not be considered responsible. In the company law, it is clearly stated that the responsibility of the institutions is on the company, since they are legal entities.

UAE courts did not accept the claim of the parties. The statement of trust was found to be ambiguous as the concepts of trust and interest are not recognized by the UAE law. However, there is an agency statement made between Dubai World and *Sukuk* investors, where the subject of the contract was clearly stated. Although the agency statement was recognized by UAE law, the court did not accept this finding as an evidence.

Nakheel Sukuk's decision to restructure its liabilities as a result of near default shocked *Sukuk* markets around the world as it was the first billion-dollar and highly sought after *Sukuk* on the brink of default. *Sukuk* investors have worried that they may not be able to rely on the level of protection they hoped for. However, the actual default of the *Nakheel* was averted by the \$10 billion bailout package received from the Abu Dhabi Government in December 2009. This loan was used to return the principal amount to the *Sukuk* holders on the maturity date and the *Sukuk* was successfully redeemed accordingly.

Sukuk is the most important pillar of the Islamic capital market. According to its technical characteristics, *Sukuk* can be classified in different ways and is basically based on Shariah contracts. In this respect, *Sukuk* is divided into four main categories: sale-based, lease-based, partnership-based and agency-based. Lease-based *Sukuk*, also known as *Sukuk al-Ijarah*, is one of the most dominant and widely used structures for both domestic and international issuances. *Sukuk al-*

Ijarah is the securitization of a leased asset by issuing certificates representing the right of use or ownership of the asset. These certificates can be traded in the secondary markets. The case of *Nakheel Sukuk*, which we examined in this study, can be shown as an example of the issuance of *Sukuk*, where the legal regulations in the countries are not duly established. Therefore, the commercial laws of the countries should be upgraded and developed to include *Sukuk* contracts. As a result, in order for the *Sukuk* al-Ijarah to function successfully, the guarantor company must meet the necessary financial requirements. When the guarantor firm fails to fulfill its obligations, the issued *Sukuk* cannot fulfill its obligations too. Therefore, the financial data of the guarantor company should be reviewed periodically. It is crucial that *Sukuk* contracts are recognized by the legislations of the respective country.

ARAŞTIRMACILARIN KATKI ORANI

Araştırmacıların her birinin mevcut araştırmaya katkı oranı aşağıda belirtildiği gibidir.

Yazar 1'in araştırmaya katkı oranı %50, yazar 2'nin araştırmaya katkı oranı %50'dir.

Yazar 1: Araştırmanın tasarımı, modelin oluşturulması, yazım

Yazar 2: Literatür taraması, veri analizi, yazım.

ÇATIŞMA BEYANI

Araştırmada herhangi bir kişi ya da kurum ile finansal ya da kişisel yönden herhangi bir bağlantı bulunmamaktadır. Araştırmada çıkar çatışması bulunmamaktadır.

ARAŞTIRMANIN ETİK İZİNİ

Yapılan bu çalışmada “Yükseköğretim Kurumları Bilimsel Araştırma ve Yayın Etiği Yönergesi” kapsamında uyulması gerektiği belirtilen tüm kurallara uyulmuştur. Yönergenin ikinci bölümü olan “Bilimsel Araştırma ve Yayın Etiğine Aykırı Eylemler” başlığı altında belirtilen eylemlerden hiçbiri gerçekleştirilmemiştir..

İKTİSADİ DAYANIŞMA İÇİN YENİ BİR SİSTEM OLARAK ENFLASYONA ENDEKSLİ TL VE KARZ-I HASEN FONU

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Karz-ı hasen,
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İslam iktisadı,
Yenilenme,
Yardımlaşma ve
dayanışma.

ÖZ

İnsanların temel ihtiyaçlarını gidermeleri en temel haklardır. Dünyanın genelinde insanların bu ihtiyacını kullanarak faiz üzerinden geliştirilen borçlandırma sistemi, toplumda derin eşitsizlikler ve adaletsizlikler oluşturarak onu parçalamaktadır. Oysa maddi ihtiyaç sahiplerine yardım etmek, onlarla dayanışarak yaşamak her şeyden önce insani bir görevdir. Bu çerçevede yeni bir zihin üzerinden geliştirilen adil ve yeni bir para birimi ile "güzel borç verme" anlamında karz-ı hasen çok önemli ve işlevsel bir rol üstlenebilir. Bu makalenin amacı, İslam iktisadı ışığında insanların asli ihtiyaçlarını insani, meşru ve uygun bir şekilde karşılamak için yeni yaklaşımlar bulup keşfetmeye ve gündeme getirip tartışmaya açmaktır. Bu noktadan hareketle, genel insani umdelerden olan faizsizlik ilkesi açısından uygun ve meşru olduğu düşünülen, iktisadi yardımlaşma ve dayanışmayı hedef alan yeni bir sistem olarak Enflasyona Endekli TL (ETL) ve Karz-ı Hasen Fonu (KHF) modelleri üzerinden bir çözüm arayışı sunulmaktadır.

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INFLATION INDEXED TURKISH LIRA AND QARD AL HASAN FUND AS A SYSTEM FOR ECONOMIC SOLIDARITY

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ABSTRACT

Fulfilling basic needs is among the fundamental rights of people. Indebtment system, established in the World through taking advantage of those needs and by using interest calculations creates inequality and injustice in the society and eventually divides it. However, supporting those in need of financial help and live in solidarity with them is a humanistic mission. In this concept, qard al-hasan as the "benevolent loan" developed on a new mindset and with a new currency can become an important and functional component. The purpose of this article is to search for new approaches in the light of Islamic economics and discuss them in order to address fulfilling basic needs of people in a humanistic, legitimate and suitable manner. From this viewpoint, the article aims to present an approach to seek a solution based on Inflation-indexed TL (ETL) and Qard al Hasan Fund (KHF) as a new system focusing on economic support and solidarity that is compatible with interest-free transaction principle of humanitarian tenets.

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GİRİŞ

Bu çalışmada İslam iktisadı perspektifinde ve bütüncül bir çerçevede insanların gündelik hayatta karşılaştıkları en önemli meselelerden biri olan borç verip alma konusu ele alınıp tartışılacak ve buna ilişkin yeni açılımlar sunulacaktır.

Öncelikle sosyal ve ekonomik zeminde insanlığın ana sorunlarından biri olan faiz konusu ele alınıp değerlendirilecek ve onun doğurduğu eşitsizlikler analiz edilecektir. Arkasından İslam iktisadının en temel prensibi olan faizsizlik ilkesi ve onun tarihteki önemli bir uygulaması olan para vakıfları incelenecektir. Sonrasında yeni bir zihin üzerinden İslam iktisadının temelini oluşturan yardımlaşma ve dayanışma fikri ortaya konacaktır. Karşılığında herhangi bir fazlalık verilmeyen, faiz içermeyen karz sözleşmesi yardımıyla yeni borç verme sistemi teklif edilecek ve ardından yeni bir zemine taşınarak iktisadi dayanışma üzerinden insanların nakit ihtiyaçlarını karşılama meselesi ve bunlara ilişkin model önerileri tartışılacaktır.

Bu çerçevede finansal işlemlerde ve kıymet korumada referans değer olarak alınacak Enflasyona Endeksli Türk Lirası (ETL) önerisi geliştirilip gündeme getirilecek, hesaplama teknikleri ve işleyişi örneklerle anlatılacaktır. Buna ilave olarak yeni ve insani bir borç verme sistemi olarak Karz-ı Hasen Fonu (KHF) modeli bir örnek üzerinden açıklanacaktır.

FAİZ SORUNU VE BORÇLANDIRMA

Faiz, ödünç işleminde ve alışverişte karşılığı bulunmayan hakiki ve hükmi bir fazlalıktır. “Faiz” kelimesinin Arapça karşılığı “riba”dır. “Riba” kelimesi ise “fazlalık, nema, artma, çoğalma, yükseğe çıkma, serpilip gelişme” gibi manaları muhteva etmektedir (Özsoy, 2016). Bu çerçevede riba özetle, “hem bir şeyin kendi içinde bulunan hem de iki şey arasında mukayeseden doğan fazlalığı ifade eder.” İslam hukukunda faiz yani “riba”, “borç verilen bir parayı veya malı belli bir süre sonunda belirli bir fazlalıkla yahut borç ilişkisinden doğan ve süresinde ödenmeyen bir alacağa ek vade tanıyıp bu süreye karşılık onu fazlalıkla geri almanın veya bu şekilde alınan fazlalığın adıdır.” Dolayısıyla menfaat sağlayan her borç verme işlemi faizdir. İster ödünç ister başka bir mübadele işlemlerinden kaynaklansın, sermayedeki haksız bir şekilde meydana gelen artış faizdir.

Faiz; insanlığın son semavi kitabı Kur’an’da ve onun hayata uygulaması olan Sünnette son derece net ifadelerle yasaklanmış hatta lanetlenmiştir:

“Faiz yiyenler, ancak şeytanın çarptığı kimsenin kalktığı gibi kalkarlar. Bu, onların, alışveriş de faiz gibidir, demelerinden dolayıdır. Oysa Allah, alışverişini helal, faizi haram kılmıştır...” (Bakara 2/275). “Ey

iman edenler! Kat kat arttırılmış olarak faiz yemeyin. Allah'tan sakının ki kurtuluşa eresiniz.” (Al-i İmran 3/130). “İnsanların malları içinde artsın diye verdiğiniz faiz, Allah yanında artmaz. Allah'ın rızasını dileyerek verdiğiniz zekata gelince, işte onlar, malları kat kat artmış olanlardır.” (Rum 30/39).

“Altına mukabil altın, gümüşe mukabil gümüş, buğdaya mukabil buğday, arpaya mukabil arpa, hurmaya mukabil hurma, tuza mukabil tuz aynı evsafa, aynı ölçüde ve hemen mübadele edilmelidir. Her kim fazlalık verir veya alırsa muhakkak ribaya sebep olmuş olur. Mübadele edilecek metalar farklı ise peşin olmak kaydıyla istediğiniz gibi mübadele edebilirsiniz.” (Müslim, Musakat 80; Ebu Davud, Buyu' 12). “Resulullah (as), faiz alana, verene, yazana ve şahitlerine lanet etmiştir.” (Buhari, Buyu', 25; Müslim, Müsakat, 105).

Faiz aynı zamanda Hristiyanlık ve Musevilikte de yasaklanmıştır:

“Geri alacağımızı umduğunuz kişilere ödünç vererseniz, bu size ne övgü kazandırır? Günahkârlar bile verdiklerini geri almak koşuluyla günahkârlara ödünç verirler. Ama siz düşmanlarınızı sevin, iyilik yapın, hiçbir karşılık beklemeden ödünç verin. Alacağımız ödül büyük olacak.” (Luka İncili, 6:34-35). “Kardeşinden faiz ve kâr alma. Tanrı'ndan kork ki, kardeşin yanında yaşamını sürdürebilsin. Ona faizle para vermeyeceksin. Ödünç verdiğin yiyecekten kâr almayacaksın.” (Tevrat, Levililer, 25:36-37).

Bütün semavi dinlerde yasaklanmış olan faizin, tarihsel olarak insanlara ve toplumlara verdiği zararlarla ne kadar insanlık karşıtı bir sorun olduğu maddi sonuçları itibariyle ortaya çıkmıştır. Faiz, sadece dinler tarafından değil birçok felsefeci ve bilim adamı tarafından da topluma zararlı görülmüş ve eleştirilmiştir. Bu konuda, bütün servet edinme yolları arasında doğaya en aykırı olarak faizi gören felsefenin kurucu babalarından Aristoteles'in yaklaşımı son derece ilginçtir: “Faizcilikten de pek çok nefret edilir ve bu nefret tamamıyla haklıdır; çünkü faiz, paranın adına var olduğu şeyin bir ürünü değil, paranın kendisinden çıkan bir kazançtır. Para bir değiş tokuş aracı olması için düşünülmüştür, faiz ise paranın kendisindeki bir artışı gösterir. Faizden, bir tahıl ürünü ya da hayvan yavrusuymuş gibi kazanç diye söz ediyoruz; çünkü, her canlı benzerini doğurur, faiz de paradan doğan paradır” (Aristoteles, 2011).

Faize ve onun oluşturduğu toplumsal sonuçlara baktığımızda, onun insanlık için nasıl büyük bir yıkıma neden olduğu çok rahatlıkla görülebilir. Her şeyden önce faiz, emeksiz ve haksız kazanca yol açar. İnsanı metalaştırıp sömürülmesine neden olur, diğer yandan da insanı azdırır ve insanlıktan

uzaklaştırır. Faiz, ekonomik bir sorun olmanın ötesinde politik ve toplumsal da bir sorundur. Haksız paylaşım ve adaletsizliğe neden olarak toplumsal yapıda sınıflaşmanın önünü açar ve toplumu dinamitler. Zenginleri daha zenginleştirir, fakirleri ise daha da fakirleştirir. Toplumsal adaleti ve eşitliği yaralar, sosyal dengeyi bozar. Gelir dağılımı içerisinde en zengin ile en fakir arasındaki farkı gittikçe artırır ve uçuruma dönüştürür. Tasarrufların üretim zincirine, başka bir ifadeyle reel ekonomiye yönlendirilmesine engel olur. Toplum içerisinde iş imkanlarını azaltır, istihdamı engeller ve toplumsal yapıyı gererek sosyal düzeni kaosa sürükler.

Ticaret ile faiz/riba bazen karıştırılır. Oysa ticarete mal ve hizmet alışverişi söz konusu iken, faizde emek de üretim de meta alışverişi de yoktur, doğrudan doğruya yattığı yerde paradan para kazanmak vardır. Faizi meşru görenler, parayı meta olarak değerlendirenlerdir ve bu durum her şeyi metalaştıran kapitalist zihniyetin bir ürünü ve uzantısıdır. Hiçbir şekilde üretim ve ticaretin söz konusu olmadığı faizin nihai sonucu eşitsizlik ve adaletsizlik üreten bir tefeciliktir. O yüzden parayı meta gören ve onun üzerinden faizli kredi düzeni kuran sistem, gücünün zorda olan güçsüzü yakalayıp onu daha da güçsüz hale getirip aradaki farkı yani eşitsizliği derinleştiren, "...Mallar, ta ki içinizden yalnız zenginler arasında dolaşan bir şey (devlet) olmasın..." (Haşr 59/7) genel ilkesine aykırı olan, büyük kara sermayenin insanı ve doğayı soymayı hedefleyen bir sistemdir.

Faiz, rizikoya katlanmadan para sahibinin başkasının ürettiğinden aldığı paydır. Paranın vadeli ticaretinden elde edilen, üretimle alakası olmayan, başkalarının zararına yol açan ve tekelleşmeye neden olan haksız kazançtır. Güçlüyü haklı konuma getiren her türlü tekele fırsat veren, onların kendi menfaatlerini diğer insanlara zorla, hile ve baskı ile kabul ettirmelerinin önünü açan, kendilerinin de bir bakıma despot ve tağut haline gelmelerine sebep olan zulüm aracıdır (Ersoy-Hazıroğlu, 2019:45). Velhasıl faiz/riba; yoksulun, ihtiyaç sahibinin imkanlarını daraltılıp sermaye sahibine transfer ederek dengeyi ve mizanı bozan, toplumsal eşitsizliği derinleştiren, bir takastaki fazlalıktan öte ekonomi politik bir toplumsal yıkıma neden olan ve gücünün lehine yapılan her şeyi mubah gören bir anlayışın adıdır.

İşte tam da bu noktada, insanların ve toplumların aleyhine işleyen bir borçlandırma sistemi gündeme gelmektedir. Böylece faizin yukarıda bahsedilen yıkıcı, bölücü ve sınıflara ayırıcı etkisi bu borçlandırma sistemi ile iyice açığa çıkmaktadır. Artık burada ihtiyaç sahibine borç verme söz konusu değil onu bir şekilde faizli borçlandırma sistemine, bu suretle kapitalizme ve egemenlerine bağımlı hale hatta köle durumuna getirme söz konusudur. Böylece tüm toplumların aleyhine işleyen ve bütün dünyayı etkisini altına alan

bu borçlandırma sistemi insanları nefes alamaz bir atmosfere itmektedir. Öyle ki, insanlar hızla ve artarak borçlanmakta ve borçlandıkça da eli kolu bağlanmakta, kişilerin hayatı ve ailesi bu faizli borç altında ezilip durmaktadır.

Her şeyden önce, “borç verme” ile “borçlandırma” ayrı zihinlerin ve ayrı dünyaların işlemleridir. Zira borç (karz) vermede, ihtiyacı olanın durumu esastır ve o karşıdan “ödünç” olarak işini görmekte iken, borç veren de insani ve iktisadi dayanışmanın güzel bir örneğini sergileyerek mutlu olmaktadır. Borçlandırmada ise, borç verenin tutumu belirleyicidir ve o karşıyı “faizle borçlandırarak” kendine bağlayıp egemenliğini artırmakta iken, borç alan da iyice zor duruma düşerek mazlumlaştırılmaktadır. Öyle ki, borçlandıran diğer bir deyişle kreditor kendi sermayesini faiz, rant dürtüsü ile değerlendirmeye çalışırken aynı zamanda kreditor olarak hakimiyetini pekiştirmenin yollarını aramaktadır.

Büyük sermayenin tipik karakteri, herkesi borçlandırarak kendine bağlamaya ve topluma egemen olup devlet olmaya çalışmaktır. Oysa servetin elden ele dolaşım devlet olmasını engellemek insanlığın en temel yasasıdır. İşte bundan dolayı söz konusu bu “borçlandırma tuzağı”nı aşacak meşru ve adil bir “borç verme sistemi” kurulması acil bir ihtiyaçtır.

DÜNYANIN HALİ VE EŞİTSİZLİKLER

Meseleyi daha iyi anlayabilmek için, insanlığın ve dünyanın haline daha yakından bakmakta ve faize dayalı mevcut borçlandırma sisteminin geldiği son noktayı analiz etmekte fayda var. Görünen o ki, mevcut gidişat insan onur ve haysiyetine aykırı, eşitsizliklerle dolu bir durum almış, hayatın bütünlüğünü ve devamını tehdit eder boyuta gelmiştir. Arz insana daraltılmış, temel insan hak ve hürriyetleri rafa kaldırılmış, insanın insanca ve hakça yaşamasının imkanları elinden alınmıştır.

İnsanlığın ve dünyanın gidişatına, küresel kapitalist sistemin dayatmalarına mahkum olmadan farklı şekillerde bakmak mümkündür. Bu çerçevede dünya tarihine üretim tarzları perspektifinden değil de mübadele tarzları perspektifinden bakılacak olursa, ki bu durumda, karşılıklı armağana dayalı A tipi, yönetim ve himayeyi (yağma ve yeniden bölüşümü) içeren B tipi, meta mübadelesinden oluşan C tipi ve bu üçünün aşılması anlamında ve birinci tipin bir üst boyutu olarak aynı anda hem özgür hem de karşılıklı mübadeleyi içeren D tipi mübadele tarzlarından bahsetmek mümkündür. Tarihsel olarak bunlardan türeyen toplumsal formasyonlar ulus, devlet, sermaye ve X (henüz bilinmediği için) olarak sıralanabilir (Karatani, 2017:38). Bu durumda para ve metalar mübadelesi üzerine bina edilen C tipi mübadele tarzı baskınsa kapitalist

toplumdan söz ediliyor demektir. Kapitalist ekonomi de kendi akışına bırakılırsa, kaçınılmaz olarak ekonomik eşitsizlik ve çatışma doğuracak ve bu da toplumsal yıkıma neden olacaktır. Bu durum yeni bir yaklaşımın gerekliliğini açıkça ortaya koyar.

Yine gidişata bir başka cepheden bakılacak olursa, insanlığın geleceğini tehdit eden söz konusu borçlandırma sisteminin ve onun oluşturduğu eşitsizliklerin hangi süreçten geçerek bugünkü boyutlara geldiğine yakından görmek mümkündür: Merkantilist dönemde zenginliğin ve refahın temeli ülkenin sahip olduğu doğal kaynaklar olarak görülürken, hemen onun sonrasında ise ulusların zenginliğinin doğaya ve tarıma bağlandığı fizyokrasi dönemi gelmiştir. Adam Smith tarafından yazılan *Ulusların Zenginliği* adlı eser ile birlikte, bireylerin kendi çıkarlarını salt amaç olarak değerlendirmelerinin bir kaosa değil de bir ahenge neden olacağını belirten, rasyonellik, iş bölümü ve görünmez el yaklaşımı ile şekillenen ve arz talep dengesiyle oluşan liberalizmin, serbest piyasa ekonomisinin önü açılmıştır (Emeç, 2020:26).

Çoğu zaman üretim ve ticaretin altı çizilmesine rağmen, bunun yerine finansal ilişkilerin boyutu ve hacmi çoğalmış, tüm dünyada borçlar artmış, sadece kişilerin değil, ülkelerin de borçluluk oranları endişe verici boyutlara gelmiştir. Öyle ki, 2019 yılı ilk çeyreği itibariyle toplam küresel borç 20 yıl öncesine göre 79,5 trilyon dolardan %210 artarak 246,5 trilyon dolara çıkmıştır. Diğer vahim bir durum ise, bu küresel borcun GSYH'ye (Gayri Safi Yurtiçi Hasıla) oranı yine aynı dönemde %225,1 iken, %319,2 gibi ürkütücü bir rakama ulaşmıştır. Finansal piyasaların gerçek maldan ve reel ekonomiden kopmasıyla oluşan ve belli dönemlerde kendini gösteren her kriz ile artan faiz oranları sadece borçluluk oranlarını artırmakla kalmamış, aynı zamanda dünya ölçeğinde zaten var olan eşitsizlikleri de tetiklemiştir. Nitekim 2019 yılı itibariyle, en zengin %1'lik kesimin toplam servetten aldığı pay %45, en zengin %10'luk kesimin aldığı pay ise %82 seviyesine erişerek gelir adaletsizliği konusunda derin yaralar açmıştır (Emeç, 2020:37-39). Borçlandırmaya dayalı finans sisteminin kaçınılmaz bir şekilde ürettiği eşitsizlik gerçeği ve gelir adaletsizliği toplumları atomize ederken aynı zamanda büyük küresel krizlerin de kaynağı olmuştur. Her kriz bir yandan sermaye transferi ile yeni zenginler oluştururken, diğer yandan da fakir ve yoksul kitlelerin çoğalmasına neden olmuştur.

Kapitalizmin ve özellikle borçlandırma esaslı finansman sisteminin beraberinde getirdiği eşitsizlikler ve krizler duracak gibi görünmemektedir. Görünen o ki, küresel kapitalizmde, sermayeyi elinde tutanlar; hizmet eden, üreten işçi ya da köylü sınıfı (tüm emekçiler) ile fakir toplumların kaynaklarını daha iyi sömürebilmek için, onların sürekli çalışmasını ve borçluluk içerisinde hayata dair farklı beklentiye girmeden ömür sürmelerini talep etmektedir. Dolayısıyla

mevcut sistem, ülkeleri ve insanları sürekli artan bir borçluluk ile karşı karşıya bırakmaya çalışmaktadır.

Kapitalist sistem, mutluluğu servet biriktirmede ve her türden fiziksel zevkte olduğunu ileri sürerek ve uygulayarak insan tabiatına aykırı hal almıştır. İnsan, doğası gereği bu yaklaşımdan asla tatmin olup mutluluğa ulaşamayacak, bireysel ve toplumsal düzeyde ruhsal, zihinsel ve fiziksel dengesizliğe uğrayacak ve nihayetinde bunalıma sürüklenecektir. Bu sistemi benimseyip uygulayan dünyanın zengin ülkelerinde görülen depresyon, intihar, akıl hastalıkları, şiddet ve umutsuzlukların yüzdesi, kapitalizmin yıkıcılığının ve insan karışıklığının çok açık bir göstergesidir. Bunun aksine İslam mutluluğu, Yaradan'ın rızasını kazanmak ve ahirette mükafatlandırılmak olarak gördüğü için, mutluluk, her maddi durumda elde edilebilmekte ve insanoğlunun manevi gerçekleşmesi her şartta mümkün olabilmektedir.

İşte bütün bunlar, finansal piyasaların yeniden disipline edilmesi, gidişatın daha uygun bir zemine taşınması ve oluşan eşitsizliklerin aşılması konusunda toplumun faydasına olacak ve daha hakkaniyete dayalı bir modelin geliştirilmesini zorunlu kılmaktadır.

FAİZSİZLİK İLKESİ VE PARA VAKIFLARI

Faizsizlik denince, tarihte akla ilk olarak Osmanlı para vakıfları gelir. Bilindiği gibi, para vakıfları diğer vakıflardan farklı olarak paranın kendisinin değil de gelirin vakfedildiği sosyal kurumlardır. Sosyal kurum; zarar etmeyen, kar dağıtmayan ve sosyal bir problemi çözmeye odaklanmış işletmelerdir ve sahipleri tüm karı işletmeyi geliştirmek ve büyütmek için kullanan yatırımcılardır (Ceylan, 2020:455). Bir sosyal işletme olarak para vakıfları, kurulmasına neden ihtiyaç duyulduğu, yapılan uygulamaların nasıl bir süreç takip edip nereye vardığı üzerinde düşünülecek ve ders alınacak bir konudur.

Para vakıfları, çok önemli işlev görmelerine rağmen, hukuk tarihinde iki açıdan tartışma konusu yapılmış; birincisi, taşınır mal sayılan paranın tahsis edilmesi ile kurulup kurulamayacağı, ikincisi de kurulan vakfa tahsis edilen paranın nasıl işletileceği konusudur. Osmanlı hukukçuları Çivizade Mehmed Efendi ile İbn Kemal para vakıflarının meşruluğunu tartışmışken, Ebussuud Efendi ile İmam Birgivi ise para vakıflarının geliriyle birtakım sosyal hizmetlerin yapılmasını önceleyerek şekli uygunluk vermiştir. Para vakfına verilen paranın işletilmesi de birçok yönden tartışılır olmuştur. Tahsin Özcan'ın Üsküdar şer'iyehane sicillerine dayanarak yaptığı çalışmalara göre, Kanuni döneminde Üsküdar'daki para vakıflarının yaptığı 3.992 işlemin %92,69'u (3.422 tanesi) muameleyi şer'iyehane (bey'ul-ine) yoluyla, %4-5 kadarı vefaen satış (bey'bil-vefa) ve kiralama

şartıyla satış (bey'bil-istiğlal) yoluyla, %2'si (74 tanesi) de karz-ı hasen yoluyla olmuştur. En yaygın olan muamele-i şer'îye işlemi, 100 lira ihtiyacı olan kimseye 110 liraya bir mal vadeli satılmakta, sonra aynı mal 100 liraya peşin olarak geri alınmaktadır. Bu, tercihen üçüncü bir şahıs araya konularak yapılmakta idi. Bazen de 100 lira ödünç para verilip yanı sıra bir mal 10 liraya satılıp hibe yoluyla tekrar geri alınmakta idi (Aydın, 2020:143).

Para vakıflarında yapılan işlemlere ilişkin başka bir değerlendirme de şöyledir: Genelde %10-15 farkla yapılan işlemlerde hangi ifadeler kullanılırsa kullanılsın genelde maksat bir şekilde paradan para kazanmak olmuştur. Para vakıfları amaçları itibarıyla toplumsal ve dini ihtiyaçlar göz önünde bulundurularak kurulmuşlardır. Borç alanlar, borçlandıkları miktarı dini veya sosyal ihtiyaçlar için harcanmak üzere belirli bir "ekstra" tutar ile iade ederlerdi. Osmanlılar bu ekstra ilaveye faiz, riba demez onun yerine "istiğlal" derlerdi. Görünüşte bir satış olarak anlaşılan ve bazılarınca "ekonomik faiz" olarak görülen istiğlal, borçlunun alacaklıya satışı olarak varsayılır ancak gerçekte rehin bıraktığı bir menkulü teslim etmesi ve onu borcun genelde %10'u olan "kira" ile kullanabilmesidir. Borç ödendiğinde rehin bırakılmış olan mal iade edilirdi (Çizakça, 2017:53-54).

Para vakıfları, söz konusu şekli uygunluk verilen işlemler, murabaha görüntülü değişik ve çeşitli uygulamalar gibi maalesef meşru gibi gözükken muameleler ile uzun süre devam etmiş ve bu durum da yoğun tartışmalara neden olmuştur. Bunun halka yansımaları doğal olarak olumsuz olmuştur. Öyle ki, halk arasında belli bir rakam verilip üzerine bir fark koyup geri alma yaygınlaşmış ve bu durum gittikçe olağan karşılanmaya başlanmıştır. Bu hal, maalesef faiz olgusunun halk nazarında nispeten bir tür meşrulaşmasına neden olmuştur. Böylelikle Osmanlı döneminde, faiz sanki ribadan farklı bir şeymiş gibi bir algı meydana gelmiştir.

Her şeye rağmen, modern bankacılığın batıda 16 ve 17. yüzyılda başladığı bir dönemden çok önce 14 ve 15. yüzyılda para vakıflarının başlamış olması, hayırsever bankalar olarak toplumun finansman ihtiyacını karşılaması ve elde ettiği geliri, kuruluş gayelerine uygun olarak sadece hayra harcaması azme değer bir çabadır (Ceylan, 2020:421). Ancak para vakıfları, yukarıda sıralanan söz konusu tereddütlü işlemler, örgütsel yapılarında görülen aksaklıklar ve padişahlar tarafından sürdürülen merkezileşme eylemleri sebebiyle gerilemiş ve cumhuriyet döneminde de ortadan kalkmıştır. Demek ki, ne kadar iyi niyet ve sosyal amaçlar gözetilerek kurulsun, hiçbir kurum kendine has özellikleriyle hayat bulamazsa, yaşayamaz. Genellikle çok yoğun olarak özde değil de şekilde uygunluk olarak yola çıkan para vakıfları değerlerinden uzaklaşmış, toplumsal itibarını kaybetmiş ve tarih sahnesinden çekilmiştir. İlke

ve özenin zedelenmesi sonucu acı akıbet ile baş başa kalan para vakıfları konusunda bir Mecelle maddesi son derece uyarıcıdır; “Bir işten maksat ne ise hüküm ona göredir” (Mecelle, 2).

Bütün bu hikaye bize şunu hatırlatmalıdır: İslam iktisadında da faizsiz bankacılıkta da hedef sadece para kazanmak, mülk edinmek değildir. Talebi meşru ve faydalı sahalara yöneltmek, üretimi arttırmak, verimi çoğaltmak, artan tasarrufu faydalı yatırımlara dönüştürmek ve paylaşımı yaygınlaştırmaktır (Zaim, 1992:95).

Tevhidi, adanmış, hayra dönük, faydalı ve insani bir kurum olarak vakıf, çağımızda ihtiyaç duyulan önemli bir “insani kurum” olma özelliğini korumaktadır. Velhasıl, geçmişin bu kadim kurumsal tecrübesi günümüzde de “insani” sıcaklığını hemen hissettirerek bizi kendisine doğru çekiyor, kurumsal yapısı ve ebediyete yazılmış vakfiyeleri ile bizi adeta bir şahsi manevi sahibi olarak kendisini anlamaya davet ediyor. Bu insani kurum, şartlar ne kadar ağır olursa olsun, asırlar ötesinden binlerce vakfiyesi ile hala ve ısrarla insan için her zaman bir ümidin “var olması” gerektiğine dair inancı hatırlatıyor, imanımızı tazeliyor (Ceylan, 2020:469).

ZİHİNSEL HİCRET VE İKTİSADİ DAYANIŞMA

“...İyilik ve takva üzerinde yardımlaşın. Günah işlemek ve aşırı gitmek üzerinde yardımlaşmayın. Allah’tan sakının, muhakkak ki Allah’ın cezası şiddetlidir.” (Maide 5/2). “Allah’ın sana verdiği şeylerde ahiret yurdunu ara. Dünyadaki nasibini de unutma. Allah’ın sana ihsan ettiği gibi sen de ihsanda bulun. Yeryüzünde bozgunculuk arama. Doğrusu Allah; bozguncuları sevmez.” (Kasas 28/77). “Muhakkak ki Allah; adaleti, ihsanı, yakınlarla vermeyi emreder. Hayasızlığı, fenalığı ve taşkınlığı ise yasaklar. Tezekkür edesiniz diye size öğüt verir.” (Nahl 16/90).

“Her biriniz kendisi için istediğini kardeşi için istemedikçe iman etmiş olmaz.” (Buhari, İman 7; Müslim, İman 71). “Müminin mümine karşı durumu, bir parçası diğer parçasını sınıksız kenetleyip tutan binalar gibidir.” (Buhari, Salat 88; Müslim, Birr 65). “Müminler birbirlerini sevmekte, birbirlerine acımakta ve birbirlerini korumakta bir vücuda benzerler.” (Buhari, Edep 27).

Tevhid ve adalete inanan Müslümanlar, kendi dünya görüşü ve değer ölçülerine dayanarak karşılaşılan sorunlara yeni çözümler üretmek durumundadırlar. İnsanlığın önündeki engelleri aşacak ilkeleri içeren fitri ve doğal sistem olan İslam iktisadı, Müslümanlara, özellikle de hür ve bağımsız

aydınlara azme değer olan bu işi üstlenip yapmalarını sağlayacak imkanlar sunmaktadır. Bu çerçevede yeni bir düşünce sistematığı kurmanın, yeni ve başka bir anlayış geliştirmenin ilk adımını atmak için hakikatten, yani genel ilkeler vazedenden Kur'an'dan ve onun hayata uygulama örneği olan Sünnetten hareketle yeni bir "zihinsel hicret" yapmak gerekmektedir. Bunun çok kolay yapılabilir bir şey olmadığı açıktır ancak azme değer bir iş ve çaba olduğu da ortadadır.

"Zihinsel hicret", hakikatten ve ahlaktan hareketle bir gelecek tahayyülü kurmak, içinde yaşanılan gerçekleri ve koşulları gözeterek, buraya ayak basıp tasavvur edilen geleceğe adım adım yol almaktır. Bu, yeni zihin yeni iktisat anlayışı ile hayatı bir bütünlük içinde kavrayarak işleri ele almak ve yoğun bir çabayla eyleyişler içine girmek anlamına gelir. Zihinsel hicret, hayallere dalıp gerçeklerden uzaklaşmak, bulunulan yeri unutup kaosa sürüklenmek değil, aksine ve özellikle geçmişi ve geleneği ders alarak sindirmek, bugünü ve basılan zemini kavrayarak harekete geçmek ve yarınları inşa edecek inkılapçı yürüyüşlere koyulmaktır.

Gelinen bu süreçte iki stratejik yoldan bahsetmek mümkündür: ya küresel kapitalizmin hakim olduğu modern dünyada yer edinmeye çalışılacak ya da hakikatten, Kur'an ve Sünnetten hareketle yeni ve başka bir dünya tasavvur edilip inşa edilecek. Başka bir ifadeyle, ya çağa ve modernizme ayak uydurulacak ya da hakikat üzerinden yeniden doğulacak, insanlıktan neşet edilecek. İnsanlığın lehine olanın "uyum hattı" değil "inkılap hattı" olduğu açık ve nettir.

Her şeyden önce, semavi dinlerin sonuncusu olan İslam'a bakışı dış etkilerden uzak ve kendi gerçekliğine uygun olarak kavrayıp tazelemek gerekir. Bu noktada Sezai Karakoç'un tarihi uyarısı son derece ufuk açıcı ve yol göstericidir: "İslam, Batı medeniyetinden ayrı bir medeniyet olarak ele alınmadıkça gerçeğine varılamayacak bir realitedir. Kavramları, tanımları, deneyleri yine kendinden çıkarılabilir. Batı sınırlamaları ve muhtevalarıyla İslam realitesinin üzerinde yapılacak soyutlamalar, İslam'ı değil, ancak, batı doktrinlerinin İslam'ı nasıl gördüğünü ve gösterdiğini tespitte yarar" (Karakoç, 1987:10).

Her sistem gibi İslam da denge fikrine dayanır. Bu dengenin üç yönü vardır: Evrenin dengesi, insanın dengesi ve toplumun dengesi. İslam iktisadı ile ilgili bilgilerin yerleştirileceği çerçeveyi belirleyen en önemli unsurun adalet olduğunu görmek durumundayız (Tabakoğlu, 2013:79). Dünyaya hakim olan küresel kapitalizmin, kendini vazgeçilmez görmesi ve insanlığın geldiği son nokta olarak sunması bizi aldatmamalıdır. Zira büyük sermayenin ortaya koyup

dayattığı ekonomik anlayış, “Yani bugünkü iktisat, kapitalizmin ürünüdür. Bu yüzden de ilim olmaktan önce bir ideolojiler yumağıdır. İktisat kitapları da aynı çizgi olarak ya kapitalist ya da yine Batı’nın bir ‘batıl mezhebi’ olan marksizm’in ideolojik yaklaşımlarını aksettirmekte, Batı ülkelerinin ihtiyaçlarını ele almaktadır” (Tabakoğlu, 2013:64).

İslam iktisadı, her çeşit tekelden korunmuş olan, hak merkezli dünya görüşüne dayanan, insan doğasına uygun doğal bir sistemdir. İslam iktisadının temel ilkelerine dayanılarak inşa edilecek olan hak ve adalet eksenli ortaklık ekonomisi, hem siyasi tekel konumunda olan sosyalist sistemden hem de iktisadi tekele dayanan kapitalist sistemden tamamen farklıdır. Bu sistemler tekel konumunda olan güçlerin ürettiği ve ayrıcalıklı konumlarını korumak için ayakta tuttukları insan doğasına aykırı ve egemenlerin ürettiği yapay sistemlerdir. İslam iktisadı, sosyal hayatta haklı olanı güçlü kılmayı hedefleyen, hukukun üstünlüğünü esas alan ve nimet külfet paylaşımında adaleti tesis etmeyi amaçlayan fitri bir nizamdır (Ersoy-Hazıroğlu, 2019:71).

İslam iktisadında önce, zihinsel bir devrimle “ahlak” temel alınır. Ardından “adalet ve hakkaniyet” üzerinden tasavvura başlanır ve bu tasavvurun başlangıç noktası olarak “ihsan ve dayanışma” gündeme gelir. Başka bir ifadeyle ihsan yani güzel davranmak, vermek, fedakarlık yapmak dayanışmayı ateşler, başlatır, inşa eder, tutar ve geliştirir. Arkasından sürecin “emek, katılım ve ortaklık” aşaması gelir. Bu durum artık ekonominin ete kemiğe büründüğü aşamadır. Burada tetikleyici faktör emektir. Emeğiyle var olma ve takati oranında sorumlu olma bilinci bu tetikleme ateşler. Beşinci ve son aşama ise artık hareketin, işin, çalışmanın başladığı aşamadır. Bu aşamada “aktiflik ve üretkenlik” baz alınarak verimlilikle birlikte iktisadi hayat harekete geçirilir ve böylelikle ekonomik kalkınmanın ve gelişmenin önü açılmış olur (Hazıroğlu, 2017:220).

Hayatın bütünlüğü ve tüm disiplinlerin kuşatıcılığı çerçevesinde iktisada bakılacak olursa ekonomi politik bir perspektif oluşturmak meselelerin daha iyi anlaşılmasını sağlayacaktır. Tarihi arka planı olan bu yaklaşım ile ilgili, ilk defa “politik ekonomi” tabirini kullanan Nasiruddin Tusi (1201-1274), *Ahlak-ı Nasiri* adlı kitabında bize asırlar öncesinden şu hayati meseleyi hatırlatmaktadır: “İnsan var oluşu, karşılıklı iş birliği olmadan bir surete bürünemeyeceğinden ve bu iş birliği toplumsal münasebet olmaksızın meydana gelemeyeceği için işbu sebeple insan özü gereği topluma bağımlıdır. Bu bağımlılık, insanın bizim “temeddün” (yahut “mudun” şehirler ya da ekonomi) dediğimiz topluma olan bağımlılıktır. “Temeddün” kelimesi yaşam konforu sağlamak için muhtelif zanaatları ve sanayileri benimseyerek birbirleriyle iş birliği yapan insan topluluğuna delalet eden “medine” kelimesinden türemiştir. Bu, “İnsan özü

gereği toplumsaldır” yargısının tam olarak anlamıdır. Fakat her insanı neyi seviyorsa onu yapmaya bıraksak insanlar arasında bir iş birliği olmayabilir ve güçlü olan zayıfı boyunduruğu altına alabilir, aç gözlü olan her şeyi kendisi için toplayabilir ve böyle olunca da münakaşalardan dolayı insanlar birbirinin kökünü kazımaya başlayabilir. İşbu halden dolayı her insanın kendi payına düşeni almasını, hak ettiğiyle kanaat etmesini, diğerlerinin haklarına tecavüz etmemesini ve bir iş birliği ruhu içinde kendi şahsi çıkarı peşinde koşmasını temin eden pratik adımların atılması zorunludur. Böylesi adımları atmaya “siyaset”, yani siyaset denir. Bütün bunlardan “politik ekonominin”, kamu yararının yeknesak yasalarını inceleyen, gerçek ilerleme kaydedebilmek için gerekli olan karşılıklı iş birliğini teşviki kasteden ve konusu; insan fertlerinin bir araya gelmesinden ortaya çıkan ve (mesleklerinin) mükemmelleşmesine yönelik faaliyetlerine bir kaynak olarak hizmet eden toplumun yapısı olan bir bilim dalı olduğu açıktır” (Barnett, 2020:377-378).

Tusi'nin de altını çizdiği gibi, insanların birbirinin kökünü kazımaya başlamalarını engellemek ve her insanın, tüm insanlar için yaratılmış olan dünya ve üzerindeki nimetlerden kendi payına düşeni almasını, hak ettiğiyle kanaat etmesini, diğerlerinin haklarına tecavüz etmemesini ve bir iş birliği ruhu içinde kendi şahsi çıkarı peşinde koşmasını temin etmesi açısından yeni bir “siyaset” anlayış ihtiyacı açıktır. Ancak o zaman daha insani, adil ve eşit bir dünyaya ulaşmak mümkün görünmektedir.

Adil, eşit ve yeni bir dünya için insanların birbirleriyle dayanışma içinde olmaları zorunluluktur. Zira, “Her insan, yaşamak ve üstün mükemmeliyetlere ulaşmak için yaratılıştaki birçok şeylere muhtaç olup bunların hepsini tek başına sağlayamaz. Her insan bunun için, çok kimselerin bir araya gelmesine muhtaçtır. Her fert bu ihtiyaçlardan ancak üzerine düşeni yapar. Bütün insanların birbirleri karşısındaki durumları da bu merkezdedir. Böylece her fert, tabiatındaki mükemmelleşme ihtiyacını, ancak muhtelif insanların -yardımlaşma maksadıyla- bir araya gelmeleriyle elde edebilir” (Farabi, 2001:79). Hiç şüphe yok ki, çıkarları hususunda yekdiğeriyle yardımlaşmaksızın insan nevinin mevcudiyeti ve bekası gerçekleşemez. Çünkü insan nevinin yardımlaşma olmadan tek başına var olamayacağı; nadir bir şekilde böyle bir insanın zuhur ettiğinin farz edilmesi durumunda ise, o şahsın bekasının mümkün olmayacağı sabit olmuştur (İbn Haldun, 2012:707). Sadece insanların değil toplumların ve devletlerin de ayakta kalıp hayatını idame ettirmesi, söz konusu bu dayanışma ve iş birliği ile mümkün olacaktır. Nitekim insanlığın en büyük tecrübelerinden biri olan Osmanlı devletinin iktisadi dünya görüşünün temel değerlerinin; devletin ve toplumun bütün katmanlarının “ihtiyaçlarını karşılama”, rekabet ve çatışma yerine “iş birliği ve dayanışma” ve

aşırı kutuplaşmalara karşı “itidal” olarak açığa çıkması (Genç, 2010:64,68) buna işaret etmektedir.

İktisadi ilişkileri bir bütünlük içinde ele almak, aynı zamanda bütün dünyanın müntesipleri olarak yardımlaşma ve dayanışma içinde ve tam bir ortak olarak kalkınma ve gelişmeye yeni anlamlar yüklemek gerekiyor. Bu noktada Ömer Lütfi Barkan’ın, Orta Asyalı Türklerin Anadolu’ya gelerek yeni açılan veya boş bulunan toprakların üzerinde yapılan işleri bir “şenlendirme” olarak nitelemesi (Barkan, 2013:77) son derece faydalı bir kavrayış olabilir. Bu suretle kalkınma, eşitsizliklerin derinleştiren bir şey olmaktan çıkıp bütün insanları kapsayan bir şenlendirmeye dönüşecek ve bu duygu, düşünce, coşku ve ruh ile büyük bir toplumsal zihin atılımının ölü açılacaktır.

Velhasıl, kalkınma ve gelişmenin bütün insanların keyifle ve coşkuyla iştirak edip şenliğe dönüştüğü, herkesin adil ve eşit bir şekilde dünya ve üzerindeki nimetlerden faydalandığı bir süreçte; “Sakinlerinin -ancak saadete erişmek maksadıyla- yardımlaşmışları bir şehir, fazıl bir şehir olur. Zaten saadete erişmek maksadıyla kurulan her topluluk da fazıl bir topluluk sayılır. Onun içindir ki, bütün şehirleri -saadete erişmek maksadıyla el ele vererek- çalışan bir millet de fazıl bir millettir; bütün milletleri, saadete ulaşmak maksadıyla elbirliğiyle çalışan bir dünya da fazıl bir dünya olur” (Farabi, 2001:80).

YENİ BİR SİSTEM İHTİYACI

İnsanlığın ve dünyanın gidişatı karşısında, tarihi ve sosyolojik gerçekler ışığında yeniden düşünmek; insanı, toplumu, dünyayı ve tabiatı yeniden anlamak ve yorumlamak, bu çerçevede yeni ve başka bir dünyaya kapı aralayacak özgün bir fikriyat geliştirmek anın en önemli sorumluluğudur. Herkesten öte, bizatihi “hakikati ölçü alıp ondan beslenen hür ve bağımsız aydınlar”ın uhdesinde olan bu mesuliyetin temel zemini, küresel kapitalizmin her türlü dayatmaları ve etkileri dışında kalarak yapılan “zihinsel hicret” ile ulaşılan zemindir. İşte buradan hareketle İslam iktisadi ışığında bugüne ve bugünün insanına dokunan insani dayanışma eksenli yeni açılımlar yapılabilir.

Sadece borç verip alan kişilerin içinde bulunduğu durum değil, aynı zamanda yukarıda özetlediğimiz dünyanın hali ve yoğunlaşan eşitsizlikler de bizi derin derin düşündürmelidir. Zira gelinen nokta, insanlığın kaldıracacağı, vicdanların onaylayacağı bir hal değildir. O yüzden de bu durumun aşılması, yalnızca borç verme sisteminin yeniden yapılandırılması için değil, insani ve başka bir dünyanın oluşturulması için de önemli bir ihtiyacıdır.

Meseleye tam olarak girmeden önce şu gerçekliğin altını çizmekte fayda var: Hakikatin de insanlığın da genel ilkeleri aynıdır ve daima da aynı kalacaktır.

Dolayısıyla bir düşüncenin özgünlüğünü tayin eden şey, onun ebedi hakikatleri yeni bir ışık altında yeniden yorumlaması, yeni baştan formüle etmesi ve bu suretle yeni bir fikri perspektifin oluşturulmasıdır.

Bu çerçevede, ahlaki temelde yeni ve özgün finans yaklaşımları ve kavramları bulup keşfetmek, yeni sistem kurmak sadece iktisadi bir gereklilik değil aynı zamanda tarihi, sosyolojik ve insani bir yükümlülüktür. Toplumsal, sürdürülebilir, yaşanan doğaya/canlılara saygılı ve duyarlı bir eksende geliştirilecek çözümler, insanın kendine gelmesini sağlamakla kalmayacak aynı zamanda hayatın yeniden inşasının yollarını da açacaktır. Bu da ancak İslam iktisadının temellendirdiği dinamikler üzerinden analitik ve düşünsel çalışma ile mümkün olacaktır. Bu suretle, kendi öz değerlerinin çözümünü geliştirmenin ve yaşamının keyfi, kendi bahçesinin meyvesini yetiştirmenin ve yemenin keyfine dönecektir.

İnsanlığın da iktisadi dayanışmanın da en önemli ayaklarından biri, bir çıkar beklemeden ihtiyaç sahiplerine borç vererek işlerini görmek olmuştur. Tabii ki, her iki tarafın da bu süreçten faydalanarak çıkmasını sağlamak, kurulacak sistemin daha uzun yaşamasını da temin edecektir. Bu noktada güzel borç verme sistemi, ihtiyaç sahibinin işini görürken borç vereni de mağdur etmemesi gerekir. Başka bir deyişle, bir borç verme sistemi enflasyon, gecikme vb. gerekçeler ilave bir kazanç kapısı haline gelmemelidir. Bunu da ancak karz-ı hasen (güzel borç verme) sistemi yerine getirebilir.

Güzel borç verme sistemi, farklı bir zihnin ürünü olduğu ve ihtiyacı olanı esas aldığı için ödünç verme üzerine bina edilmiştir ve amacı çıkar sağlamak değil yardımlaşma ve dayanışma içinde olmaktır. O yüzden de ödünç alan işi görüldüğü için, ödünç veren de insani bir tutumla erdemli bir eyleyişte bulunduğu için son derece mutludur. Toplum da yardımlaşma ve dayanışma yaşandığı, denge, mizan korunduğu ve servetin elden ele dolaşıp devlet olması engellendiği için faziletli bir toplum olur. Tabii ki, ödünç alınan güzel borç, söz verildiği tarihte geri ödendiği sürece bu güzel eyleyişler süreklilik kazanacak ve bir ahlaka, kültüre dönüşecektir. Bu noktada söz konusu bu salih amellerin sürdürülebilir olması açısından karşılaşılan sorunları aşacak bir sistemin kurulması son derece büyük önem arz etmektedir.

Güzel borç verme sisteminde yaşanan en büyük problemlerden biri borcun zamanında tahsil edilememesi olmuştur. Önceleri borçluya kolaylık gösterme, “satın alma gücünü koruyan herhangi bir fark dahi almama” tutumu benimsenmiştir. Ancak ve maalesef bu durum borçluların ödeme tutum ve davranışlarını gevşetmiş, hatta dolaylı olarak ödememeyi dahi teşvik etmiştir. Bu suretle borç veren zarara uğratılmıştır. Bunun bir çözüm olmadığı, sistemi

zaafa uğrattığı zaman içinde çok net bir şekilde ortaya çıkmıştır. Daha sonra bir çözüm olarak söz konusu geciken alacağı “dövizde çevirme” veya “altına çevirme” seçenekleri uygulamaya konmuştur. Fakat bu kez borç veren ile borç alan arasında ciddi belirsizlikler oluşmuş, dövizde veya altında aşırı artış ya da düşüşler yaşanması iki tarafı da değişik boyutları ile olumsuz etkilemeye başlamıştır. Bunun da uygun bir çözüm olmadığı zaman içinde anlaşılmıştır.

Velhasıl, bugüne kadar her iki taraf için de hakkaniyete uygun yeni, kuşatıcı, ön açıcı ve örneklik oluşturucu bir model oluşturulamamış, kişiler arasında sağlıklı bir borç verme sistemi geliştirilememiş, o yüzden de yeni ve meşru alternatif çözüm arayışları sürmüştür. Bu meyanda, faizsizlik ilkesi esas alınarak, tarafları mağdur etmeyecek, adalete ve eşitliğe uygun, dengeyi bozmayacak ve herkesin yaptığının karşılığını yani hak ettiğini alacağı bir iktisadi yaklaşım geliştirmek noktasında zarar verme meselesi iyice açıklığa kavuşturulmalıdır. Zira tüm toplumsal ilişkilerde olduğu gibi iktisadi ilişkilerde de tarafların menfaatlerinin adil ve eşit bir şekilde teminat altına alınması, kimseye zarar verilmemesi ve zarar oluşursa bunun giderilmesi genel esaslardandır. Nitekim “Zarar vermek ve zarara zararlar karşılık vermek yoktur” (İbn Mace, Ahkam, 17). Bu nedenle de “Zarar verme ve zarara zararlar karşılık verme kabul edilemez. Zararın mutlaka giderilmesi gerekir” (Mecelle, 19-20).

İslam hukuku genel kurallarına göre maslahat çerçevesinde alacaklının da borçlunun da menfaatinin korunması ve onlara gelen zararın giderilmesi gerekir. Bu noktada finansman ilişkilerinde “paranın değer kaybını hesaba katmak ve borç veren taraf açısından oluşabilecek bir zararın telafi edilmesini sağlamak” hukuki prensiplere uygun bir tutum olacaktır. Değer kaybının karşılanmasını istemek, İslam’ın sosyal adaleti gerçekleştirme ve refahı toplumun tüm kesimlerine yayma hedefine uygun bir davranış olarak değerlendirilebilir. Üstelik bu davranış Kur’an ve Sünnette emredilen yardımlaşma ve dayanışma düşüncesinin toplumsallaşmasına, bir kültüre dönüşmesine katkı sağlayabilir.

Alım gücünü kaybı bile olsa herhangi bir fark alınmamasını savunanlar çıksa da genel eğilim, zarar verme konusunda, enflasyon etkisinin göz önünde bulundurulması ve bunun oluşturduğu haksızlığın giderilmesi yönündedir. Nitekim diyanetin görüşü nettir: “Borçlunun borcunu geciktirmesi nedeniyle -paranın değer kaybetmesi gibi bir sebeple- alacaklı zarara uğrarsa borçluya sadece enflasyon oranında zarar tazmin ettirilmelidir” (DİYK, 2018:501). Ayrıca “alacaklar tahsil edilirken, borçlar ödenirken enflasyon farkının da ödenmesi gerekir. Aksi halde alınan borç eksik ödenmiş, alacaklının hakkı yenmiş olur. Enflasyon oranında fazlalık faiz değildir. Mesela birine yüz lira ödünç verseniz, alt ay sonra enflasyon yüzde otuz olduğu için 130 lira alsanız

bu otuz liralık rakam fazlalığı faiz değildir, alt ay önce verdiğiniz paranın -satın alma gücü bakımından- eşit karşılığıdır” (Karaman, 2021). İşte bütün bunlar adaletin ve eşitliğin sağlanması ile hakkaniyetin ve mizanın gerçekleşmesi noktasında, alım gücünün korunması anlamında borcun enflasyona endeksine bağlanması uygun olacaktır.

Velhasıl, enflasyonun olduğu ortamlarda para üzerinden yapılan bir karz (ödünç) akdi esnasında, geri ödeme yapılırken vade dönemindeki enflasyon farkının karz alınan miktar üzerine ilave edileceğinin kararlaştırılması, diğer bir deyişle satın alma gücündeki kaybın telafisi edilmesi meşrudur. Zira karz akdi esnasında, ödeme vadesine kadar geçen sürede enflasyondan dolayı oluşan değer kaybının ödeneceğinin kararlaştırılması karşılıksız bir fazlalığı şart koşturmak anlamına gelmez. Bilakis karz anında alınan miktarın aynı değerle geri ödenmesini temin etmeyi sağlaması bakımından hakkaniyete daha uygun bir yol olur. Ayrıca bu durum vade sonunda ödenecek miktarın belirsiz bırakılması anlamına da gelmeyip esasında alınan para miktarıyla ödenecek miktarın birbirine eşitlenmesi ve alınan paranın gerçek değerinde geri verilmesini temine yönelik bir uygulamadır (TKBB Danışma Kurulu, 2019).

Unutmamak gerekir ki, insanlar bir ihtiyaçları olduğunda sadaka almaktan ziyade ödünç almayı daha çok tercih ederler. Zira ödünç istemek sadaka istemektan daha kolay ve cesaret verici olarak görülür. O yüzden de bir toplumda ne bir fazla ne bir eksik tamamen aynılık üzerine oturmuş güzel ödünç sisteminin kurulması ve yaşatılması son derece hayati bir konudur.

“Kim güzel bir işe aracılık ederse, ona o işin sevabından bir pay vardır. Kim de kötü bir şeyde aracılık yaparsa, ona da o kötülükten bir pay vardır. Allah her şeyi gözetip karşılığını verir,” (Nisa 4/85). Bu müjdenin ışığında şimdi bir düşünce sistematiği çerçevesinde gündeme getirip önerdiğimiz iki modeli örneklerle açıklamaya çalışalım.

ENFLASYONA ENDEKSİLİ TL (ETL)

Para, her şeyden önce mübadele/takas/değişim, saklama/koruma ve ölçme/biçme aracıdır. Tarihin en büyük ve değerli para birimi olan “altın” bu fonksiyonları yerine getirmiş ve asırlarca tahtını korumuştur. Ancak tarihi ve geleneksel para birimi olan altın artık eski işlevini görmekten uzaklaşmış, hatta para olup olmadığı dahi ciddi bir şekilde tartışılmaya başlanmıştır. Böylece başlangıçta altına dayalı olarak üretilmiş olan ancak süreç içinde ondan bağımlı koparmış bulunan kağıt para tahtın yeni sahibi gibi görünerek öne çıkmıştır.

Tarihi süreçte her ülke kendi parasını altına dayalı olarak çıkarmayı sürdürürken, 1944 yılında Amerika’nın Bretton Woods kasabasında yapılan bir

anlaşma ile altın standardı resmen sona erdirilip yeni bir sisteme geçilmiş ve altına dayalı olarak sadece ABD doları kalmıştır. Anlaşma ile 1 ons altın 35 ABD dolarına eşitlenmiş ve Amerika dış talep olduğunda doların altın karşılığını ödemeyi taahhüt etmiştir. Sisteme katılan ülkeler kendi paralarını dolara endekslemeyi ve kendi paralarında yapacakları kur ayarlamalarını %10 ile sınırlamayı ve bunun üzerindeki ayarlamaları uluslararası para fonunun (IMF) iznine ve denetimine açmayı kabul etmişlerdir.

Bretton Woods sistemi, bir bakıma altın standardının gitmesi, yerine fiilen dolar standardının başlaması ve egemenin parası olan ana rezerv paranın da dolar olması demektir. Bu suretle o zamana kadar baskın olan İngiliz egemenliği yerini Amerikan egemenliğine bırakmış oldu. Bu, aynı zamanda dünya devletleri üzerinde büyük bir statü kazanmış olan ABD'nin yönetiminde, dünya kapitalizminin önünün açılması demektir.

Ancak bu durum 1971 yılına kadar devam etmiş ve bu tarihten itibaren ABD kendi parası olan doları altına bağlı olmaktan çıkarmıştır. Böylece altın döviz standardı kalkmış ve yeni bir sürece girilmiş oldu. Bu kez, 1963 yılından beri devam eden Özel Çekme Hakları (Special Drawing Rights=SDR) yine altına bağlı olarak 1971'de devreye girmiştir. Ancak 1974 yılında SDR'nin altınla ilişkisi tamamen kesilmiş ve sepet tekniği devreye alınmıştır. Böylece Amerikan doları, Japon yeni, Alman markı, İngiliz sterlini ve Fransız frangından oluşan bir sepet sistemi ile birlikte altına dayalı olmayan ve gittikçe değer kaybeden bir tür kağıda dönen banknotlar dönemi başlamış oldu. Bu durum da doğal olarak, gerçek paranın bizzat kendisi olan ve tarihsel olarak bunu en iyi şekilde yerine getiren altın için alarm zilleri anlamına geldi.

Son zamanlarda bitcoin gibi dijital kripto paralar gündeme gelmiş ve adeta küresel rezerv paraya alternatifiniş gibi piyasaya sürülmüştür. Ancak, bu kripto paraların arkalarında resmi bir makamın olmaması ve ciddi bir güven oluşturmaması, bunların para olma özelliklerini zayıflatmaktadır. Kaldı ki, sadece spekülasyoncular değil, ona para diyenler dahi onu yeni bir para olarak görmemiş, tam aksine aşırı kar hırsıyla ona yaklaşmışlardır. Ve sonuçta adeta varlığa dayalı olmayan spekülasyon bir tür menkul kıymet ortaya çıkmıştır. Üstelik, kripto paraların meşruiyeti de tartışmalara neden olmuştur. Bu konuda diyanetin görüşü nettir: Özünde ciddi belirsizlikler taşıyan, aldatma ve aldatma riski ileri düzeyde olan, dolayısıyla herhangi bir güvencesi bulunmayan ve kamuoyunda saadet zinciri olarak bilinen uygulamalar gibi belirli kesimlerin haksız ve sebepsiz zenginleşmesine yol açan dijital kripto paraların kullanımı caiz değildir (DİYK, 2017).

Süreç içinde bir yandan, altınla bağımlı koparmış ve reel üretimle ilişkisi kalmamış olan kağıt paralar uluslararası güçlerin manipülasyonuna açık hale gelmiştir. Diğer yandan ise, ülkelerdeki enflasyon artışları ile halkların devleti, onun da büyük sermayeyi finanse ettiği bir zulüm çarkı oluşmuş ve böylelikle toplumlardaki dengesizlikler iyice çoğalmış ve geniş halk yığınlarının temel ihtiyaçlarının karşılanması neredeyse imkansız hal almıştır. Bu gidişin de insanlığı sürükleyip getirdiği yer, büyük bir yoksulluk ve adaletsizlik, derin ve yaralayıcı bir eşitsizlikler yumağı olmuştur. Yaşanan bu gerçeklikler ve dünyadaki mevcut koşullar, değişim ve kıymet ölçüsü olma özelliğini daha hakkaniyetle taşıyan yeni bir para birimi arayışını sürekli canlı tutmuştur.

Toplumda hakkaniyete uygun bir ölçü birimi oluşturma konusunda zamanımızda en önemli problemlerinden biri şüphesiz enflasyonun olması, diğer bir deyişle fiyatlar genel seviyesinin artması ve sonuçta paranın satın alma gücünün azalmasıdır. Parasal satın alma gücünün, reel mal ve hizmet artışından daha hızla yükselmesi yani toplam talebin toplam arzdan fazla olmasıyla oluşan talep enflasyonu da olsa, üretim faktörlerindeki fiyat artışıyla oluşan maliyet enflasyonu da olsa bundan toplumun geneli gibi borç verip alanın da etkilendiği açıktır.

Velhasıl, para ve benzeri mübadele araçlarının alım gücünün azalması ve bir ölçüde borçluya karşı alacaklının hakkının erimesi olan enflasyondan etkilenmeyen, üretim ve dağıtım şekli daha adil ve eşitlikçi olan, aşırı belirsizlik (garar) içermeyen, aldatma (tağrir) aracı olarak kullanılmayan, belli kesimlerin haksız ve sebepsiz zenginleşmesine neden olmayan yeni bir para birimi ihtiyacı açık ve nettir.

Ölçü ve Değer Koruma İçin Yeni Bir Para Birimi: ETL

Küresel kapitalizmin egemen olduğu dünyada kağıt paranın gerçek bir varlığa dayalı olmaması toplumsal bazda büyük mağduriyetlere neden olmakla kalmamış insanlara arzı da dar etmiştir. Böylece dünyada yeterli yaşama seviyesinin altında yaşayanlar çoğalıp milyarları aşmıştır. Doğal olarak İslam ülkeleri toplumları da bundan nasibini fazlasıyla almıştır.

O yüzden de içinde bulunduğumuz koşullar, mali işlerde yeni bir para birimi oluşturmayı zorunlu kılmaktadır. En azından finansal işlemlerde yeni bir para sistemi kurmanın, bütün ülkelerin dolaşımdaki resmi para birimlerinin kendi enflasyonları karşısında alım gücünü de yansıtacak ek bir finansal para birimi oluşturmaları için yeni bir düzenleme yapmalarını gereği açıktır. Tabii ki, burada dolaşımdaki paranın yerini alacak yeni bir para birimi önerilmiyor,

aksine resmi para birimi üzerinden enflasyona endeksli bir finansal varlık geliştiriliyor.

İşte bu çerçevede finansal işlemlerde kullanılmak üzere kısa adı “ETL” olan “Enflasyona Endeksli Türk Lirası” adıyla yeni bir para birimi öneriyoruz. ETL para birimi, finansal bir varlık olarak TL’ye alternatif değil, onun üzerinden faizle işlem yapan ve enflasyonun etkisiyle alım gücünü eriten ve böylelikle geniş halk yığınlarının mağduriyetine neden olan, toplumsal adaletsizlikleri ve eşitsizlikleri körükleyen finansal sisteme karşı iktisadi dayanışmayı, adaleti ve eşitliği esas alarak geliştirilen özgün bir alternatiftir.

Daha adil ve eşitlikçi bir değişim, kıymet ve ölçü birimi olma özelliđi potansiyelini taşıyan yeni para birimi olarak ETL, birçok meseleye çözüm üretmekle kalmayacak, enflasyon nedeniyle oluşan pek çok mağduriyeti ortadan kaldıracak ve aynı zamanda faiz hassasiyeti olan geniş halk yığınlarına büyük bir rahatlama da sağlayacaktır. Bu açıdan ETL, İslam iktisadının bir uygulama modeli olan katılım ekonomisinin bir para birimi olarak kendini gösterecektir.

Şimdi bir düşünce sistematığı çerçevesinde geliştirdiğimiz ve finansal işlemlerde kullanılmasını önerdiğimiz ETL yeni bir para birimini, onun kur hesaplaması ile kullanım biçimlerini örneklerle anlatmaya çalışalım.

ETL Kur Hesaplaması

Öncelikle enflasyona endeksli olmaya bir açıklık getirmekte fayda var. Bilindiđi gibi tüketici fiyat endeksi (TÜFE), toplumun genelinin ihtiyaç duyduđu ürün ve hizmetlerden oluşan yaklaşık dört yüzü aşkın kalemin fiyat artışlarının ağırlıklı hesaplamasıyla ortaya çıkmaktadır. Üretici fiyat endeksi (ÜFE) ise, daha çok toptan ve ana üreticilerin ihtiyaç duyduđu daha az kalemin fiyat artışlarından oluşmaktadır. Her ikisinin farklı hesaplama teknikleri (çekirdek, ortalama vb.) olsa da sosyal ve ekonomik açıdan en uygun olanın, toplumun daha çođunu etkileyen TÜFE olduđu söylenebilir. Zira TÜFE hesaplamalarında kullanılan ana grupların ağırlıkları yaklaşık olarak gıda ve alkolsüz içecekler için %23, alkollü içecekler ve tütün için %6, giyim ve ayakkabı için %7, konut için %14, ev eşyası için %8, sağlık için %3, ulaştırma için %15, haberleşme için %4, eğlence ve kültür için %3, eğitim için %3, lokanta ve otel için %9, çeşitli mal ve hizmetler için %5 olması buna işaret etmektedir (TÜİK, 2021). Tabii ki, burada açıklanan resmi enflasyon oranları doğru mudur sorusu akla gelebilir. Ancak bu aşamada resmi kaynakların açıkladıđı rakamlarını kullanmak, üzerinde ittifak edilmesi ve toplumsal maslahat açısından daha yerinde bir tutum olacaktır.

Yeni para birimi ETL, adeta döviz gibi ele alınmalı ve kur hesaplaması ona göre yapılmalıdır. Tabii ki diđer döviz kurlarında olan ve geleneksel olarak alıřılan kolaylık bunda pek olmayabilir. Her ayın enflasyon endekslerini takip eden ayın üçüncü günü açıklayan Türkiye İstatistik Kurumunun (TÜİK) sadece aylık deđil de aynı zamanda günlük olarak da enflasyon endekslerini açıklamasını ve T.C. Merkez Bankasının her gün yayınladıđı döviz kurlarına ETL parasını da ilave etmesini dilemek ve bunun için çabalamak kaydıyla, aynı zamanda ona da bir hazırlık olması ve yol göstermesi açısından “ETL kuru hesaplama” tekniđi için yeni bir matematiksel sistem kurmayı önereceđiz. Burada en büyük mesele řudur; aylık olarak hesaplanıp açıklanan TÜFE, günlük olarak nasıl bulunacaktır? řimdi bu matematiksel modeli bir örnekle açıklamaya çalıřalım.

Tüketici Fiyat Endeksi (TÜFE) (2003=100)

Öncelikle tüketici fiyat endekslerini, gerçekleşen ve tahmin şeklinde yeni bir döviz çeşidi olarak gündeme gelen ETL para birimi modelinin geliştirilmesinde kullanacađız (örneklerde ileriye dönük hesaplamada gerekli olduđu için tahmini endeksi kullanmak durumunda kaldık ve onu son aylardaki gidiřata göre aylık yaklaşık %1,1 artırarak oluřturduk). řimdi söz konusu bu endeksleri, genel bir bilgi vermek ve çerçeve çizmek açısından listeleyelim (TÜİK, 2021).

řimdi de geliřtireceđimiz hesaplama tekniđinde kullanılacak formüllerin daha iyi anlaşılması için gerekli olan kısa kodlar tablosunu oluřturalım (Tablo 2).

řimdi olabilecek her türlü tarih seçeneklerini de göz önüne alarak ETL kurunun ve karşılıđının nasıl hesaplanabileceđini TÜFE endekslerinden istifade ederek örneklerle anlatmaya çalıřalım. Tabii ki, TÜFE endeksinin açıklanma zamanını ve ayların 28, 29, 30, 31 gün çekmesini de göz önünde bulundurarak bu hesaplamaları yapmak gerekiyor.

Yeni para birimi ETL için öncelikle kur belirleme mantıđını bulmakta fayda var. Bu iki şekilde olabilir; ya TÜFE endeksinin doğrudan kur olarak atanmasıyla ya da söz konusu bu endeksin bir oranla (ki TÜFE mantıđı geređi burada 100 ile) küçültülmesiyle. Örneđin 31.08.2020 tarihi için ya TÜFE=472,61=ETL kuru ya da TÜFE/100=472,61/100=4,7261=ETL kuru. Bizim tercihimiz basit, kullanıřlı ve bir döviz kuru gibi anlaşılması açısından ikincisi olacaktır.

Tablo 1. Aylara Göre Gerçekleşen ve Tahmini TÜFE Enflasyon Endeksi

Yıl	Ay	TÜFE Endeksi	Gerçekleşen/Tahmin
2019	12	440,50	Gerçekleşen
2020	01	446,45	Gerçekleşen
2020	02	448,02	Gerçekleşen
2020	03	450,58	Gerçekleşen
2020	04	454,43	Gerçekleşen
2020	05	460,62	Gerçekleşen
2020	06	465,84	Gerçekleşen
2020	07	468,56	Gerçekleşen
2020	08	472,61	Gerçekleşen
2020	09	477,21	Gerçekleşen
2020	10	487,38	Gerçekleşen
2020	11	498,58	Gerçekleşen
2020	12	504,81	Gerçekleşen
2021	01	513,30	Gerçekleşen
2021	02	517,96	Gerçekleşen
2021	03	523,61	Tahmin
2021	04	529,11	Tahmin
2021	05	535,05	Tahmin
2021	06	540,75	Tahmin
2021	07	546,69	Tahmin
2021	08	552,71	Tahmin
2021	09	558,80	Tahmin
2021	10	564,94	Tahmin

Tablo 2. Hesaplama Formülü Kısa Kodlar Tablosu

Kısa Kod	Açıklama	Örnek
CT	Cari Tarih	14.03.2021
CG	Cari Gün	14
CA	Cari Ay	03
CY	Cari Yıl	2021
CYCA	Cari Yıl Cari Ay	2021 03
CY1OA	Cari Yıl 1 Önceki Ay	2021 02
CY2OA	Cari Yıl 2 Önceki Ay	2021 01
CY4OA	Cari Yıl 4 Önceki Ay	2020 11
CY5OA	Cari Yıl 5 Önceki Ay	2020 10
CY13OA	Cari Yıl 13 Önceki Ay	2020 02
CY14OA	Cari Yıl 14 Önceki Ay	2020 01

A) ETL Karşılığını Bulma

Herhangi bir tarihteki TL tutarın ETL karşılığını bulmak için, o TL tutarını ilgili tarihteki ETL kuruna bölmek gerekiyor. O tarihte ETL kuru belli olduğunda bu hesaplamayı yapmak gayet kolay olacaktır. Örnek olarak 100.000 TL'nin ETL karşılığını bulalım.

Örnek 1

ETL Karşılığını Bulma:

Tarih: 31.01.2021, TÜFE endeksi: 513,30

ETL kuru: 1 ETL = 513,30/100 = 5,1330 TL

Bugünkü tutar: 100.000 TL

Formül 1:

$$\text{ETL karşılığı} = \text{TL tutarı} / \text{ETL kuru}$$

$$\text{ETL karşılığı} = 100.000 / 5,1330 = 19.481,78$$

$$100.000 \text{ TL} = 19.481,78 \text{ ETL}$$

Formül 1 kullanılarak TL karşılığı da bulunabilir: TL karşılığı = ETL tutarı * ETL kuru

B) Herhangi Bir Tarihteki ETL Kurunu Hesaplama

Belli olan bir kur üzerinden TL'nin ETL karşılığı böyle basitçe hesaplanırken şimdi de herhangi bir tarihteki ETL kurunu hesaplamaya çalışalım. Burada bütün mesele aylık enflasyonun takip eden ayın üçüncü gününde açıklanmasıdır. Dolayısıyla sadece ay sonlarında enflasyon endeksi diğer bir tabirle ETL kuru belli olmaktadır (üstelik üç gün sonra). Üstelik cari aya ait enflasyon da belli değildir. O yüzden burada yeni bir hesaplama tekniği bulmamız gerekmektedir. Hesaplamanın kolay ve anlaşılır olması açısından toplamda bir ayı 30 gün, üç ayı 90 gün, bir yılı da 365 gün olarak almak uygun olacaktır.

Herhangi bir gündeki ETL kuru hesaplaması farklı şekillerde yapılabilir: basit, bileşik, karmaşık vb. şimdi seçenekleri örneklerle açıklayalım.

Örnek 2

1) Cari Ayın Herhangi Bir Gününe Ait ETL Kurunu Hesaplama:

(Bu hesaplama; her ayın enflasyonu, takip eden ayın üçüncü gününde açıklandığı için 3. gün ile ay sonu arasında geçerlidir).

Tarih: 14.03.2021, TÜFE endeksi? ETL kuru?

Buna göre 14.03.2021 tarihinde ETL kurunu bulmak için o tarihte henüz belli olmayan 2021-03 enflasyon endeksinden istifade edemeyiz. Ancak 2021-02 ve önceki ay sonlarına ait TÜFE endeksleri belli olduğu için bunlardan istifade ederek birkaç çeşit matematiksel hesaplama formülü geliştirilebilir.

2) Üç Aylık Artış Trendine Göre Bileşik Hesaplama:

Belli olan bir önceki ayın endeksinin, dört önceki ayın endeksine göre üç aylık artış oranının cari güne nispetle bulunan artış oranının yine kendisi (bir önceki ayın endeksi) ile çarpılmasıyla bulunur.

Formül 2:

$$\text{ETL kuru} = \text{CY1OA} * (1 + (\text{CY1OA} / \text{CY4OA} - 1) * \text{CG} / 90) / 100$$

CY1OA(2021-02):517,96 ; CY4OA(2020-11):498,58) (Tablo 1)

$$\text{ETL kuru} = 517,96 * (1 + (517,96 / 498,58 - 1) * 14 / 90) / 100 = 5,2109$$

1 ETL kuru = 5,2109 TL

Diğer Hesaplama Teknikleri:

2b) Aylık Artış Trendine Göre Bileşik Hesaplama:

$$\text{Formül 2b: ETL kuru} = \text{CY1OA} * (1 + (\text{CY1OA} / \text{CY2OA} - 1) * \text{CG} / 30) / 100$$

CY1OA(2021-02):517,96 ; CY2OA(2021-01):513,30) (Tablo 1)

$$\text{ETL kuru} = 517,96 * (1 + (517,96 / 513,30 - 1) * 14 / 30) / 100 = 5,2015 \text{ TL}$$

2c) Yıllık Artış Trendine Göre Bileşik Hesaplama:

$$\text{Formül 2c: ETL kuru} = \text{CY1OA} * (1 + (\text{CY1OA} / \text{CY13OA} - 1) * \text{CG} / 365) / 100$$

CY1OA(2021-02):517,96 ; CY13OA(2020-02):448,02) (Tablo 1)

$$\text{ETL kuru} = 517,96 * (1 + (517,96 / 448,02 - 1) * 14 / 365) / 100 = 5,2106 \text{ TL}$$

2d) Üç Aylık Artışa Göre Basit Hesaplama:

$$\text{Formül 2d: ETL kuru} = (\text{CY1OA} + (\text{CY1OA} - \text{CY4OA}) * \text{CG} / 90) / 100$$

$$\text{ETL kuru} = (517,96 + (517,96 - 498,58) * 14 / 90) / 100 = 5,2097 \text{ TL}$$

2e) Aylık Artışa Göre Basit Hesaplama:

$$\text{Formül 2e: ETL kuru} = (\text{CY1OA} + (\text{CY1OA} - \text{CY2OA}) * \text{CG} / 30) / 100$$

$$\text{ETL kuru} = 5(17,96+(517,96-513,30) *14/30) /100 = 5,2013 \text{ TL}$$

2f) Yıllık Artışa Göre Basit Hesaplama:

$$\text{Formül 2f: ETL kuru} = (\text{CY10A}+(\text{CY10A}-\text{CY13OA}) * \text{CG}/365/365) /100$$

$$\text{ETL kuru} = (517,96+(517,96-448,02) *14/365) /100 = 5,2064 \text{ TL}$$

Analiz ve Uygun Hesaplama Tercih

Burada ETL kurunu bulmak için farklı seçenekler kullanılabilir. Görüldüğü gibi, 14.03.2021 tarihine ait ETL kurunu bulmak için, üçü bileşik artışlı ve üçü de basit artışlı olmak üzere altı hesaplama yöntemi denenmiş ve elde edilen ETL kurları sırasıyla; 5,2109 ve 5,2015 ve 5,2106 ve 5,2097 ve 5,2013 ve 5,2064 olarak çıkmıştır. Anlaşılabileceği gibi, kurlar arasında çok büyük fark gözükmemektedir. İlgili ayda, 14 gün yerine daha fazla gün ve takip eden iki ay arasında artış miktarı daha fazla olsa bile, yine de çok büyük bir fark olmayacağı düşünülebilir. Ancak ayın 1 ve 2. günlerinde cari gün üzerine 30 gün ilave edildiği ve enflasyonu etkileyebilecek büyük ekonomik gelişmeler olabileceği düşünüldüğünde seçilecek matematik hesaplama tekniği büyük önem arz etmektedir.

Netice itibariyle, bu seçenekler arasında “üç aylık artış trendine göre bileşik hesaplama” yöntemini yani Formül 2’yi tercih etmekte fayda vardır. Zira bu formül, üç aylık artış trendini baz alarak ortalama bir etkiyi yansıtmakta, geçmişin ağırlığından uzak, güncel ve mevsimsel etkilenmelerden beri, adil ve savunulabilir bir hesaplama yapma imkanı sunmaktadır.

Örnek 3

Cari Ayın 1 ve 2. Günlerine Ait ETL Kurunu Hesaplama:

En karmaşık ve zor anlaşılabilir olan hesaplama budur. Zira bu günlerde hem cari ayın hem de önceki ayın enflasyon endeksleri belli değildir. Ancak bunu yeni bir formül ile aşmak mümkündür: Belli olan iki önceki ayın endeksinin, beş önceki ayın endeksine göre üç aylık artış oranının otuz artı cari güne (30+CG) nispetle bulunan artış oranının yine kendisi (iki önceki ayın endeksi) ile çarpılmasıyla bulunur.

Tarih: 2.04.2021, TÜFE endeksi? ETL kuru?

Formül 3:

$$\text{ETL kuru} = \text{CY20A} * (1 + (\text{CY20A} / \text{CY50A} - 1) * (30 + \text{CG}) / 90) / 100$$

CY20A(2021-02):517,96 ; CY50A(2020-11):498,58 (Tablo 1)

$$\text{ETL kuru} = 517,96 \cdot (1 + (517,96/498,58 - 1) \cdot (30+2) / 90) / 100 = 5,2512 \text{ TL}$$

$$1 \text{ ETL kuru} = 5,2512 \text{ TL}$$

C) Geçmişe Ait ETL Kuru Hesaplama

Geçmişe ait hesaplama iki grupta yapılabilir: Birincisi enflasyon endeksinin cari endeks sistemi içinde olduğu günlerde, diğeri de endeksin 100 olarak eşitlendiği tarihten önceki günlerde.

Tablo 3. TÜFE 2003=100 Değerinden Önceki ve Sonraki Aylara Göre TÜFE Tablosu

Yıl	Ay	TÜFE Endeksi	Gerçekleşen
2002	11	6415,61	Gerçekleşen
2002	12	6478,80	Gerçekleşen
2002	12	2003=100	Endeks 100 oldu
2003	01	94,77	Gerçekleşen
2003	02	96,23	Gerçekleşen
2003	03	98,12	Gerçekleşen
2003	04	99,09	Gerçekleşen
2003	05	100,09	Gerçekleşen

a) TÜFE 2003=100 Değerinden Sonra ETL Kuru Hesaplama

Bilindiği gibi, TÜİK, daha rahat hesaplama yapmak amacıyla, zaman zaman enflasyon endekslerini belli bir tarihte 100 olarak eşitlemektedir. Böyle durumlarda da ETL kuru hesaplamasına bir matematiksel formül bulmak gerekmektedir. Burada cari aya ait enflasyon endeksi zaten belli olduğu için geçmiş üç aylık artış trendine gerek yoktur. Onun yerine zaten belli olan cari ayın endeksinden hareketle bir formül geliştirmek gerekiyor.

Tarih: 12.02.2003, TÜFE endeksi? ETL kuru?

Formül 4:

$$\text{ETL kuru} = \text{CY10A} \cdot (1 + (\text{CYCA}/\text{CY10A} - 1) \cdot \text{CG}/30) / 100$$

CY10A(2003-01):94,77 ; CYCA(2003-02):96,23 (Tablo 3)

$$\text{ETL kuru} = 94,77 \cdot (1 + (96,23/94,77 - 1) \cdot 12/30) / 100 = 0,9535$$

$$1 \text{ ETL kuru} = 0,9535 \text{ TL}$$

b) TÜFE 2003=100 Değerinden Önce ETL Kuru Hesaplama

Bu durum TÜFE=100 değerinden önceki dönem olduğu için, yine onu hesaba katacak bir formüle ihtiyaç var. Önce endeks dönüşüm değeri ile endeks dönüşüm çarpanı bulunmalıdır. Daha sonra da TÜFE=100'den önceki tarihlere ait endeks değerlerini üzerinden bir kur bulunacak ve akabinde de bulunan bu kuru endeks dönüşüm çarpanı ile çarpmak gerekiyor.

EDD: Endeks Dönüşüm Değeri = 6.478,80 (2003=100; yani Aralık 2002)

EDC: Endeks Dönüşüm Çarpanı = 100/EDD = 100/6.478,80 = 0,01543

Tarih: 15.12.2002, TÜFE endeksi? ETL kuru?

Formül 5:

$$\text{ETL kuru} = \text{EDC} * \text{CY10A} * (1 + (\text{CYCA} / \text{CY10A} - 1) * \text{CG} / 30) / 100$$

CY10A(2002-11):6.415,61;CYOA(2002-12):6.478,80)(Tablo3)

$$\text{ETL kuru} = 0,01543496 * 6.415,61 * (1 + (6,478,80 * / 6.415,61 - 1) * 15 / 30) / 100 = 0,9951$$

$$1 \text{ ETL kuru} = 0,9951 \text{ TL}$$

Bütün bu matematik hesaplamalarda birkaç hususu düşünmek gerekir. Birincisi genel olarak pozitif çıkması düşülen enflasyonun bazen artı yerine eksi çıkması hesaplama tekniğini çok değiştirmeyecektir. İkincisi ise, taraflar isterlerse, enflasyon kuru belli olmayan günlerde hesaplama ile bulunan ETL kurunu, enflasyon belli olup ilan edildikten sonra gerçekleşen aya göre yeniden hesaplayıp revize edebilirler.

Tabii ki, burada kurulan bu enflasyona endeksli TL sistem ile yeni ufuklar açmak, yeni açılımlar yapmak da mümkündür. Örneğin yeni bir ölçü birimi olarak ETL üzerinden daha adil bir ticaret yapılabilir. Bu sistem daha da geliştirilerek hayırsever vakıflar, katılım ortaklık şirketleri ve teminat sistemi ilave edilerek oluşturulan hayırsever bankalar, kooperatif bankaları kurulabilir. Dolayısıyla kurulacak yeni ETL sistemi ile birlikte, enflasyonun etkisiyle sermayenin, tüm çeşitleri ile bütün bankaları kullanarak halkın tasarruflarını ve kaynaklarını üterek eritmesinin, devlet üzerinden haksız kazançla elde etmesinin önüne geçilebilir. Böylelikle "yeni bir ekonomi politik" zeminin temelleri atılmış olabilir.

KARZ-I HASEN FONU (KHF)

“Kimdir o ki; Allah’a güzel bir borç versin de Allah ona kat kat fazlasıyla ödesin, Allah hem darlaştırır hem de bollastırır. Ve O’na döndürüleceksiniz.” (Bakara, 2/245). “Kim, Allah’a güzel bir ödünç verecek olursa; Allah ona karşılığını kat kat verir. Ve ona, çok değerli bir mükafat da vardır.” (Hadid, 57/11). “Şüphesiz sadaka veren erkeklere ve sadaka veren kadınlara ve Allah’a güzel borç verenlere, verdikleri kat kat artırılır ve onlara şerefli bir mükafat vardır.” (Hadid, 57/18). “...Mallar, ta ki içinizden yalnız zenginler arasında dolaşan bir şey (devlet) olmasın...” (Haşr, 59/7).

Meseleye tam girmeden önce şu gerçekliği hatırlamakta fayda var: Tarihi süreçte altın ve gümüşün madeni para olarak kullanıldığı dönemden, altına dayalı banknot (kağıt) paranın piyasaya sürüldüğü döneme geçilmiş, ancak gelinen bu süreçte altınla bağı tamamen koparan kağıt para ve onun toplumun genel satın alma gücünü gösteren ve yüzlerce kalemden oluşan enflasyon oranı ve faiz ile ilişkisinin yeniden değerlendirmeye tabi tutulup bir çözüm bulunması büyük önem arz etmektedir. Bu noktada, enflasyonun olduğu ortamlarda, para üzerinden bir borç (karz) akdi yapılması durumunda, alınan borcun vade döneminde oluşacak enflasyon farkına endeksenerek geri ödemesinin yapılacağını sözleşme esnasında kararlaştırılması hakkaniyete uygun görünmektedir. Zira karz (ödünç) akdi, karşılık beklemeden yapılan yardım amaçlı bir sözleşmedir. Dolayısıyla ödeme vadesine kadar geçen sürede enflasyondan dolayı oluşan değer kaybının ödeneceğinin kararlaştırılması, karşılıksız bir fazlalığın şart koşulması anlamına gelmeyeceği gibi daha adil ve uygun olur. Bunun aksi yani alınan borcun satın alma gücünün korunmaması mağduriyet oluşturacağı gibi tersinden negatif faiz çağrışımı dahi yapabilir.

Kişilerin nakit ihtiyaçlarını giderme konusuna, kendi doğaları gereği, birlikte çözüm bulmaları ve kendi aralarında dayanışarak bu meseleyi halletmeleri esastır. Zira bir değere bağlı kişi ve kurumların, o değere uygun çözümlerle hayatlarını idame ettirmeleri bizatihi varlık sebeplerinin bir sonucu olup, aynı zamanda kendi sorumluluklarının da bir parçasıdır. Bu noktada “Kim, Allah’a güzel bir ödünç verecek olursa; Allah ona karşılığını kat kat verir. Ve ona, çok değerli bir mükafat da vardır” (Hadid, 57/11) ilkesi çözüme önemli bir işarettir.

Karz, geri ödenmek üzere birine mal veya ödünç/borç verme demektir. Karz Allah’a yaklaşma (kurbet) anlamı içeren bir işlem olup karz alan açısından dünyevi, karz veren açısından uhrevi faydalar içerir (Apaydın, 2016). Karz-ı hasen (güzel borç), dinin en önemli rükünlerinden biridir ve hiçbir maddi menfaat düşüncesi gözetmeksizin sadece ve ancak Allah rızasını kazanmak ve

insanların sıkıntısını gidermek amacıyla borç vermek ve borçlu darda ise ona kolaylık göstermek demektir. Diđer bir deyişle karz-ı hasen, güzel borç verip verilen bu borcu güzelce tahsil etmek anlamına gelir. Doğal olarak karz-ı hasen olarak verilen bir borç karşılığında hiçbir gerekçe ve mazeret ileri sürülerek faiz, kâr payı, vade farkı vb. adlar altında bir fark alınmaz, alınamaz. Bugüne kadar gerçek anlamıyla ve deęeriyle anlaşılammış ve hayat bulammış olan karz-ı hasen, çođu zaman infak ve sadakadan daha önemli olarak deęerlendirilmiştir. Karz-ı hasen, insana ve insanlığa dokunma potansiyeli en yüksek umdelerden biri olarak açığa çıkarken, aynı zamanda bugün insanlığın ihtiyaç duyduđu en önemli iktisadi dayanışma örneklerinden biri olarak kendini gösterecektir. Onu hayata aktaracak, sonsuza kadar yaşatacak ve insanlığa umut olarak sunacak bir çalışmanın yapılması, bir sistemin kurulması elzem ve öncelikli bir konudur.

Böyle bir sistem hem borç vermeyi hem de borç ödemeyi kolaylaştıracak ve teşvik edecek bir şekilde kurulmalıdır. Zira karz-ı hasen, borç verme ve borç ödeme bir bütünlük içinde hayat bulamazsa sadece sistem yıkılıp umut kaybolmayacak, aynı zamanda bereket de gidecektir. Çünkü borçların vadesinde ödenmesi, verilen sözlere riayet edilmesini emreden temel ilkenin bir gereęidir. Bu sağlanamazsa İslam'ın toplumsallaşması da büyük yara alır.

Karz-ı hasen ile verilen borcu, tarafların ortak rızasına baęlı olarak satın alma gücünün korunması esas alınarak daha başlangıçta kayıt altına almak birçok meseleyi halledecektir. Zira bu tutum karşılıksız bir fazlalığı şart koşmak anlamına gelmedięi gibi belirsizliği de ortadan kaldıracaktır. Böylece, bu uygulama ile borç veren belirsizlikten kurtulup rahatlayacak, borçlu da önünü görecek ve ödeme kapasitesini harekete geçirecektir. Borç tutarının misliyle, aynı deęerle geri ödenmesini temin etmeyi hedefleyen bu uygulamanın hakkaniyete daha uygun olduđu da açıktır.

Bu tür yeni yaklaşımların olması borç verme sisteminin algısını iyileştirecek, mali sorunları giderecek, işleri bereketlendirecek ve meşruluk alanını güçlendirecektir. Aynı zamanda toplumsal ve finansal dayanışma örneęi olarak faizsiz sistemin tahkim edilmesine, umudun tazelenmesine, toplumsallaşmanın güçlenmesine de hizmet edecektir.

Karz-ı hasen fonu, ileride “güzel borç bankacılığı” veya sosyal bankacılık fonksiyonu üstlenecek şekilde de örgütlenebilir. Bu durumda sistem şöyle çalışabilir: Enflasyona endeksli TL (ETL) üzerinden fon toplanabilir ve yine ETL üzerinden fon kullanılabilir. Buna ilave olarak kullanılan fonlardan belli bir yüzde hizmet komisyonu (fili masraf, işletme gideri vb.) alınabilir, bu, anlaşılan oranda katılım fonları ile karz-ı hasen fonu arasında paylaşılabilir.

Örnek 4

Karz-ı Hasen ile Borç Verme:

Borç verme veya alma konusunda yeni bir ölçü olarak ETL para biriminin kullanılması işleri kolaylaştıracağı gibi hesaplamayı da basitleştirecektir. A kişisi, fon ihtiyacı olan B kişisine 6 aylığına 8.000 ETL borç vermiş olsun. Alınan ETL borcun geri ödemesi de iki taksitte olsun.

Borç Verme Günü:

Tarih: 15.09.2020, Tutar: 8.000 ETL, Vade: 6 ay.

Önce borç verme tarihi olan 15.09.2020'deki ETL kuru hesaplanmalı, ardından da verilen ETL borcun TL karşılığı bulunmalıdır. Tarih 15.09.2020 olduğu için ETL kurunu hesaplamada Formül 2'yi kullanmak gerekiyor.

Formül 2:

$$\text{ETL kuru} = \text{CY1OA} * (1 + (\text{CY1OA} / \text{CY4OA} - 1) * \text{CG} / 90) / 100$$

CY1OA(2020-08):472,61 ; CY4OA(2020-05):460,62 (Tablo 1)

ETL kuru = $472,61 * (1 + (472,61 / 460,62 - 1) * 15 / 90) / 100 = 4,7466$ TL

1 ETL kuru = 4,7466 TL

Borç tutarı: 8.000 ETL; TL karşılığı = $8.000 * 4,7466 = 37.972,80$ TL

1. Taksit tarihi: 01.03.2021, Tutar: 4.000 ETL

2. Taksit tarihi: 31.03.2021, Tutar: 4.000 ETL

Birinci Taksit Tahsilatı:

Birinci taksitin vadesi 01.03.2021 olduğu için ETL kurunu hesaplamada Formül 3'ü kullanmak gerekiyor.

Formül 3:

$$\text{ETL kuru} = \text{CY2OA} * (1 + (\text{CY2OA} / \text{CY5OA} - 1) * (30 + \text{CG}) / 90) / 100$$

CY2OA(2021-01):513,30 ; CY5OA(2020-10):487,38 (Tablo 1)

ETL kuru = $513,30 * (1 + (513,30 / 487,38 - 1) * (30 + 1) / 90) / 100 = 5,2270$ TL

1 ETL kuru: 5,2270 TL

4.000 ETL = $4.000 * 5,2270 = 20.908,00$ TL

İkinci Taksit Tahsilatı:

İkinci taksitin vadesi ayın 31.03.2021 olduğu için ETL kurunu hesaplamada Formül 2'yi kullanmak gerekiyor.

Formül 2:

$$\text{ETL kuru} = \text{CY1OA} * (1 + (\text{CY1OA} / \text{CY4OA} - 1) * \text{CG} / 90) / 100$$

CY1OA(2021-02):517,96 ; CY4OA(2020-11):498,58 (Tablo 1)

ETL kuru = $517,96 * (1 + (517,96 / 498,58 - 1) * 31 / 90) / 100 = 5,2489$ TL

1 ETL = 5,2489 TL

4.000 ETL = $4.000 * 5,2489 = 20.995,60$ TL

Netice itibarıyla karz-ı hasen yoluyla 15.09.2020 tarihinde 6 ay vade ile verilen 8.000 ETL tutarındaki borcun TL karşılığı 37.972,80 TL iken, tahsil edildiğinde bu tutar 41.903,60 TL (20.908,00+20.995,60) olmaktadır. Aradaki 3.930,80 TL (41.903,60-37.972,80) tutarındaki fark, faiz gibi bir fazlalığı değil, paranın satın alma gücündeki kaybının telafisini sağlayan hakkaniyete uygun bir dengeleme değeridir. Tabii ki, borçlarını vadesinde ödeme konusunda zorluk yaşayan kişilere kolaylık sağlamak son derece yerinde bir tutum olacaktır.

Böylece, ihtiyaç sahiplerine borç vermeyi kolaylaştıran, borçların vadesinde ödenmesini teşvik edip destekleyen, borç tutarının aynı değerle geri ödenmesini temin eden ve borç verenin bu durumdan istifade etmesini engelleyen hakkaniyete uygun bir uygulama modeli geliştirilmiş oluyor. Üstelik vade karşılığında borç miktarında artırıma gidilmesiyle oluşan vade faizi gibi her türlü gayri meşru işlemlerden de uzak kalınmış bulunuyor.

Bu durum, borç verenin ve alanın lehine olduğu gibi toplumun da menfaatine olacak ve tam anlamıyla maslahatı gerçekleştirecektir. Bir şeyin maksada uygun özellikte olması, fesadın zıddı, iyi, uygun, elverişli, yararlı, iyi olana ulaştıran anlamlarına gelen, doğru, düzgün, kusursuz olma, iyilik ve uygunluk gibi manalar içeren salah kelimesinden türetilmiş olan ve geniş anlamıyla faydanın sağlanması yanında zararın da giderilmesini içeren maslahatın (Dönmez, 2016), ete kemiğe bürünmesi, umulur ki, bereket de getirecektir.

SONUÇ

İnsanlığın ve dünyanın gidişatı karşısında “faizsizlik ilkesi” temelinde toplumun finansman ihtiyaçlarını hak ve adalete uygun ve meşru bir şekilde karşılamayı üstlenmek insani bir yükümlülüktür. Küresel kapitalizmin egemen olduğu

dünyada genel ilkeler vazeden bütün dinler gibi İslam'ın da yasakladığı faiz illetini bertaraf etmek, insanlara ve toplumlara yeni bir ekonomik umut aşlamak için borçlanmayı aşip borç verme sistemine geçmek ve bunu toplumsallaştırmak gerekmektedir.

“Borçlandırma” ile “borç verme” iki ayrı zihnin ve felsefenin ürünüdür ve birbirlerinden son derece ayrı ve farklı sistemlerdir. Biri, gayri insani faiz illetinin bir yansıması olarak insana arzı dar edip eşitsizlikleri artırmakta, insanlığı çıkmaza ve zulme sürüklemektedir. Diğeri ise, insan olma ve insan kalma edimleriyle oluşan yardımlaşma ve dayanışmayı artırmakta, insani eyleyişe sürüklemektir. İnsan kalmanın bir gereği olarak yeni bir zihinsel hicretle yeni bir zemine taşınmak ve oradan hareketle yeni ve meşru bir dünyaya yol almak için “güzel borç verme sistemi” üzerinden yeniden bir yapılanmaya geçmek insana ve topluma yakışan bir haslettir.

Bu çerçevede ciddi bir öz eleştiri yapmak, yeni bir felsefeyle yeniden insanlaşmanın ve insanca hakça bir arayışın içine girmenin yollarını bulmak önemli bir mükellefiyettir. Bu arayışın meşru ve etkili bir çözüm vadisine dönüşmesi için borç verme ilişkilerini yeniden yapılandırma noktasında insanca ve hakça bir adım olarak yeni bir finansal para olan Enflasyona Endeksli TL (ETL) ve Karz-ı Hasen Fonu (KHF) modellerinin tartışılması ve geliştirilmesi toplum ve tüm insanlık açısından uygun bir adım olacaktır.

Toplumun genelini ilgilendiren enflasyona endeksli olarak oluşturulan daha insani, adil ve eşitlikçi bir ölçü birimi olan ETL ve onun üzerinden geliştirilen faizsiz, farksız ve verilen ödöncü aynı oranda, misliyle geri almayı hedefleyen karz-ı hasen fonu uygulaması büyük bir toplumsal fayda sağlayacaktır. Karz-ı hasen ile verilen borcun, tarafların ortak rızasına bağlı olarak satın alma gücünün korunması esas alınarak daha başlangıçta kayıt altına alınması adaleti ve eşitliği getirmekle kalmayacak, aynı zamanda iktisadi dayanışmanın önünü açacak ve bu suretle sağlam ve fazıl bir toplumun temelleri de atılmış olacaktır.

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EXTENDED ABSTRACT

In this study, the issue of lending and receiving, which is one of the most important issues that people face in everyday life, will be elaborated and discussed in the perspective of Islamic economics and in a holistic framework and new expansions related to it will be presented.

First, the issue of interest, which is one of the main problems of humanity on social and economic grounds, will be addressed and evaluated by analyzing the inequalities caused by it. After that, the idea of assistance and solidarity, which forms the basis of Islamic economics, will be put forward through a new mind. A new lending system will be offered with the help of the qard contract, which does not contain any surplus in return, and then the issue of meeting people's cash needs and model proposals for them will be discussed through economic solidarity by moving to a new ground.

In this context, the inflation-indexed Turkish Lira (ETL) proposal, which will be taken as a reference value in financial transactions and asset protection, will be developed and raised with calculation techniques and operation explained with examples. In addition, the Qard al Hasan Fund (KHF) model as a new and humanitarian lending system will be explained through an example.

Interest is a genuine and sovereign surplus that has no equivalent in borrowing and shopping. In this context, riba “refers to the excess that is both contained within something and decimated by comparison between two things” in a nutshell.

Interest, which is also forbidden in Christianity and Judaism; is cursed and forbidden with very clear statements in the last heavenly book of humanity Qur'an and the Sunnah, which is its application to life:

“But those who take usury will rise up like someone tormented by Satan’s touch. That is because they say, trade and usury are the same. but God has allowed trade and forbidden usury...” (Al Baqarah 2/275).

First of all, “lending“ and “borrowing“ are transactions of separate minds and separate worlds. Because in lending (qard), the situation of those who need it is essential, and while doing their job by “borrowing“ it, the lenders are happy by demonstrating a good example of human and economic solidarity. In borrowing, the attitude of the lenders is decisive, and while binding themselves by “borrowing with interest“ and increasing their sovereignty, the borrowers are oppressed by falling into a difficult situation. In other words, the lenders are trying to evaluate their capital with interest, annuity impulse, and they are also looking for ways to consolidate their dominance as a creditor.

The typical character of big capital is to try to bind everyone to themselves by lending money and to dominate society and become a state. However, preventing wealth from circulating from hand to hand and becoming a state is the most basic law of humanity. That is why it is an urgent need to establish a legitimate and fair "lending system" that will overcome this "debiting trap". For this purpose, a new mental hijra is also mandatory. The ancient principles want this from us: "And seek the (betterment of) the Ultimate Abode with what Allah has given to you, And don't forget your share in the world. And do good as Allah did good to you, And do not seek to make mischief in the land. Surely, Allah does not like the mischief-makers." (Al-Qasas 28/77). "Each of you shall not be counted to believe unless you want what you want for yourself, for your brother." (Bukhari, Iman 7; Muslim, Iman 71).

In this context, the first step to establish a new system of thought and to develop a new and other understanding should be to make a new mental hijra based on the Qur'an, which gives general principles, and the Sunnah, which is an example of its application to life. "Mental hijra" is to establish a vision of the future based on truth and morality, taking into account the facts and conditions in which it is lived, setting foot here and taking a step-by-step path to the imagined future. This means that the new mind understands life in integrity with a new understanding of economics and handles things and enters into actions with intense effort. Mental hijra is not to dive into dreams and get away from reality, forget about the current place and fall into chaos, but rather to digest the past and tradition by learning, take action by understanding the present and the printed ground, and embark on revolutionary walks that will build tomorrow.

It's not just the situation in which people who lend and buy, but also the state of the world and the intensifying inequalities that should make us think deeply. Because the point is not a state that humanity will lift, and conscience will approve. So, overcoming this situation is an important need not only for the restructuring of the lending system, but also for the creation of a humanitarian and other world.

Therefore, the conditions in which we are located make it necessary to create a new currency in financial affairs. At least it is clear that establishing a new monetary system for financial transactions requires a new regulation for all countries to create an additional financial currency that will also reflect the purchasing power of official currencies in circulation in the face of their own inflation. Of course, a new currency is not proposed here to replace money in circulation, but rather a financial asset indexed to inflation is developed through the official currency.

In this context, we recommend a new currency with the name “inflation-indexed Turkish lira”, whose short name is “ETL”, for use in financial transactions. ETL currency is not an alternative to TL as a financial asset but as an alternative against the financial system which does transactions through interest and melts the purchasing power of the people through inflation, and increases grievances of the broad masses against inciting social injustices and inequalities by boosting economic solidarity, justice and equality developed on the basis of an original alternative.

As a new currency that has the potential to be a more just and egalitarian exchange, asset and unit of measurement, the ETL will not only solve many problems, it will eliminate many grievances caused by inflation, and it will also provide great relief to the large masses of people with interest sensitivity. From this point of view, the ETL will manifest itself as a currency of the participation economy, which is an application model of Islamic economics.

The new currency, ETL, should be treated as a currency and the exchange rate calculation should be made accordingly. Of course, the convenience that is traditionally customary at other exchange rates may not be much in this. The Turkish Statistical Institute (TÜİK), which announces the inflation indices of each month on the third day of the following month, announces not only monthly but also daily inflation indices, and provided that we wish and strive for the Turkish Central Bank to add ETL money to the exchange rates it publishes every day, we should also establish a new mathematical system for the "ETL rate calculation" technique, as preparation and guidance for it.

It is essential that people find a solution to decontamination of their cash needs, by their own nature, together and resolve this issue in solidarity among themselves. Because the fact that people and institutions connected to a value maintain their lives with solutions that correspond to that value is a result of the reasons of existence and is also part of their own responsibilities. At this point, he said, “Whoever lends Allah a good loan, Allah will double it. And there is also a very valuable reward for him ” (Hadid, 57/11).

Qard means giving goods or loans/loans to someone for repayment. Naturally, in exchange for a debt issued as qard al hasan, there are no grounds and excuses for interest, dividends, interest, etc. a difference under names is not taken, it cannot be taken. Qard al hasan, which has not been understood in its true sense and value until now and has not found life, is often considered more important than spending and charity. Qard al hasan will be revealed as one of the most important examples of economic solidarity that humanity needs today, while at the same time revealing itself as one of the highest hopes of

touching man and humanity. It is an essential and priority issue to do a work that will bring it to life, live it forever and present it to humanity as hope, to establish a system.

In the face of the course of humanity and the world, it is a human obligation to undertake to meet the financing needs of society in an appropriate and legitimate way with rights and justice on the basis of the “principle of non-interest”. In a world dominated by global capitalism, it is necessary to overcome borrowing and move to a lending system and socialize it in order to eliminate the disease of interest, which Islam forbids, as well as instill new economic hope in people and societies.

"Borrowing“ and ”lending" are the product of two separate minds and philosophies, and they are extremely separate and different systems from each other. One, as a reflection of the ills of informal human interest, narrows the supply to man and increases inequalities, leading humanity to stalemate and persecution. The other is to increase the help and solidarity formed by the acts of being human and staying human, and to bring it into human action. It would be a human act to move to a new ground with a new mental hijra as a requirement to stay human, and to go to a restructuring through the “beautiful lending system” to move from there to a new and legitimate world.

In this context, it is an important obligation to make a serious self-criticism, to find ways to re-humanize with a new philosophy, and to enter into a humanly just quest. Discussion and development of the new models of the inflation-indexed TL (ETL) and the Qard al Hasan Fund (KHF), a new financial currency, will be an appropriate step for society and all humanity, as a humane and just step towards restructuring lending relations in order to turn this quest into a valley of legitimate and effective solutions.

Being created as indexed to inflation concerned by the general society, a more humanitarian, just, and egalitarian unit of measurement, the ETL and application of non-interest, non-spread qard al hasan fund which targets receive the loan back with the same amount provide a great social benefit. Initially registering the debt with qard al hasan on the basis of maintaining purchasing power depending on the common consent of the parties will not only bring justice and equality, but will also pave the way for economic solidarity, and thus the foundations of a solid and virtuous society will be laid.

ARAŐTIRMACILARIN KATKI ORANI

Yazar(lar)ın her birinin mevcut araŐtırmaya katkı oranı aŐađıda belirtildiđi gibidir.

Yazar'ın araŐtırmaya katkı oranı %100'dür.

Yazar: AraŐtırmanın tasarımı, modelin oluŐturulması, literatür taraması, veri analizi, yazım.

ÇATIŐMA BEYANI

AraŐtırmada herhangi bir kiŐi ya da kurum ile finansal ya da kiŐisel yönden herhangi bir bađlantı bulunmamaktadır. AraŐtırmada çıkar çatıŐması bulunmamaktadır.

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Yapılan bu çalıŐmada ‘‘Yükseköđretim Kurumları Bilimsel AraŐtırma ve Yayın Etiđi Yönergesi’’ kapsamında uyulması gerektiđi belirtilen tüm kurallara uyulmuŐtur. Yönergenin ikinci bölümü olan ‘‘Bilimsel AraŐtırma ve Yayın Etiđine Aykırı Eylemler’’ baŐlıđı altında belirtilen eylemlerden hiçbirini gerçekleştirilmemiŐtir.

MUASIR DÖNEM İÇİN İSLAMİ YENİ PARA SİSTEMİNİN TEMELLERİ

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Lisanslı Depoculuk

ÖZ

Tarihte para sistemleri mutad şekilde çökmüş ve yeni para sistemleri her zaman bir öncekinin kusurlu yönlerini tahsis etmek amaçlı ortaya çıkmıştır. Günümüzde de hâlihazırdaki para sisteminden kaynaklanan sorunlar iktisadi ve sosyal hayatta çöküşlere yol açmaktadır. Bu çalışmada mevcut para sisteminin kusurlu yönlerini düzeltmek için İslami bir çözüm önerisi sunulmuştur. Lisanslı depoculuk sistemi sayesinde paranın, tedarik zincirlerinden başlanarak üretime ve emeğe dayalı olarak yaratılma imkânı vardır. İslami açıdan uygun kripto para sistemiyle birlikte geliştirilecek elektronik depo sertifikaları da paranın çapası olma fonksiyonunu kolaylıkla yerine getirebilmektedir.

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**FUNDAMENTALS OF NOVEL ISLAMIC MONETARY SYSTEM FOR THE
CONTEMPORARY AGE**Abdulsamet KAYADA^c*Istanbul Sabahattin Zaim University, Turkey*Ahmet Suayb GUNDOĞDU^d*Istanbul Sabahattin Zaim University, Turkey***ARTICLE INFO****Article history:**

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ABSTRACT

Throughout history, monetary systems have repeatedly collapsed, and new systems have emerged to redress the failed flaws. The repercussions of the current monetary system give rise to collapses in modern economic and social life. This study aims to have an Islamic proposition to remedy the flaws of the modern monetary system. The money can be created based on production and work effort in the supply chain starting from a licensed warehousing system. It has been inferred that Electronic warehouse receipts of licensed warehouses can act as an anchor for an Islamic cryptocurrency system that can perform the functions of money readily.

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INTRODUCTION

The most important vehicle in establishing goods or services trade both in economic and social life is money. Not only is the value of goods and services based on it, but the barter process is also carried out through this system. Since money defines economic and social life, institutions and systems try to take it under control. Today, the supervision and control of the monetary system are carried out by central banks (Durmus, 2008). The monetary system is a way to keep the masses under control, and if the dominant power fails to maintain the system, social turmoil and political changes can occur. All social and economic systems have brought their monetary system.

In history, every monetary system – including the monetary systems based on precious metals – fulfilled the function of its specified time, and ultimately collapsed. The current monetary system, in which the central banks play an active role, emerged to eliminate the previously collapsed monetary system (Kovancilar, 2013). Today, it is clear that economic problems emerging from the current monetary system have caused chaos. In this sense, the current monetary system has faced questions. Alternative monetary system studies have been initiated to prevent a significant economic and social disaster since the economic problems emerging from the current monetary system have caused chaos (Gormus, 2016). Today, one of the main goals of central banks is to protect price stability through law. Such impositions have been dictated to states to protect the interest lobby, bond, and bond investments against inflation. In other words, the central banks have become an instrument of the interest lobby against the public interest. Through deposit banks, even the most distant individuals have been drawn into this trap. Unfortunately, in the Islamic world, participation banks have been in the leading position in this business.

For central banks, interest has become an essential tool to intervene in the market. The money should be used as fiat money, with its value on its primary purpose and acting as an intermediary in exchange transactions. The trading of money through interest causes excessive fluctuations in its value (Darici, 2009). While Islamic political movements and so-called religious communities that existed in the Islamic world quickly gained strength, the social collapse was inevitable. The fundamental reason for this can be shown as the desire for capitalist and communist systems and their structures, rather than the implementation of an economy and monetary system based on Islamic principles. As a result, the Islamic world went through a similar ordeal like the social

collapse caused by those systems. The prevailing political powers in the Islamic world adopted the method of turning society's attention to other parties by provoking notions such as *asabiyyah*, nationalism, ummahism, and sectarianism to cover up these problems (Gundogdu, 2019a).

Although the subject is significant, preliminary studies in the literature reveal the importance of this factor. In the literature, the issue was evaluated according to *fiqh*, and thus, a proposal with an Islamic solution could not be put forth. Durmus (2008) discusses the legitimacy of the foreign exchange transactions such as currency exchange, forward, futures, and swap transactions. According to *fiqh*, transactions are also examined, and evaluations are made whether these transactions are permissible in Islam or not. Within the context of money exchange, the history of money, its types, and functions are analyzed. On the other hand, the study mentioned above did not refer to the issues regarding money formation, the problems in today's monetary system, and the Islamic solution proposals for these problems.

Dogan (2018) introduces the types, features, and quality of money that has been used in the market since the time of the Prophet (PBUH). The article, then discusses the positive and negative sides of cryptocurrencies. Currently, there are severe debates regarding the types, technology, and legitimacy of cryptocurrencies. In terms of Islamic Law, it is clearly emphasized that deceit and deception occur in this connection during the circulation process of cryptocurrencies. Along with this, it is stated in the article that the crypto money system should not be excluded entirely from the solution proposal, and it is possible to circulate money indexed to a mine. In the case of Turkey, monetary system can be indexed to boron. As mentioned above, monetary systems like gold-silver, etc., which have a limited supply like boron mine, in history have been tried and collapsed. (Kovancilar, 2013).

Billah (2019) analyses cryptocurrencies in depth. The book includes academic articles titled as “Analysis of Cryptocurrency Based on *Maqasid al-Shari'ah*”, and “Social Financing Through Halal Cryptocurrency Management”. Money recording systems of the banks today have been shaped by centuries of experience and they are pretty substantive. In current cryptocurrencies, there is a relationship between speculative money creation and *gharar* (deception). In this case, there is no concrete existence against the produced money. It is emphasized that electronic money is suitable for use in Islamic terms; however, it is necessary to pay attention to Islamic contract rules. Buying and selling cryptocurrencies

alone and making payments, does not result in its being Islamically verifiable.

Gundogdu (2019), discusses how money should be issued according to Islamic principles in today's world, and how the state will regulate this process. It has been stated that the creation of Islamic money by producing products purchased from each other under the monitoring of the state is in accordance with Islamic rules. Producing money, in Islamic terms, with this method; a system is proposed in which the money supply increases with indexed labour trade and where banks and central banks do not have a say in this process.

MONEY CONCEPT FUNCTIONS AND TYPES

Money can be expressed as a standard measure of value and means of exchange adopted by a society. Money qualification can be possible with these two features (Ergin, 1972). Money should not be considered as a good in economic sense. The goods have to provide benefit. In other words, satisfaction is expected as a result of this benefit. However, money alone should not satisfy the needs of individuals. Benefits can be gained through transactions carried out via money. Here, too, the feature of money as a means of exchange, i.e. a vehicle, comes forth. The point where money benefits the individual is essential that it provides liquid purchasing power in the individual's hands. It ensures that individuals with cash have strength when purchasing goods or services (Orman, 1987).

The use of money in economic life can be seen long before the establishment of banks. It is known that there were credit transactions in the periods before money was not invented. In ancient times, people always left their goods in safe places, and entrust them to trustworthy people. Over time, this structure became secular and turned into the current banking model, and the concept of honesty in borrowing and lending disappeared. Also, it is known that religious institutions did not charge high rates of interest to those in need to whom they entrusted goods (Ergin, 1972). All kinds of interest is forbidden in the Quran. The Prophet Jesus (as) clashed with the clergy of the time and their religious institutions, who instrumentalized religion.

Functions of Money

The primary function of money can be listed as a means of payment, storing value, and a tool for economic policy. It is possible to use money

in a region only as a means of payment, without using it as a medium of exchange. When a person gives the money in their possession to another person without return, the money changes hands, but the exchange process does not occur. Thus, value transfer is made instead of transferring goods to the other party (Orman, 1987). If inflation is not taken into account, the present value of money should carry into the future. Commodities can be used as a medium of exchange but cannot be accumulated as a store of value (Orman, 1987). For a foreign currency to be substituted for that country's currency, it must have a value storage tool (Balaylar and Duygulu, 2004). Cryptocurrencies emerging today do not have this feature because there are excessive fluctuations and speculation in their values. Thus, instead of being a currency, this makes them a means of deception and gambling which are forbidden according to the Quran and Sunnah. In the current economic system, an attempt is made to direct the economic system by adjusting the money supply. Money is instrumental in all kinds of operations and policies. Today, central banks steer the economy with interest rates (Durmus, 2008). However, according to Islamic principles, it is not acceptable to use interest rates as a monetary policy tool.

Properties of Money

The basic properties of money are robustness, homogeneity and reliability. It also provides convenience in transportation and cannot be imitated, divisible, and scarce in supply. Just as goods must have a certain standard and durability in the market, money must have the same feature to ensure trust in trade (Orman, 1987). Electronic money applications strengthen these functions. As a result of the fluctuations created by international capital forces and the experience of financial crises, countries have turned to monopolised currencies. With this comes concern as money production is concentrated in a single authority (Tabak, 2002). In this respect, what countries need is the formation of an electronic currency free from speculation. Moreover, this can only be possible with reliable and robust government support.

The logistical possibilities of the barter in the economy are minimal. Thanks to money logistics ease is provided (Orman, 1987). *Suftece* (bills of exchange), which Muslims invented, refers to a document showing the debt to be preserved elsewhere. This was put forth to prevent problems and delays during the transfer of money (Durmus, 2008). In the Islamic monetary system, *Suftece* was used as a payment order or money order in the Abbasids (Inalcik, 2011). During the Ottoman Empire, large

amounts of taxes were collected in the tax farming system. Thus, bills of exchange were used like valuable documents as a solution to the transportation problem. Otherwise, when all the money was collected in the centre and redistributed to pay the debts, this process's transportation, distribution, and security costs were also revealed (Yilmaz, 2019).

For this reason, during the Ottoman period, bills of exchange and policies were used in trade (Zaim, 1989). With these terms of use, the exchange bill also performed the risk management function, which means it can also be used against negative situations that may arise during the transfer or storage of money (Demir, 2002). The disappearance of gharar (uncertainty) depends on the fact that the coins are the same in their group, and their value is clearly understood. To fulfil these conditions in the Islamic electronic money system, it is necessary to produce money due to exchange under strict trade rules and state control (Orman, 1987).

Barter, Exchange in Kind

Since money has not yet been used in shopping during the first age, trade was carried out through commodity exchange. Barter briefly means the payment of the price of a good with another good. In other words, it implies the exchange of goods (Haseni, 1996). In this way, people could meet their needs by exchanging their productions with someone else's. If we assume that there is no money in human life, it is impossible to carry out exchange transactions only by barter in an economic environment, where there are millions of goods and services. If we explain in mathematical terms, there would be $\frac{\pi(n-1)}{2}$ different price combinations. However, if the money is used, a price equal to $(n-1)$ is sufficient for shopping (Orman, 1987).

Another challenge in barter is the logistics and storage of goods. If a person produces more than their own needs and does not want to dispose of this production surplus and sell it immediately, they have to keep the storage goods. However, there are extra costs and risks of spoilage (Durmus, 2008). In this respect, today's advanced licensed warehousing business model can be proposed to solve these problems.

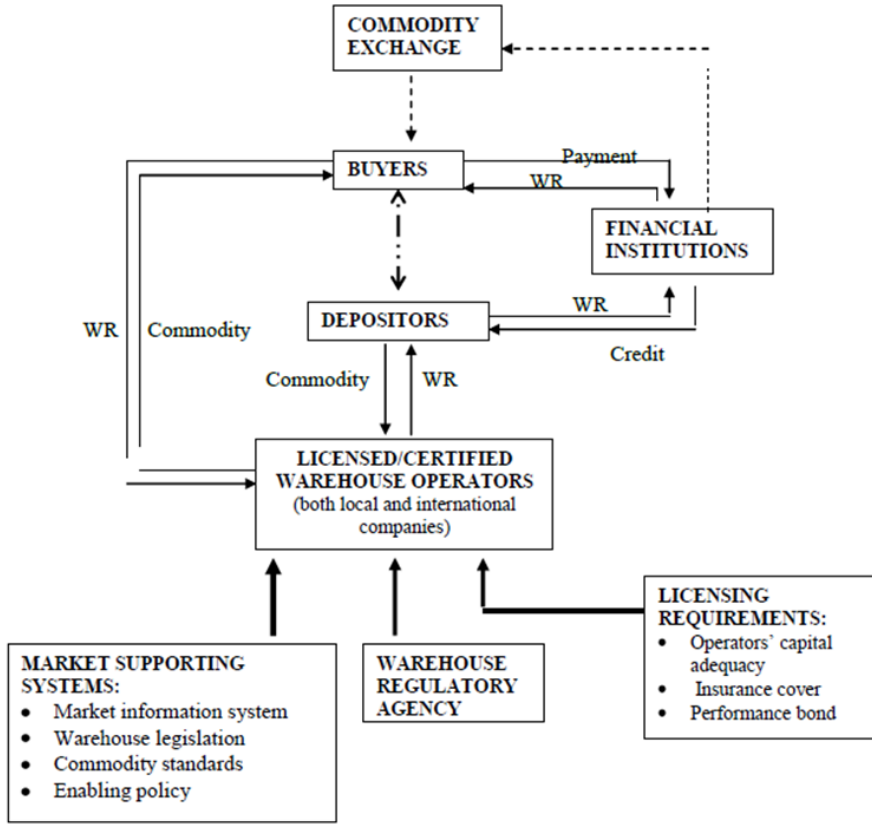
Licensed warehousing systems ensure that producers' products are protected in a healthy, safe, and insured manner. This system makes it possible to create products of a certain standard and quality in international trade, to bring producers and buyers together in a safe environment, and thus increase trade. There are various licensed

warehousing and agricultural product exchanges in our country, especially Anatolian Selcuklu Agricultural Products Licensed Warehousing in Konya (Memis and Keskin, 2015).

Currently licensed warehousing can be considered an alternative to the barter system's logistical and conservation difficulties for several reasons. Some of these are reliability, protection and measurement of agricultural products in healthy and accessible conditions, encouraging the producer to produce in terms of the requested quality and quantity, facilitating the purchase and sale by being categorised in the standards desired by the buyer, providing the producers with the opportunity to sell at any time, and providing cash management, transportation. It can also be considered a solution that can be provided by reducing other losses and reducing the informal economy, increasing the country's tax revenues, and contributing to the national income (Unal, 2011).

Figure 1 (Onumah, 2010) shows the workflow system in the product storage and sales process. According to this, the producer brings products to a licensed warehouse, the product is weighed, and a producer receipt is created. The product is examined in the laboratory and categorised according to its quality and properties. The licensed warehouse puts insurance on the product. Then, an Electronic Product Certificate is created that includes all these data. At this point, the manufacturer has two options. The first option is to buy the money by selling the product directly on the stock market. The second is to keep the warehouse product for more profit if there is no need for cash. Suppose the manufacturer needs cash but does not want to sell the product. In that case, it is still possible to keep the product in the warehouse and meet the cash requirement with credit by showing the bank's Electronic Product Certificate as a guarantee (Mizrak, 2012).

Figure 1: Licensed Warehouse Delivery System Example



Another difficulty of the barter is that it is not possible to forward sales. This difficulty can be eliminated by using cryptocurrency in the system. No problem will arise if the parties involved in the exchange simultaneously carry out the process, but if one of the parties wants to give the goods on another date, it becomes challenging to realise the term difference by barter. This is because the property may not carry the same value and features at a later time (Orman, 1987). Besides, it is possible to sell forward sales through an Islamic electronic platform.

Gundogdu (2016) examined this issue: The forward sale of goods valued with the licensed electronic warehouse certificate in this study can be a solution to the barter system's future sale problem. The producer receives the fee of their crop from the bank under the organized clearing system's supervision with the electronic warehouse certificate received in return for the delivered crop to the licensed warehouse. The buyer in the market

pays the money under the organized clearing system's supervision and receives the product from the licensed warehouse with the electronic depot certificate. When evaluated from the viewpoint of Maqasid al-Shari'ah, rural development can be achieved by using the funds in agriculture. In this system, it is also possible to fully operate Islamic finance rules, since sales consist of 100% physical sales. The producer will sell the product at a better price and solve the cash problem, and the warehouse system will increase the potential buyer of their crop. The buyer can plan the raw material cost, and if they do not want to buy the crop, the position can be closed by transferring the electronic certificate to someone else without physically requiring additional logistics.

Account Money

An account money system was created to solve the problems caused by barter. This system is more convenient than barter in shopping transactions, a common good is determined, and account money is made and stabilized in this market. All other goods are compared according to the account money. For example, let us take a product and call it A. In the exchange of goods B and C in the exchange, firstly, both goods' prices in terms of A are established. If both goods are equal at the same A value, an exchange takes place. With this, exchange difficulties are avoided, at least in terms of value (Orman, 1987). However, in this system, the division or logistics of goods based on account money creates a problem. The fact that the goods used as account money do not have the same features and forms cannot solve the main problem (Durmus, 2008). However, it can be divided using an electronic currency and an Islamic monetary system, where reference prices can be formed based on agricultural goods with homogeneous characteristics, can solve this problem.

Money Goods

Money goods is one of the first coins used in the market to facilitate shopping. Money goods, used as means of exchange, are popular in exchange for represented goods and their unique feature. Essentially, there should be a commodity accepted as a standard unit in society, regardless of shape. These goods tend to depend on located geography. For example, for rural areas animals, for coastal areas pearls, oysters, and equatorial regions hunting equipment are used for this purpose. Due to the increase in population in societies, division of labor and specialization, goods and money started to become insufficient over time. Hence, a

means of exchange was needed to meet the demands of larger societies and increased trade; thus, the use of coins —especially gold and silver— was used to meet this demand (Haseni, 1996).

Coins

Coins come in many varieties, but the most common ones are gold and silver coins. Coins previously functioned by weighing. Later, standard size and value coins started to be minted (Gozubenli, 1986). The money supply in the coin system causes economic stagnation due to the limited supply of precious metals, and this system manipulates societies in the control of mines and the occupation of other countries. It can be stated that human history consists mainly of blood wars in search of precious metals. In this respect, the monetary system based on precious metals Islamically constitutes the worst economic system.

Banknotes

With labor division, specialization, and the development of the population in societies, it has been revealed that gold and silver coins also have limited aspects. Primarily, many problems arose regarding the transportation and logistics of currencies. As a solution to these problems, individuals started to use the method of entrusting precious metal goods to trusted shopkeepers or moneychangers. On the other hand, they received a receipt, document, or check, on which the feature and amount of the mine were written, with moneychanger's seal. This was a practice based on the bilateral trust relationship between the mine's original owner and the moneychanger who took the entrusted. The mine owner was trading by buying goods from the market with the received receipt and presenting the receipt in return. Over time, moneychangers made many receipts of various amounts and types, making the trade easier. However, since this system was based on bilateral relations, the goods seller was not obliged to accept the other party's receipt as a means of payment (Orman, 1987).

Transition from Money Changing to Central Banking

In the past, trade has been carried out using different tools and intermediaries. As the labor division and the sense of sharing between people developed, trade has also increased. Because people living in different geographies required products that they could not have or could not grow. These developments also invented money. Money has always made progress from cash to virtual money in the historical process. The

biggest problem in the periods when money was physical was the issue of logistics. Only reliable moneychangers could solve this problem. In the past, reliable moneychangers only mediated the storage, transportation and transfer of money. Later, the Romans put their money-making business into a trade. At first, moneychangers, whose only role was being custodians, started to lend money at high or low-interest rates depending on whether the money was more or less in their location. In the Middle Ages, these moneychangers developed their business and exchanged each country's currency in their local trade centres, paid their debts and lent money. In other words, the moneychanger was like a bank with a limited function, both exchanging money and obtaining interest income by lending the surplus money as loans (Gucluay, 2001). Simultaneously, even these limited functions of moneychangers provided enough opportunity to be accepted as usurers. Moneychangers' work grew due to labor division and necessity developed in the medieval period; thus, money logistics began to pose a problem due to the increase in transactions. For this reason, moneychangers started to give their customers checks with the value representing the money entrusted to them. In the Ottoman period, these transactions were carried out under the name bill of exchange in the tax farming system.

After the First World War, the states that came out of the war needed money, which they could obtain from the Central Banks. However, the same trust problem was evident because of the large borrowing amount, and as a result of the rise in prices, the people who went to the bank with the banknotes in their hands could not get their return. Consequently, through enacting of a law, the commitment to keep coins in banknotes' profitability was removed, and the obligation to use paper money in debt payments was imposed. Thus, the relation between paper money and coins was cut off (Haseni, 1996).

CURRENT MONETARY SYSTEM AND THE FORMATION OF MONEY

The Bretton Woods System

In the period after the end of World War II, the international monetary system turned into chaos. Countries struggled to protect the value of their money. Germany made its money useless with its strict foreign exchange control, and thus, states that still tied their money in gold or pound began to have problems. From 1940, America and Britain tried to solve the monetary system problem (Serin, 1998). A system was needed to solve

the liquidity, external deficit and capital, speculative information, and trust issues experienced by the countries (Akdis, 2011). The IMF (International Monetary Fund) was established to solve these problems. Accordingly, each state would henceforth set a nominal value for its currency against the dollar or gold and set it at a 1% margin. Thus, a more stable foreign exchange regime was aimed. Funding to countries with current account deficits would be provided with the IMF's permission and the money of countries with current account surplus. In this regard, the most critical issue is that the US dollar will now be used as reserve money. This was because countries indexed their money to the US dollar, and an ounce of gold was fixed at 35 dollars (Akday, 2011). At that time, the American treasury kept approximately $\frac{3}{4}$ of the world's gold stock within its structure (Meltzer, 1991). Countries could buy gold in exchange for the excess dollars they had.

During this process, the US entered the Vietnam War, which was expensive. They spent a considerable amount to meet the financial burden of this war, which caused a current account deficit, and as a result, inflation in the US increased. Later, speculations increased, and countries started to demand gold by dropping the dollar. Initially, gold rose from 35 dollars an ounce to 38 dollars. Options determined against fluctuations have been weakened. However, with the USA's foreign trade deficit, the demand for gold continued.

Consequently, an ounce of gold rose to 42 dollars, and the Bretton Woods system collapsed in 1973. Countries have switched to floating exchange rate systems and forward exchange options markets have been established to guarantee exchange rates. In an unreliable economy, individuals and institutions prefer gold as a haven. As the US gave up the dollar system indexed to gold, the Bretton Woods system also collapsed.

Gold-Based Money System

It is unthinkable for gold, which has a limited capacity, to mediate the ever-growing world trade volume. States are obliged to print money and also reserve money. This means that there is not enough gold as much as the value of the printed money. In other words, the limited amount of gold is not in a position to meet the world trade volume, investments, and expenditures of countries (Aktan, Togay and Utkulu, 1998). It is not true that gold and silver, which are precious metals, are in circulation as money, no matter how much the production and division of labor increases. While precious metals (i.e., gold and silver) is in circulation in

the market as money, the trade volume does not grow after a certain point. Because the value of gold goes beyond the value of the product, it represents and becomes a commodity, which causes an increase in interest rates, and every increase, escalation in demand for gold, countries that own more gold and silver, on the other hand, become stronger. Countries have to adopt the method of exploiting other countries for more precious commodities and precious metals as state policy (Gundogdu, 2019a).

The lands known as Mexico today were included in the Spanish territory due to Hernan Cortes' attack on the Aztec Empire in 1521, and Mexico remained under Spanish colonization for 300 years. This is because neither religion, traditions, nor conscience could stand before Spain's gold demand from precious metals. As Hernan Cortes said "My companions and I suffer from a disease of the heart which can be cured only with gold" expresses the essence of the issue (Levy, 2009).

Central Banking

Fiat money and narrow money

The money produced by the Central bank refers to the narrow cash. Since the direct equivalent of the narrow money is the circulating banknotes and coins in the market, its effect on the real economy can be measured directly. Central banks allocate the money that they produce to the market through an interest mechanism. On the other hand, commercial banks in this system can also generate cash. The money created by commercial banks also constitutes registered money (Erdogan and Orhan, 2018). Banks make these loans available at interest rates. Through this practice, people who need financing borrow fiat money and are forced to pay interest at the same time. Such a burden on people is an explicit example of cruelty. The Holy Qur'an states that "taking riba despite its prohibition, and consuming people's wealth unjustly. We have prepared for the disbelievers among them a painful punishment" (Surah An-Nisa 4/161). As it is stated in Verse, interest is prohibited in the Qur'an, and it is also clearly stated that Allah Almighty has prepared a painful torment for those who behave in this way.

Central banks intervention in economic life

Central banks become involved in economic life by buying and selling gold or treasury bills through open market operations. In cases where the market is stagnant, or investment decreases, or the number of money decreases, state officials and the Central Bank prefer the market to revive.

For this purpose, the Central Bank increases the emission in return by purchasing treasury bills from the treasury, which means that it prints money. The critical point to be emphasized here is the treasury's willingness to borrow at low-interest rates. This is because they have to pay this debt with the debt they will receive later. Therefore, they do not want to borrow in return for high interest. The Central Bank's issues in the said acquisition can be summarised as being reliable and sound, being able to buy short and large amounts, and can be easily converted into cash when necessary. The most suitable securities with these conditions attract attention as treasury bills. After this acquisition by the central banks, recovery occurs in the market, and investments start increasing. Also, deposits are rising as banks produce more registered money. However, with these results, the fear of inflation also comes to the fore. Central banks may execute the reverse of the purchasing process, as mentioned above, this time to prevent inflation. Central Banks sell their treasury bills to previously determined big buyers (i.e., commercial banks, insurance companies) and receive a check in return. Since the buyer at the Central Bank is deducted with this check, the buyer bank lends less to the market as the money in the Central Bank decreases; thus, the amount of registered money produced is also reduced (Ergin, 1972). Bond issuance is purely a resource mobilization for governments. Banks share the savings and commodities of individuals with their burden of money and interest, while governments do the same through bonds.

The Formation of Money in a Modern Sense

In the past, money was issued by printing gold-based paper money, a type of precious metal, but today it is based on government debt securities. The market creates a demand for money so that trade can take place. The state, on the other hand, creates a demand for money for its expenditures. Central banks are the only institutions authorized to issue money. The central banks' privilege of printing money is expressed with the concept of seigniorage, which is realised with interest-bearing debt securities. Money is issued against debt, but it is not possible to print money for interest. The modern money production process takes place in the following stages:

- The state that needs money opens auctions for government-guaranteed Treasury bonds. These bonds are bought by the Central Bank and paid to the state by printing money in the amount written on it. The critical point here is that the printed money is only the

principal amount of the bond. Accordingly, no money is issued for the interest payment corresponding to the maturity portion. In this respect, the state will never be able to pay off this debt. To repay the government debt, it will re-issue treasury bonds and borrow again. As a result, a considerable debt bubble will occur, and assets will be priced accordingly. Also, the debate on halal haram in the financial system will remain idle, as money is created with interest even when created.

- The state, which receives money in return for the government bonds it issues, carries out public investments. Nowadays, since states can print and spend money without any deterrent constraints, the investments made are not questioned and are made arbitrarily. In this respect, tenders in assets are always given to close to the money creation mechanism. Thus, wealth is concentrated in certain people. This consequently causes deterioration in income distribution.
- The state will never pay its debt due to the arbitrary money being printed, so the budget deficits will not be closed. Afterward, the income distribution will not be fair, and grudges, hatred, and moral depressions will occur in other individuals except the state enriched. People will face heavy tax burdens, and ordinary and financial crimes will go outside the courts and cause deep social wounds.

Figure 2: The Relationship Between Government Debt and Money Supply

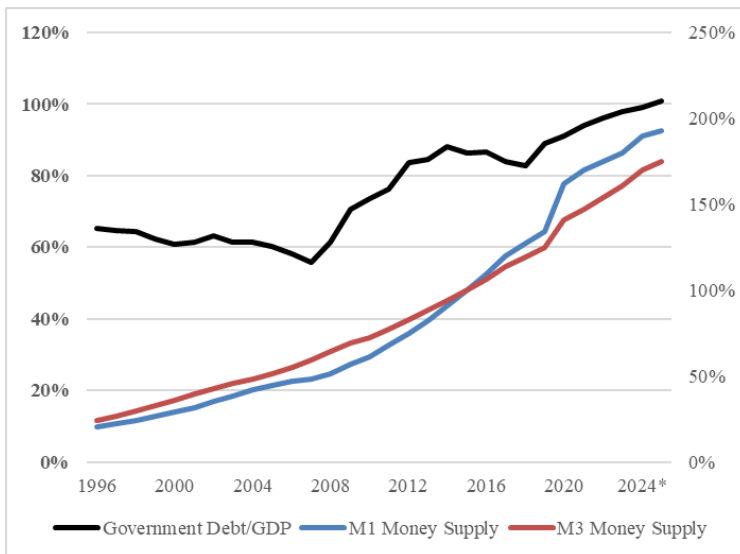


Figure 2 (OECD) shows the temporal trend of the relationship between public debt and money supply in OECD countries. As can be seen in the figure, public borrowing and money supply trends are in an increasing course with each other.

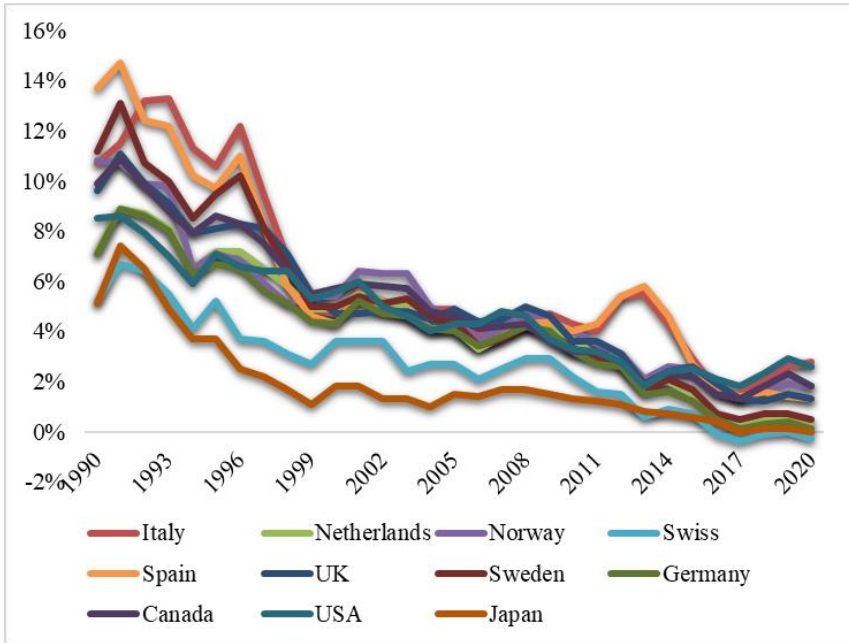
Negative Interest Rate as Alternative Monetary Policy

Many financial derivatives were used to reduce the fragility of the markets after the 2008 global economic crisis. On the other hand, Central banks adopted policies that consider both financial stability and price stability to overcome this fragility. Central banks had to consider these policies, especially in 2008, due to increased loan costs and the increase in uncertainties and borrowings in the economy. One of these is negative interest. This policy that has begun and continues to be implemented mainly in developing countries raises whether the policy is transitioning from an absolute politic towards a new monetary system (Unal and Yetiz, 2017). However, the negative interest rate policy will not be a solution to the current monetary system's shortcomings and negative aspects. It can even be said that negative interest will have even more negative effects on society.

Negative interest is applying the interest applied to the current accounts of banks in central banks at a lower rate than the inflation rate. In other words, the real interest rate is negative because the interest applied is positive but lower than the inflation rate. The purpose of the practice is to ensure that banks lend to the market instead of keeping their money in the central bank, thus reducing borrowing costs, realizing monetary expansion, increasing economic mobility, increasing consumption, and reducing the value of the domestic currency (Dedekoca, 2016).

Figure 3 shows the yield trend of the interest-bearing treasury bonds issued by the states for debt. As the figure indicates, treasury bonds yield curve that aim at the negative or low-interest policy is in a downward trend. It can be expected that the negative interest rates applied to make the public debt stock sustainable will cause a liquidity problem in the banking system by reducing the money supply, as well as creating a demographic effect by creating asset bubbles, the only way to get rid of this cancer is by euthanasia. As a result of the negative interest rate policy, the treasury bond yields decreases but their value increases.

Figure 3: Treasury Bonds Yield Curve (Source: Statbank.dk)



Negative interest rates, in a way, create an asset bubble (Gali, 2014). Besides, they cause an increase in unemployment and deterioration of society's demographic structure (Hulsmann, 2008). Subsequently, decreases in marriage and birth rates should be expected. People who have no income and cannot have assets have to postpone their plans. Also, the increase in the age of marriage or a decrease in the rate of birth and the number of children are among the results. This problem does not only concern Muslims but all humanity (Gundogdu, 2019a). Since the birth rate and the number of children in Muslim countries are higher, such a monetary policy will affect the Muslim countries the most.

THE CONCEPT OF MONEY IN ISLAM

In Islam, trade is encouraged for halal gain, and the economic life of the society is requested to be based on the production of goods and services, labor, mutual consent, and trade. In the Quran, it states "O you who believe! Do not devour your property among yourselves falsely, except that it be trading by your mutual consent; and do not kill your people; surely Allah is Merciful to you" (Surah An-Nisa 29). As stated in Verse, it is clear that there should be mutual consent in trade.

The Prophet (PBUH) sent one of his companions to Khaybar as a collector. That companion brought with him good quality dates on his return. The Prophet (PBUH) asked, "are all the dates in Khaybar like this?" He replied, "No, we get one scale of this for two scales and two scales for three scales". Upon this, the Prophet (PBUH) replies "Do not do this! Sell the date with less value for money. Then buy a good value date with that money" (Eser, 2015). In this hadith, the Prophet (PBUH) emphasises the use of money to prevent gharar during the exchange process. He (PBUH) states that the account money should be used even during the exchange, and recommends that the money be used only as a means of barter. As a result, in the new money system based on barter, which is used to reduce the demand for money, it is necessary for Islamic terms to use electronic money, which only acts as a means of exchange, to prevent gharar.

It can be said that today's economic and financial transactions have not been developed through a mutually consented trade. The lack of mutual consent is based on the interest generated against debt securities while money is being produced. On the other hand, interest-bearing bonds do not reflect the understanding of trade in Islam. For this reason, transactions and products based on speculation in today's monetary system are named as ZeroSum Game (Bayindir, 2015). Apart from the damage caused by the monetary system with this kind of speculation in the economic life, even the damage it causes to the society and the demographic structure of the society is almost a symbol of collapse. In other words, the current monetary system is damaging humanity. The Prophet (PBUH) desired to form a competitive and free trade, instead of a monopoly, and not interfere with prices. Price intervention causes problems in supplying goods to the market and inflation at prices, as well as the formation of black markets. As a result, the trade volume will decrease, hence there should be no intervention in the market prices. The Prophet (PBUH) prohibited the purchase of goods of the sellers who import them from outside the town before they enter into the market and asked producers to sell their goods in the most convenient method at fair prices (Tabakoglu, 2005). It is desired that the goods should enter into the market for the fair price formation. Fair price formation occurs in the market through the market competition and the balance of supply and demand. This constitutes one of the most basic principles of Islamic economic understanding. Before the goods reach the market, they should not be bought at lower prices from the manufacturer and sold at higher prices in the market, whereas the goods should not be purchased

wholesale cheaply in the same market and then sold at very high prices, and the goods should not be stocked with high price expectations (Ozel, 1996).

Considering the concept of money, which should be within the framework of the meaning assigned to money by the religion of Islam, money should be accepted by everyone as its main function is being a means of exchange and payment. In addition, the process of issuing money should not be monopolised, as it should be based on production and labor. It should only be available in the market as much as the goods and services produced, and it must maintain its value.

Crypto Money as an Alternative Monetary System

In today's search for a new money system, crypto money systems based on Blockchain technology are becoming popular. While examining past monetary systems' history, particular attention was given to the way money was created. Within the cryptocurrency system framework, the point of emphasis is how money is made in the system. In this context, according to Islamic understanding, money should be based on labor and production. Today's crypto coins are released to the market like an ornament. Apart from the lack of real work effort and production-based structure behind it, it is open to speculation, far from the truth, and based on complete deception (Gundogdu and Izhar, 2019b).

Cryptocurrency systems first began to appear in 2008, especially among payment systems technologies. It became quite popular because it could be an alternative money system to the current monetary system. However, the shaping of cryptocurrencies according to the technological innovations and people's inability to adapt to it quickly resulted in a minimal usage rate. From its first release in 2008 up until 2018, cryptocurrency circulation against other currencies remained at the level of 2% (Alpago, 2018).

Cryptocurrency refers to the electronic representation of a value that can be used as an alternative to money that has not been issued by a central bank or institution and organization (ECB, 2015). As can be understood from this definition, there is no central bank, institution, or state behind it. It is secured by passwords. With this password, it can only be traded or processed in digital media. The self-auditing digital system that offers secure protection and transfer without a wet signature is called Blockchain technology. Blockchain is a technology that allows all records to be stored in digital media by encrypting them. Although the

accounting registry system is seen as a general ledger, it is not a single-center system, and the records are available in all members as blockchains (Dogan, 2018). The above-mentioned exchange deed, which is the money transfer and registration system created by Muslims. The current record system is also a continuation of the exchange deed. The current financial record system challenged by blockchain is an adequate system developed for centuries with the help of different knowledge and experience that has been tried many times and is still being used safely. However, Blockchain technology is a false money technology system that does not have any legal basis and is unrelated to the current record system. While the current record system has reached its present position after years of knowledge and experience, using the blockchain system—which is philosophically defective—should be given a serious attention. The main features of cryptocurrencies can be listed as follows: it is not bound to a central authority, it is not connected to a central bank or institution, it has a distributed structure like the Blockchain technology, the amount to be requested or to be supplied can be determined (Ergun and Esenkaya, 2019).

In Islam, trade is encouraged for halal gain, in which deception and gharar or forbidden. In this context, determining what the good is, who the seller is, its price and type should be clearly stated in the contract, and mutual consent should be required. However, it is seen that these criteria do not prevail during the sales made by current cryptocurrencies. In other words, the information of the parties is kept confidential, which results in a gharar relationship.

Since cryptocurrencies will only be used electronically, they will be beneficial in recording the informal economy. Due to today's increasing costs and VAT type transaction taxes prohibited in Islam - individuals prefer to carry out trade in an informal environment. This will directly affect the payable tax and lack of information. Along with this, the circulation of Islamically appropriate cryptocurrencies will allow the informal economy to be prevented, and an effective taxation structure will be built (Dogan, 2018). Although the formal economy increase will constitute an effective tax system, taxes are not appropriate and are prohibited in Islam. However, in Islam, recording commercial activities in organized markets is recommended. The Prophet (PBUH) founded the Medina market for this reason and ordered that no tax was to be collected within the marketplace. In the modern world, the tax system causes an unfair distribution of income and puts a heavy burden on people

who are not close to the money creation mechanism. However, Islam prohibits tax collection and recommends facilitating and increasing trade in formal and transparent markets

How Should Money be in Islamic terms?

The issuance of money in Islam must begin with the production of the demanded product. As can be understood from here, the formation of money starts with trade. Until this part, the construction of money was realized without interest and following Islam. These monies, which are based on production, must have an exchange feature among themselves. This is because there will be various money and produced products; thus, this money needs an exchange system among themselves. This can only be possible through state control. Therefore, money in the amount of the product produced is created in an interest-free method. At the same time, usury and deception in the money-generating mechanism are eliminated. It is both comfortable and possible to control these transactions using the infrastructure of current cryptocurrency technology. However, the characteristics of the cryptocurrencies must also comply with Islamic rules.

Cryptocurrency should be accessible to everyone and have a universal micro-finance investment platform, regardless of their religion, language, race, sect, status, or nationality. Since cryptocurrencies are considered versatile, decision-makers and relevant authorities should observe principles such as transparency and trust while avoiding practices prohibited by Islam such as speculation, manipulation, fraud, and deception (Billah, 2019). According to the Islamic economic perspective, the monetary system should have the following characteristic (Gundogdu, 2019a):

- The monetary system should begin with trade, and money should be produced following the product in demand. In other words, money must be created according to the chain of needs, labor and production must be taken into account for the money issuance.
- Instead of speculation-based zero-sum games and unfair competition, money should be earned through labor and production, including added value, encouraging cooperation through trade, and leading work effort. People should only produce products that are demanded elsewhere for different reasons and make their own money. Also, state authorities should facilitate free access for the exchange of this money.

- Creating money should be done with Sharia-compliant interest-free contracts that facilitate trade, unlike current interest-bearing contracts such as treasury bonds. In this context, Murabaha contracts used in agricultural production are suitable for this purpose.
- The amount of money created must be by the value of the real goods and services available in the market. There should not be a difference between markets and finance and the real economy, which, like derivative instruments, involve interest, benefit. The cryptocurrency or any other money created should not be wholly independent and unrelated from the goods or services available in the market.
- The value of money and the goods or services it represents should never be affected or become the cause of inflation and asset inflation.
- Trade made with electronic money and the electronic clearing platform, the supply and demand of money as much as the daily trade volume should be provided with the platform. Binary-collusion trading should be avoided. If this does not happen, there will be a disjointed increase in money supply, and the market system will be disrupted.
- With the electronic exchange platform, the demand for money from daily shopping transactions should be reduced by the chain exchange mechanism.
- The policies and laws required to guarantee fair price formation in commercial markets should be implemented to provide confidence to the parties and the system.

If these needs are met, a monetary system based on labor and production can be founded, unlike the current banking system which is based on paper money and fractional reserve banking. Subsequently, interest-free financing systems, which are frequently mentioned today, can be implemented by abandoning the deposit banking business model that consumes partial reserve banking. In Islamic terms, the proper implementation of Islamic finance mechanisms in Sharia and Maqasid depends only on developing an Islamically appropriate monetary system. The financial system implemented in this way will contribute to the fair distribution of income in society, enabling people to lean towards production and earn as much as they work. As it is stated in the Quran "And that man can have nothing but what he strives for" (Surah An-Najm 53/39). As can be understood from the verse, people earn halal earnings as long as they produce and work with a monetary system based

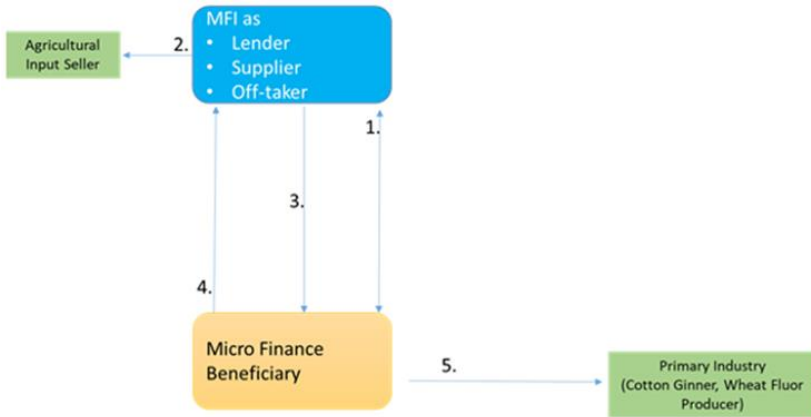
on labor and production. As can be understood from the verse, with a monetary system based on labour and production, people earn halal earnings as long as they produce and work. With the modern financial system, there is corruption in the society, and with the inflation of asset prices, the marriage and birth rates of young people decrease. However, with the monetary system that is compatible with Islam, which is based on labor and production, corruption in the society and speculation in asset prices can be prevented. The population will also increase with increasing birth rates, and the sustainable demand required for economic growth will be achieved. In Islam, any method of issuing money is not directly envisaged, but the prohibitions or what is allowed regarding the subject in question are clearly stated. The licensed warehousing system described above has the potential to provide a viable infrastructure for the Islamic money creation process. This system anticipates that the monetary system will start from supply chains and be fulfilled through Islamic microfinance contracts with farmers. Starting with this simple process, the model can be developed through the infrastructure of electronic warehouse receipts (e-WR) and licensed warehouses (LW). The electronic commerce platform can provide a significant role in developing international trade and facilitating commercial payments. With this model, a monetary system that emerges from the supply chain based on labor and production can be created, and the missing parts of the current system can be improved.

Figure 4 shows the structure of the recommended Islamic microfinance. With this structure, which also provides production input to farmers through Islamic finance contracts, a financing line is also offered to the Microfinance Institution (MFI) (Gundogdu, 2020).

In Figure 4, MFI goes beyond lending and is in supplier and buyer for farmers' harvest. In this way, MFI also provides suitable competition conditions for fragile farmers in the market. The currency of the contracts between farmers and MFI appears in an Islamic money creation system. To explain the workflow;

- MFI signs Islamic contracts (Murabaha, Musharaka or Mudaraba) over Islamic electronic currency (e-money [Ḍ]).
- According to the farmers' agreement, the MFI purchases 100 Ḍ worth of fertilizers and seeds from the agricultural products input vendor to act as a supplier.

Figure 4: Islamic Microfinance (Source: Gundogdu, 2020)



- If it is assumed that a Murabaha agreement is made between MFI and the farmers, MFI sells its agricultural inputs. For example, MFI sells the fertilizer or seed purchased for 100 ₺ at a fixed price and exchange rate to 106 ₺ to the farmers to be paid six months later.
- After six months, the farmers' harvest is 306 ₺. 106 ₺ is deducted, and the remaining 200 ₺ is credited to the farmer's account.
- MFI can sell the harvest it receives at 400 ₺ or the market price.

In this system, money was created in an Islamic way, based on labor and production. The money will be made with each MFI purchase, and this will be supported with reference prices. Also, e-money—which is accounted as a kind of money—holders will convert their money to other currencies through Islamic banks. Thus, the value of labor is also preserved. The system becomes widespread, and after the reference prices for all goods are formed on the electronic platform where harvest crops are sold, the connection of this account money with fiat money can be eliminated after a certain diffusion level by converting the fiat money held by the MFI into the metal commodity used as input in the industry. There is a need for an equivalent supported basket for e-money. The Islamic bank needs an entity worth 400 ₺. Because the value of e-money should be protected only by tying the traded commodities (Gundogdu, 2020)—with the additional financial services provided, such as current and investment accounts—the farmer in need of financing can be given loans, as the farmer's money can be converted into another currency;

hence the farmer can invest his money in specific Murabaha transactions or transfer it to another person. Through the development of the system, these needs can be met at an international level. Licensed storage services (Figure 1) should be provided to farmers to meet these needs.

In the figure, the farmers who bring the products to the licensed warehouses (LW) are informed about the type, quality, type and other features of the goods. An electronic warehouse certificate (e-WR) containing the qualifications is issued. The products purchased at the same time are insured in licensed warehouses. The farmer who delivers his products can immediately sell the crops on the stock exchange or hold them in licensed warehouses for later sale if they do not need the money. He can also give his electronic warehouse certificate to someone else in cash or use a loan by holding a guarantee in the bank. With today's crypto money system, it is possible to implement this more straightforwardly (Gundogdu, 2016).

While the crop in the field cannot be used in the Islamic money creation process since it does not have the quality of the goods, the specifications of the crops are determined in licensed laboratories and kept under certain storage conditions become goods. In a system where these qualities are proven with a deposit certificate (E-WR), it is possible to produce Islamic money based on labor and convert it to an international Islamic monetary system through international trade. Thus, problems caused by inflation, bond interest and exchange rates can be eliminated, and an economic contemplation plan can be established in the production and trade environment.

CONCLUSION

In Islam, money should be based on labor and production. The primary role of money is to facilitate trade, and this can be possible with electronic money. Thus, electronic money can provide solutions to the main problems of the current money system. What is more, thanks to electronic money, the informal economy will also be recorded, and trade will be ensured to be carried out in a healthy, transparent, and suitable platform.

A flawless monetary system has not been implemented throughout human history. The search for a new financial system may also be wrong, and it would be appropriate to question the issue in terms of Islam. This questioning should not only be limited to the point of being halal or haram. Islamic alternatives should also be put forward. Islam does not

envisage a perfect monetary system, but it reveals the rules to be followed and what can and cannot be done. Aside from discussing cryptocurrencies at the point of being halal or haram, it is possible to remedy the deficient or erroneous aspects in Maqasid with the licensed warehousing system we offer an alternative monetary system.

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1st Author: Literature review, Data Analysis, Writing.

2nd Author: Evaluation of Research Significance, Research design, writing.

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There is no financial or individual relationship with a person or an institution in the context of the study. Also, conflicting interests do not exist.

ETHICAL APPROVAL OF THE STUDY

All rules within the scope of “Instruction on Research and Publication Ethics for the Higher Education Institutions” were observed throughout the study. No actions mentioned in the Instruction's second chapter titled “Actions Against to Scientific Research and Publication Ethics” were taken in the study.

FİNANSAL ARACILIĞIN ASLÎ İŞLEV VE FAALİYETLERİNE GERİ DÖNDÜRÜLMESİ

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ÖZ

Finansal aracılık, para fazlası olan birimlerden para açığı olan birimlere aktarım yaparak ekonomideki para dolaşımını sağlayan hayati bir işlevdir. Ne yazık ki, aracı kurumlar bu temel işlevinden sapmışlar ve bu süreçte, doğası gereği dilsiz olan (katma değer yaratamayan) bir borçlanma araçları kompleksini kullanarak spekülasyon ticaret faaliyetlerine girişmişlerdir. Buna karşılık, İslami finans düşüncesi, orjinal işlevi olan kaynakların likidite fazlası olan ekonomik birimlerden likidite noksanı olan ekonomik birimlere aktarılmasına odaklanmak için finansal aracılığı geri getirmenin yollarını sunar. Bu çalışma, finansal kuruluşların borca dayalı faizli kredileendirme araçları yerine satış, kiralama, ortaklık gibi finansal araçları kullanmasının reel ekonomiyi desteklemekle birlikte temel işlevlerinden uzaklaşmasını da engellemekteki ekonomik avantajlarını ortaya koymayı amaçlamaktadır. Bu, finansal işlemleri insan refahına faydalı olan şeylerle sıkı bir şekilde ilişkilendiren finansal kurumların faaliyetlerine etik değerleri dahil etmenin ekonomik avantajlarına ektir. Bu makale teorik bir analiz yaklaşımı benimsemekte ve finansal literatür, bildiriler ve makaleler aracılığıyla ikincil bilgilere dayanmaktadır.

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TAKING FINANCIAL INTERMEDIATION BACK TO ITS ORIGINAL FUNCTIONS AND ACTIVITIES

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ABSTRACT

Financial intermediation is a vital function that permits money circulation by getting it from surplus units in the economy and giving it to deficit units. Unfortunately, intermediary institutions deviated from this essential function and indulged in speculative trading activities using, in the process, a complex of debt instruments which are mute (unable to create added value) by nature. In contrast, Islamic finance ideas offer ways to bring financial intermediation back to focus on its original function of channeling resources from the liquidity fluent economic units to the liquidity hungry units. This paper aims to explore the economic advantages of applying principles such as using financial instruments of sale, lease, and sharing instead of the debt-based instrument of interest lending, especially in confining financial institutions to supporting the real economy through activities of financial intermediation and preventing them from going away from this fundamental function. This is in addition to the economic advantages of incorporating ethical values in the activities of financial institutions, which make financial transactions strictly associated with what is beneficial to human welfare. This paper takes a theoretical analysis approach and is based on secondary information through financial literature, papers, and articles.

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INTRODUCTION

The financial sector has always known crises leading to recessions and economic downturns; the last one was the crisis of 2008, the subprime crisis. Traditional banks were heavily affected in the downturn because of their focus on interest-based trading book activities (e.g., securitization of mortgage debts), which carried them away from their principal function as financial intermediaries. The process of financialization expanded this deviation and made the main source of profit from the trading book rather than the banking book (Seccareccia, 2013, p.283). This diversion calls for a revisit to the primary role of financial institutions and reflection on what changes or potential alternatives will assure bringing back the financial sector's institutions to focus again on intermediation.

Islamic finance seems to be a candidate alternative that has widely revealed itself over the past few decades. Although Islamic financial intermediation is a new industry, which has been developed within the last fifty years, it seems to have a better ability to withstand the turbulence which rocked the conventional financial sector in 2007 and 2008 (Bourkhis & Nabi, 2011, p.2). Islamic finance has continued to achieve good growth rates because it sticks to the real market transactions, as required by the Shari'ah principles in all its financial activities (Hamdi et al., 2019, p.377). It is a Riba-free banking model that requires founding all transactions on real assets, avoiding any speculative and gambling behavior, as well as any unethical use of funds. Thus, it removes from the financial basket all the activities related to alcohol, tobacco, the arms industry, entertainment games such as lotto and horse-race betting, in addition to lending on interest. These points allow us to put forward the following problematic: How does the application of the Shari'ah principles make the Islamic financial intermediation institutions more focused on performing their intermediary role to the benefit of the real economy, and at the same time, more resilient at times of crises than their conventional counterparts. In other words, the inquiry of this paper is about going back to achieve financial intermediation in its full sense, and what are the effects of applying the Islamic principles in this regard? This paper is not intended as a comparison between Islamic banking and conventional banking.

In order to give a detailed answer to the above question, we divide this paper into two main parts: the first section discusses the causes of deviation of conventional financial intermediation from its original course, and the second section presents Islamic financial intermediation and the causes of its resilience.

FINANCIAL INTERMEDIATION AND CAUSES OF BANKS' DEVIATION FROM ITS ORIGINAL FUNCTIONS

This section will briefly review the basic functions of financial intermediation and why financial institutions went away from these original functions.

What Financial Intermediation Brings About?

A firm can choose between two modes of funding to finance its activity: direct funding and indirect funding.

In the first one, there is a direct contracting relationship between lenders and borrowers whereby firms needing liquidity can issue bonds and/or stocks and sell them directly in the capital market to be bought by households or other firms having excess liquidity. In the second type of funding, there is a financial intermediation system, of which the bank constitutes a central financial intermediary that channels funds mobilized from the surplus units of the economy (savers) towards the deficit units of the economy (businesses and consumers).

Financial intermediation presents an alternative or provides a solution for capital market insufficiency, as it helps reducing information asymmetry, transaction cost and monitoring cost. Furthermore, banks can offer services that cannot be available in the capital market, such as guarantees and rescheduling in case of distress of a firm as it will be easy for it to restructure its debts if it relies on bank borrowing. At the same time, it will be challenging to do such solutions if it depends on loans from the public because it is always easier to negotiate with one or a few banks than with many bondholders.

Besides, by depositing money in bank accounts, investors have the right to withdraw at any time, making their funds easily transferable into liquid. But by placing money in the capital market, investors may not find buyers for their securities when they need to sell for liquidity.

Functions of Financial Intermediaries

Reducing Monitoring Cost

Information asymmetry is likely to exist widely in the relationship between investors and users of funds. This means that the investor cannot know what is the specific amount of the output that the company has produced and then whether the borrower might not be able to honor its payment. That is why borrowers should be monitored, but the problem is that the monitoring by borrowers is costly, especially if one entrepreneur has several capital providers, because each one of them will be expected to bear the monitoring costs, which will raise the problem of duplication of monitoring costs. For that reason, it is

better to delegate the task of monitoring to a single agent (Diamond, 1984, p.394).

The bank, as a specialized agent, can overcome the problem of information asymmetry and monitor borrowers by producing information about the borrowers' realized profits using the technology, making it more efficient and cheaper (Diamond, 1984, p.396).

Furthermore, in the case where the lender monitors the borrower, the decision of monitoring is made after the entrepreneur's project income has been generated and after a payment has been received by the lender, which deals with the "costly state verification." However, in the case where the task of monitoring is commissioned to a financial intermediation institution, the decision of monitoring is made before the transaction, meaning that the bank determined beforehand the capacity of the borrower to repay the loan (Townsend, 1979, p.269).

Producing Information and Reducing its Cost

In the light of the usual insufficiency or even absence of information in the capital market about investment opportunities, it is necessary for investors to produce such information, but it will be costly, especially if the same information needs to be searched and acquired by many investors. This duplicates the cost of information production many folds (Gorton & Winton, 2003, p.444). Here also, if these investors would delegate the task of producing information to a small number of agents, how will they ensure that those agents have credibly searched and produced the relevant information (Hirshleifer, 1971, p.547). This matter is called "the reliability problem." Let us consider that the produced information is valuable; the information buyers may sell it to other rival investors, which creates an "appropriability problem." (Gorton & Winton, 2003, p444).

These complex problems related to investment opportunities, information production, and diffusion may be solved by the existence of an intermediary financial institution. First, the "reliability problem" will be overcome because the intermediary will invest its own funds in assets to produce potential information. So it will be beneficial for it to have credibly valuable information (Leland & Pyle, 1977, p.384).

Second, the "appropriability problem" can also be solved by offering stocks and bonds and investing in assets about which the bank has become confidentially informed. Thus, the bank produces and supplies credible information, which the bank needs anyway for its own investments. Failure to have reliable information exposes the bank to the risk of losing part of its own

wealth that is invested in the capital market securities (Leland & Pyle, 1977, p.383).

Allowing Consumption Smoothing

Consumption smoothing refers to a situation in which an economic unit has adequate resources to match its expenses' needs, but the timing of generating its resources inflow is different from the timing of having to spend for fulfilling its timely needs. This time matching is difficult to achieve in the securities of the capital market because of its size, frequency, and short-term characteristics, but it is possible to achieve with an intermediary financial institution. The latter can act as consumption smoother by offering funding arrangements using traded securities and deposit streams of customers.

Also, regarding corporations and government because of the holes in their cash on both sides of inflow and outflow (Demopoulos et al., 1987, p.1027), financial 'intermediaries allow them to fill the gap by giving them sufficient access to financial resources by which they could balance their situations and smooth their consumption (Le Ngoc & Nguyen, 2009, p.867).

Providing Liquidity

The concept of liquidity in this regard is related to three issues:

First: The economic agents cannot meet altogether at a central location. Hence, they cannot trade simultaneously (Freeman, 1996, p. 1129-1130), but this problem can be solved by the bank's role in creating a payment settlement system.

Second: The economic units in need to consume usually face trading losses because of the private information by their counterpart traders who attempt to make trading profits. This problem can also be overcome as the financial intermediary can privately produce the information properly (Gorton & Winton, 2003, p.455).

Third: The economic agent needing liquidity cannot efficiently meet the economic agent with excess liquidity due to the moral hazard and the search cost and time, but the financial intermediary can control a decentralized market by providing liquidity to the agent who needs liquidity and at the same time collect excess liquidity that other agents have.

Commitment Device

The bank's activity comprises transforming its liquid liabilities into illiquid assets, which makes its financial structure more fragile than any other type of business as depositors can reduce their demand deposits by taking out their money from their accounts at any time. What drives the bank to limit its free

disposal of funds is more careful about any decision it has to make and control the risk of its banking activities because depositors' actions produce information for the bank, which leads to sequential service constraints. For instance, a bank may have 2,000 depositors, but only 1,000 of them are in active contact with the bank at each moment. If depositors hear information about a situation that can make their money in danger, they will step up to withdraw their money, and those who hear the information first will come first and then will be served first. When the 1,001st depositor comes to withdraw its money, it won't get anything because it is last, and the rule says first-come, first-served. This makes the fragility of the intermediary financial institution works as a commitment device that forces the bank to avoid some activities that may create such risks although they may be profitable (Gorton & Winton, 2003, p.457).

Redistributing Risk and Reducing its Burden on Individual Economic Units

Financial intermediaries protect depositor's funds, whereby every individual can keep his money safe in a bank account rather than store it outside where they are exposed to be destroyed or lost. Also, when the individual invests his money in buying securities, the bonds or stocks that he purchases might be illiquid while current accounts or saving accounts contain liquid money that can be withdrawn at any time and with a cost less than the broker's fees or even without costs. Furthermore, by providing this service, the bank reduces the uninsurable risk of early death faced by customers because they are able to withdraw their money early (Bryant, 1980, p.339).

Deviation of Financial Institutions from the Intermediation Functions

Effect of Financialization

Epstein (2005, p.3) describes financialization in his book "Financialization and the World Economy" as "the increasing role of financial motives, financial markets, financial actors, and financial institutions in the operation of domestic and international economies". Financialization refers to a situation in which the incomes generated by the financial market are growing fast in a way that exceeds the creation of flows capital and real assets, while the real sector, including commodities production and trade, remain behind, either stagnant or with a much lower rate of growth. This makes the financial sphere far ahead of the real economic sphere and the financial intermediaries' activities more complicated and then causes dominance of the capital market transactions (trading book activities) over financing transactions (banking book activities).

The spread of financialization had a negative impact on the functions of financial intermediation as it is directly related to the deviation of banks from their traditional original role as financial intermediaries who collect money from the economic units with excess liquidity and provide money to the

economic units with the need of liquidity to meet their due payments, start their new project or expand their businesses. Instead, banks have become brokers between savers and users of capital in the financial markets in a speculative way. In other words, the primary sources of revenue for intermediary financial institutions have changed completely. It mainly consisted of the interest margin (interest received for granting credit minus interest paid on deposits), with a secondary commission's revenue for some services provided by the bank. With financialization, bank revenues become derived from the trading book with a high level of securitization that consists of transforming bankable projects to tradable securities, in addition to using financial derivative contracts and high augmentation of the volume of foreign exchange transactions.

The financial markets' actors such as securities investors, brokers investment banks can make overnight wealth from speculative operations, including trading debts or speculating the borrowed money and the hole categories of securities that do not have any relationship with the real economy. Windfall gains from their trading activities make them reluctant to use resources in less profitable financing of the real sector's consumers and corporations. Resources and profits of trading activities make them more powerful and able to take down the entire economy. The best example of this was the 2008 crisis and its consequences which were not limited to the financial sphere alone but spread to abolishing the public services, destroying infrastructures, creating unemployment, and the trade deficit became higher more and more (Seguino, 2010, p.10).

Debt Discounting and Debt Trading

Debt Discounting

The contemporary financial system is based on debt; almost every person in society is indebted to a credit institution. The latter can reconstruct debts and then create liquidity and money, using a lot of modern financial techniques such as discounting debts which enables banking institutions to overcome the problem of insufficiency of cash by capitalizing on the existent debtor's obligations, which also change the source of revenue of banks from intermediating liquidity to buying customer's debts.

Macleod (1883, p.314) in his book "The Theory and Practice of Banking: with the elementary principles of Currency, Prices, Credit, and Exchanges" defined discounting as "a method by which the present price of a debt is constructed in relation to its prospective value that is in view of future earnings which are expected to flow from its ownership." According to this definition, if a bank wants to discount a debt in favor of its client before maturity, she has

to calculate the amount of the discount based on the current interest rate to find the present value of the debt. In an instance, a debt worth \$2,000 in its future maturity, and at the discount of \$400 calculated by the bank, the customer will receive only \$1,600, which is equal to the nominal value of the debt minus the discount (2,000-400). This is made according to the principle that a sum of debt due in one year is worth less than that same sum today (Sgambati, 2016, p.282). This operation is generally made without collateral because the debt will be collected along with other debts to serve as an intangible guarantee for the obligation of the banks' own debt. As a consequence, the bank transforms the discounted debt to security which will be accumulated as the bank's assets, which lead to the marginalization of cash (Sgambati, 2016, p.283).

Debt Trading

The trading for a bank is all its short-term market-based activities, while its normal long-term activity, which is collecting deposits and granting credits, the bank can use the difference between how much it gets deposits and how much it gives financing in trading, which can create benefits for it and be profitable (Boot & Ratnovski, 2012, p.13). But the problem occurs when the bank increases its involvement in trading by allocating for it a big capital which impacts negatively on its performance and its principal mission which is intermediating liquidity between lenders and borrowers. This can even create distortions and increase the riskiness of the bank when it is used in an exaggerated way (King et al., 2013, p.34).

The trading activities banks undertake under financialization include loan origination under hard information lending. This is the process of taking an application made by a borrower for a new loan and disbursing the funds until the full payment of the loan. They also include investing in mortgage-backed and asset-backed securities and proprietary trading, which is when a commercial bank invests in the money market and capital market on its own behalf and gains directly from the market rather than invests on behalf of its customers and gain commissions only. Trading activities undertaken by commercial banks today also include Market-making, which is buying and selling securities to satisfy the market where the price is determined by the supply and demand forces; when the supply for security is low, and the demand is high, the price of the security will go up.

Profiteering from Pure Financial and Speculative Transactions

Under the financialization, banks started to seek earnings from other profitable speculative transactions in the financial market, including the sale of securities or foreign currencies when the price drops and buying securities or foreign

currencies when the price increases to make a speculative profit the price differentials. All the activities mentioned above drove banks away from their original intermediation activities.

RESILIENCE OF ISLAMIC FINANCIAL INTERMEDIATION AND ITS CAUSES

After a short introduction, this section will explore the causes of the resilience of Islamic financial intermediation. The section will then be followed by conclusions and recommendations.

Islamic Finance as Financial Intermediation

While financial intermediation is defined as the process of channeling funds mobilized from the surplus units of the economy (savers) towards the deficit units (investors, government, and consumers) by the intervention of a specific agent called financial intermediary, Islamic financial intermediation can be defined as channeling funds mobilized from the surplus units of the economy on a loan basis for depositors who want to guarantee their savings or on a profit/loss-sharing basis in which the bank is the Mudarib, and the depositor is Rabb al Mal for depositors who prefer using their money in venture capital to generate profit and providing these funds to the deficit units on sale (e.g., Murabahah), Ijarah (lease) or sharing basis.

Funds in Islamic banks may originate from three sources and through three contractual channels:

First: Shareholders' funds, where the bank acts as a manager of funds by doing some defined legal actions on behalf of shareholders on an ownership-sharing basis, which implies a Wakalah granted by shareholders to the management.

Second: Guaranteed depositors' funds through the Qard contract. These deposits take the form of current accounts whereby the bank guarantees depositors' funds, and the latter may withdraw them at any time. At the same time, the depositor does not receive any remuneration for depositing funds in a current account because the loan transfers ownership and replaces funds by guaranteed debts on the bank. Funds accumulating in current accounts are used at the risk and discretion of the bank and on the bank's responsibility (Kahf, 2014, p. 36).

Third: investment funds offered to the Islamic bank by savers on the Mudarabah contract, which is based on sharing in profits and bearing the risk of loss. These are deposited in saving and investment accounts that make the main funding source for Islamic banks. Depositors are often allowed to withdraw their funds in these accounts with certain conditions or restrictions. Withdrawals amount to reducing depositor's principal in the Mudarabah, a

matter which is considered permissible in Shari'ah with the Mudarib's consent (Kahf, 2014, p. 167).

The Islamic financial intermediation is based on the principle of Wakalah, in which the bank's management takes all investment decisions to manage the shareholder's funds and the depositors' money based on agency relationship. This agency relation implies that the bank should be cautious about its investment decisions and uses of funds; that's why it is preferable to use the funds on Murabahah and Ijarah because they are less risky rather than Musharakah and Mudarabah (Kahf, 2006, p.14).

Causes of the Resilience of the Islamic Financial Intermediaries

Effect of Financing Through Sale, Lease, and Sharing

Islamic banks can only finance through three instruments: 1) Financial sale, which replicates the well-known sale in trading transactions in which goods are exchanged from one hand to another. 2) Ijarah is a financial instrument emulating the renting\hiring\leasing transaction in the real market between two parties; the lessor who owns the asset and the lessee who buys its usufruct. 3) Sharing is partnership contracts in which capital and human resources are put together in a new project to create new value. All these relationships reflect transactions that are connected directly, on one-to-one correspondence, to the real sector of the economy. This tight connection of finance to the real market prevents the financial sector from growing away dramatically on its own and becoming far away from the real economy (Kahf, 2018).

Effect of the Honest Commitment in Transactions

Honesty and credibility of Islamic banks bring customers' confidence, which helps develop the relationship between the bank and their clients and then the sustainability of earning. Reciprocally, the bank also relies on the costumers' honesty in all transactions, whether sale transaction such as Murabahah or Ijarah in which the bank trust the customer to fulfill his obligations on time, and it cannot charge him interest for rescheduling on delinquent payments or delinquent rentals. Partnership transactions such as Mudarabah, in which Rabb al-mal believes in the honesty of the Mudarib and puts his money in the Mudarib's hands. Or Wakalah transaction in which the customer charges the bank to acts legally on his behalf. In this regard, the Prophet Muhammed (May God's peace and prayers be showered onto him) said: "The two parties to a sale transaction have the choice so long as they have not separated. If they are honest and open, their transaction will be blessed, but if they tell lies and conceal anything, the blessing of their transaction will be lost." (Hifiz & Abdur, 2007, p.261). And in another pronouncement, "The best gain is the gain of merchants who, if they speak, do not tell lies. If they are trusted, they do not

betray the trust. And if they promise, they do not break the promise. And if they buy, they do not disparage. And if they sell, they do not over-compliment. And if they borrow, they do not delay. And if they owe (someone), they do not make it difficult." (Suyuti, 1990) As. He, pbuh, showed the great standing of honesty when he said, "The truthful, trustworthy merchant is with the prophets, the truthfults, and the martyrs." (Tirmidhi et al , 2007, p.24.).

Effect of the Obligation of All Financial Transactions to Deal with the Real Market

This obligation implies the need to back up every financial transaction with a real asset. This backing means that all financial operations must be based on tangible or intangible real property or real assets that are halal, i.e., assets in accordance with Islamic law. A portfolio of financial securities must always represent real assets; it can be a vehicle, a residential or commercial building, or even raw material inputs for industry or agriculture. This backing must be effective in reality because it gives legal certainty to Islamic finance transactions; without it, such transactions lose their legitimacy. Hence, Islamic financial transactions are structured to add real value to the real sector of the economy.

Effect of Prohibition of Riba

Charging interest of loans is prohibited by Islam as well as Christianity and Judaism. All three religions agree on the prohibition of exploiting the debtor's need for money by charging him an increment over the loan principal. (Yahiya 2010, p.15)

In Islam, Riba is described as a big sin. This is reported in the pronouncement of our Prophet Muhammad (May God's peace and prayers be showered onto him). Abu Hurairah said: The Prophet Muhammad (May God's peace and prayers be showered onto him) said: "Avoid the seven devastating sins." The people enquired, "O Allah's Apostle! What are they? " He said, "To associate others with Allah in worship, to practice sorcery, to kill a soul which Allah has forbidden except for a just cause, to eat up Riba (interest), to eat up an orphan's property, to give back to the enemy and fleeing from the battlefield at the time of fighting, and to accuse chaste believing women who never even think of anything touching chastity (Khan, 2009, p.639).

And the Qur'an talks about the prohibition of Riba in four surahs. In Surah al-Rum (30:39), Allah says: "And whatever you give for Riba to increase in the properties of people will not increase with Allah...". In Surah al-Nisa' (4:160-161), Allah says: "For wrongdoing by the Jews, We made unlawful for them [certain] good foods which had been lawful to them, and for their averting from the way of Allah many [people], and their taking of Riba while they had

been forbidden from it and their consuming of other people's properties unjustly, and we have prepared for the disbelievers among them a painful punishment.". In Surah Al Imran (3:130), Allah says: "O you who believe! Do not consume Riba doubled and multiplied, but fear Allah that you may be successful". And finally, in Surah al Baqarah (2:275-280), Allah says: "Those who consume Riba cannot stand except as one stands who is being beaten by Satan into insanity. That is because they say, "sale is [just] like Riba." But Allah has permitted the sale and has forbidden Riba. So, whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah. But whoever returns, those are the companions of the Fire; they will abide eternally therein. Allah destroys Riba and gives increase for charities... O you who have believed, fear Allah and give up what remains of Riba if you should be believers. And if you do not, then be notified of war from Allah and His Messenger. But if you repent, you are entitled to have your principal [back], you do no injustice, nor injustice is done to you. And if someone is in hardship, then [let there be] postponement until [a time of] ease. But if you give [from your right as] charity, then it is better for you, if you only knew."

Riba is any increment above the principal of a loan or debt claimed only on the basis of passage of time, no matter how this increment is determined at the beginning of the contract, whether it is a specific amount or a percentage, a small amount or a big one, paid at the beginning of lending or at any other time. This is exactly interest as known in conventional banking and finance, and it is 'the Riba' that Allah prohibits in the Qur'an as clearly indicated in 2:279 above.

Riba (interest) is forbidden in Islam because a debt does not generate or create any increment or added value. The Qur'an (30:39) draws our attention to the fact that any claimed increment in a debt given on Riba is a false claim made on the property of other people since if any growth may happen in the property of the borrower, the latter is exclusively entitled to own it being an increment within his owned properties.

The prohibition of Riba protects Islamic banking\finance from any deviation away from the course of its financial intermediation function because of several reasons, some of them are as follows:

First, it makes deserving returns related to and based on ownership of properties that generate added values. This proposition is a necessary condition of sustainable earning,

Second, it preserves Islamic banks' consistency and affirms their sticking in all their transactions to the real economy, which means that Islamic finance will

always be developmental. It enhances and supports the production and exchange of real goods and services.

Third, it excludes trading and discounting of debts being non-productive activities as the change of entities of debtors or creditors does not create any added value and therefore does not contribute to human welfare.

Fourth, it redirects financial and human resources, which are used for all kinds of transactions that do not generate added value, to be used in supporting the production and exchange in the real sector of the economy.

Fifth, it eliminates the exploitation of the inability of debtors to pay back their debt by charging them an extra amount above the debt principal. Allah commands creditors to be patient with debtors who have hard times financially. In the above-quoted verses, Allah says: "and if the debtor is having a hard time, then grant him time till it is easy for him to repay."

Effect of Prohibition of Gharar

Gharar means peril, danger, risk, uncertainty, and hazard. The notion of Gharar is a complex concept which covers uncertainties and/or unforeseen events linked to an exchange contract. It can be defined as any sale transaction in which the item subject of the sale is unknown, or its existence is uncertain, or the date of its delivery is unspecified. This concept implies the prohibition, in exchange relationships, of any speculation on the future or random investment. It also means the rejection of any ambiguity in the contract terms.

According to Islamic law, a contract not affected by Gharar is a contract in which all the fundamental terms, namely the price, object, the identity of the parties, and the time limits, are clearly known in advance on the day of concluding the contract. Gharar may lead to consuming one another's property unfairly. Allah said: "O you who have believed, do not consume one another's wealth unjustly but only [in lawful] trade by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful." (The Qur'an, 4:29)

The prohibition of Gharar is beneficial for Islamic financial intermediation and helpful in its consistency in many ways. First, by banning Gharar, none of the parties in a transaction will face fraudulence or cheating. Second, it induces avoidance of any injustice or unfair dealing that may harm one or both parties. Third, transparency about all elements of the contract, including time of performance, the existence of the object and its specific characteristics or a specific amount, date of delivery of the object, all that leads to avoiding conflicts between the contracting parties, and thus avoiding conflicts between

Islamic financial intermediaries and their customers and improving their relationships.

Effect of Prohibition of Unethical Uses of Funds

In Islamic finance, both aims and means should be consistent, ethical, and legitimate. Any earning generated by unethical use of funds won't be accepted and cannot be included in the profit pool; it should be either returned to the payer or given to charity, which is considered unearned income. Islamic finance rejects the idea of "aims justify means," which may be accepted in financial transactions under conventional finance. In Islamic law, financial transactions cannot be separated from ethics because the latter constitutes the heart of success in the religion of Islam. That is why Islamic banks' practices are based on ethics, whether in the use of funds or in their relations with their customers, which realize positive results, especially at the level of resilience of Islamic banks to shocks. We may give in the following paragraphs a few examples to clarify this point.

The prohibition of gambling: The Qur'an prohibits gambling as Allah says in the Qur'an (2:219): "They ask you concerning alcoholic drink and gambling? Say: In them is a great sin, and benefits for men, but the sin of them is greater than their benefit. And they ask you what they ought to spend? Say: That which is beyond your needs. Thus, Allah makes clear to you His Laws in order that you may give thought."

Contract fulfillment and exact documentation: one of the fundamental values that Islamic finance focuses on is contract documentation and fulfillment as Allah says: O you who have faith, when you contract a debt for a specified term, write it down. And let a scribe write [it] between you in justice." (The Qur'an, 2:282). God also says: ("o you who believe fulfill (your) contracts." (The Qur'an, 5:1).

Practicing ethics while operating their activities leads Islamic banks to avoid all illegal earning methods and keep away from unethical activities. They avoid extending finance to any unethical operations or items such as pornography, liquor, and alcoholic or toxic products, weapon manufacturing and armaments industry, gambling, and games such as lotto and horse race betting, tobacco production and exchange, etc.

Effect of Relying on Equity Depositors

The most important source of funds in Islamic banks, which provides the bulk of funding for their activities, is deposited on a Mudarabah basis. These deposits that take the form of either investments accounts or saving accounts are provided by Arbab al Amwal (s.Rabb al Mal), who expect to earn profits on

their deposits, and at the same time, they are exposed to bear losses if the results of the efforts of the Mudarib turn negative (AlAbbad et al., 2021, p.3). This kind of relationship gives these funds a feature similar to the bank's own equity. It is very beneficial for Islamic banks because, on the one hand, this reduces the liabilities of the bank and replaces it with risk-bearing equity. And on the other hand, the bank has no guarantee burden for these funds because they are equity deposits and not loans. The depositor cannot guarantee deposits in these investment and saving accounts, and any violation is a deviation from the participatory Shari'ah principle of profit and loss sharing (PLS). That's why the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) accounting standards prevent showing these deposits as creditors in the balance sheet of the Islamic Bank and require calling them 'equity from depositors' and having a special category for them in the balance sheet of the bank. AAOIFI also calls for considering them in the calculation of the capital adequacy ratio (AAOIFI, standard 23).

Conclusions

This paper aimed at highlighting the effect of applying the Shari'ah principles on mending the activities of banks to strictly stick to original functions of financial intermediation. While conventional banking institutions deviated from these original functions, Islamic financial intermediaries present a pure model of financial intermediation. During operating their activities and all their transactions, Islamic banks must take into consideration the teachings of Shari'ah which provide them with the guidance to derive their profits from funding the real sectors of the economy and providing them with other financial intermediary services. That allows them to be more resilient when faced with financial squeezes and also in regards to the conservation of their principal mission. The main mission of financial intermediation is to play the proper rules of liquidity management by channeling money from depositors, who have money but don't know how to invest towards firms and people who need funds to meet their needs or realize their projects. Following the Shari'ah principles brings many benefits to Islamic banks because the principles of the Islamic economic-cum-financial system, through their teaching, protect the interests of all parties concerned in the financial transactions and assure the sanctity of contractual relationships. At the same time, they prevent unjust, unfair, and unethical use of funds or exploitation of counterparties.

Furthermore, by limiting their trading book activities in the market and concentrating on their principal mission of the banking book financing transactions, Islamic banking reduces the level of risk of capital. As a result, it brings more confidence for their clients and partners, conserves their alinement

with the real market, preserves their role as financial intermediaries, and ensures the resilience and efficiency of the Islamic banking system.

Recommendations

Accordingly, through this modest paper, we suggest that the Islamic bank should continue the same pattern activities with trying to improve their services to meet the variable needs of their customers. We also believe that it is important to improve the Shari'ah governance both at the level of each bank and at the level of central banking in order to assure their full compliance with both spirit and texts of Shari'ah principles as highlighted in this paper and to improve auditing and checking of transactions for more transparency. That will reduce the notoriety of Islamic banking, increase the public's confidence, and consequently enhance the persistence of the pure and resilient financial intermediation.

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AUTHORS' PERCENTAGE-BASED CONTRIBUTION

The contributions of each author to the study by percentages are as follows:
The percentage-based contributions of the 1st author and 2nd author are %50, respectively.

1st Author: Literature review, data analysis, writing.

2nd Author: Research design, model construction, writing.

DECLARATION OF CONFLICTING INTERESTS

There is no financial or individual relationship with a person or an institution in the context of the study. Also, conflicting interests do not exist.

ETHICAL APPROVAL OF THE STUDY

All rules within the scope of “Instruction on Research and Publication Ethics for the Higher Education Institutions” were observed throughout the study. No actions mentioned in the Instruction's second chapter titled “Actions Against to Scientific Research and Publication Ethics” were taken in the study.

TANZANYA GİBİ KONVANSİYONEL BANKACILIĞIN HAKİM OLDUĞU BİR ORTAMDAKİ KURUMSAL VE BİREYSEL MÜŞTERİLERİN İSLAMİ BANKACILIK TERCİHLERİNİN ANA BELİRLEYİCİLERİNİN ANALİZ EDİLMESİ VE ÖNCELİKLENDİRİLMESİ

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ÖZ

Ticari bankalar herhangi bir ekonominin bankacılık sisteminde benzer işlevleri yerine getirdiğinden, bir müşteri tarafından banka seçimi kriterleri birçok bankacı için en zorlu konulardan biridir. Bu nedenle, bu çalışma İslami Bankalar için tüketici tercihlerinin ana belirleyicilerini analiz etmeye ve önceliklendirmeye çalışmaktadır. Kartopu örnekleme yoluyla 250 örneklem büyüklüğündeki anket sorularını Analitik Hiyerarşi Süreci (AHP) metodunu kullanarak benimsenir.

Bulgular, kurumsal müşterilerin tercihlerinde ana belirleyici faktör olarak dini saiklere öncelik verdiklerini ve bunu düşük hizmet ücretlerinin izlediğini, müşteri hizmetleri ve kâr paylaşımının da sırasıyla üçüncü ve dördüncü sıralarda yer aldığını ortaya koymaktadır. Bulgular ayrıca bireysel müşterilerin dini faktörlere öncelik verdiğini ve bunu müşteri hizmetlerinin izlediğini göstermektedir. Bu bulgular, müşterilerin dini motiflerin önemli etkisi olan İslami bankaları tercih ettiğini göstermektedir.

Ayrıca, çalışma Amana bankasının Şeriat uyumu açısından öncelikli olduğunu, NBC ve KCB bankalarının ise müşteri hizmetleri açısından oldukça öncelikli olduğunu, buna karşılık PBZ bankasının daha düşük hizmet ücretleri açısından yüksek puan aldığını da ortaya koymaktadır. Ayrıca, pencere hizmetine kıyasla tam teşekküllü İslami bankalar olarak faaliyet gösteren bankaların müşterilerin İslami bankalara olan güveni açısından daha yüksek bir potansiyele sahip olduğunu gösterir.

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ANALYZING AND PRIORITIZING THE MAIN DETERMINANTS OF CORPORATE AND RETAIL CONSUMER CHOICES FOR ISLAMIC BANKING IN A PREDOMINANTLY CONVENTIONAL BANKING ENVIRONMENT LIKE TANZANIAYussuf CHARLES YUSSUF^a*Istanbul Sabahattin Zaim University, Turkey*

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ABSTRACT

The criteria for bank selection by a customer is one of the most challenging issues for many bankers, as commercial banks perform similar functions in the banking system of any economy. Therefore, the present study attempts to analyze and prioritize the main determinants of consumer choices for Islamic Banks. It adopts survey questionnaires with 250 sample size through convenient and snow bowling sampling analyzed using the Analytic Hierarchy Process.

The findings reveal that corporate customers prioritize religious motives followed by low service charges as the main determining factor for their choices, while customer service and profit-sharing came in the third and fourth places, respectively. The findings further show that the retail customers prioritize religious factors, followed by customer services. These findings are indicative that the customers opted for Islamic banks with significant influence of religious motives.

Moreover, the study also reveals that Amana bank was prioritized in terms of Shari'ah compliance, while NBC and KCB banks both highly prioritized in terms of customer services, whereas PBZ bank was highly rated in terms of lower service charges. Further implying that customers would place the highest trust in Islamic banks when operating as full-fledged Islamic banks compared to window services.

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INTRODUCTION

The criteria for bank selection by a customer is a very complex issue, which is privately determined by the respective customer. The criteria also differ from time to time and from one country or territory to another. The criteria that entice customers to choose a bank today might not be the same for several years afterward.

In Malaysia, for instance, consumers' awareness of the banking products and consumer satisfaction were the major criteria for selecting Islamic banking during 2017 (Mariadas and Murthy, 2017). While in the past, the study by Hamzah *et al.* (2015) revealed that service quality was the main influencing factor for customers to choose Islamic banking.

Though the choices of any bank can be influenced by the respective bank's marketing strategy, nevertheless this requires full awareness on the part of the customer to know what the bank has to offer. Which also depends on marketing coverage and whether the individual customer has clearly understood what is contained in the marketing strategy of the bank.

In East Africa, particularly Tanzania, where it has been a decade since the inception of *Shariah*-based banking services, there is an indication of an optimistic trend in terms of customer demand for Islamic banking. This is evident from the recent boom accrued by Islamic banking in terms of increasing market shares, assets, financing, and deposits growth, based on the Bank of Tanzania as quoted from Zacharia (2019), between 2018 and 2019, the deposits in Islamic banks grew by 12 percent, while financing grew by 5 percent. After years of slow development, there is a profound sense that Islamic banking is heading for its breakthrough in the country by increasing the market share, year after year, as many people continue to exploit this new system of banking.

The strong growth is likely to continue in the upcoming years, which can be attributed to a thriving demand for banking services from a large segment of the populace that remain unbanked (Mhina, 2017). Thus, this enormous growth should not be taken as a threat to its counterpart the conventional banking. It is rather a challenge to expand and improve banking services to serve and include a more un-banked population. This is so, because any banking institution, whether Islamic or conventional, is an imperative cornerstone of financial intermediation in the economy of any country, including Tanzania. In addition to that, the financing system adopted by Islamic banking is considered developmental by its nature due to its connection with the real economy (Kahf, 2015).

According to Kahf (2015), the financing model by Islamic banking, especially the sale-based contracts, creates direct value addition to the economy, as opposed to the lending model. This is so because the process of lending involves a mere transfer of wealth (money) from the lender to the borrower, in which the process, per se, cannot create direct value addition to the economy, and there is no net change in the quantum of the wealth of either party.

Hence, Islamic banking is defined as a depository financial mediation that is specialized in providing finance through sale, lease, and sharing contracts while adhering to the tenets of Shari'ah's principle of financial transactions. It is supposed to observe the axiomatic principles of realism, morality, and justice by avoidance of interest/*riba* (Kahf, 2015). The financial transactions of Islamic banks need to abide by the ethics of the Qur'an and the Sunnah, which are the fundamental bases for *Shari'ah*. These ethics are incorporated into financial transactions (Ahmad and Ahmad, 2015). Thus, the smooth operation of Islamic banking is more complex than the traditional banking system as it has to abide by both the law of the country where it operates and at the same time the Islamic law of *mu'amalat* (transactions).

Generally, the history of Islamic banks can be traced back to Malaysia when a primitive bank in the form of a saving scheme for pilgrims called Tabung Haji or the Haji Fund was established in 1963 (Muhammed, 2013), where these savings were invested in the Shari'ah-compliant schemes. This was followed by the establishment of a community-saving bank, the Mit Ghamr bank in Egypt in 1963, which has been considered the first bank to operate on interest-free banking mechanisms (Alharbi, 2015).

Furthermore, the establishment of the Islamic Development Bank (IsDB) during the 1970s played a remarkable role in paving the way for opening more Islamic banks and Islamic financial institutions. Dubai commercial Islamic Bank (DIB), based in Dubai, is the first of its kind as a modern, full-fledged Islamic commercial bank established in 1975. According to IFSB Report (2020), Islamic banking grew by 12.7% year on year between the third quarter of 2019 and 2020, while the share of the Islamic financial service industry was 72.4%. The GCC accounted for the highest share of the global Islamic banks' assets by 45.5%, while the Middle East, South Asia, and Sub-Saharan African regions accounted for 25.9%, 23.5%, and 1.6%, respectively.

In Tanzania, the history of Islamic banking can be traced back to 2008, when the first Islamic bank was launched by Kenya Commercial Bank (KCB Bank Tanzania ltd) operated a window service known as the KCB Sahl bank. Two years later, in 2010, two other commercial banks, namely the National Bank

of Commerce (NBC) and Stanbic Bank, launched Islamic banking windows (Omar and Yusoff, 2019).

In the beginning, the demand for Islamic banking in the country continued to gain popularity, based on the fact that Muslims make almost 35.2% of Tanzania's total population (World Population Review, 2020). This further inspired other commercial banks to launch Islamic banking services, wherein the year 2011, two other commercial banks acquired licenses to operate Islamic banking. These included; Amana Bank, the only full-fledged Islamic bank, and the PBZ Bank Ltd operating Islamic division dubbed as Ikhlas Bank (Kulshrestha and Ali, 2018). Hence, until the year 2011, five commercial banks were offering Islamic banking services in Tanzania. However, the recent report by the Central Bank of Tanzania reveals that only four commercial banks actively operate Islamic banking. This resulted after the closure of the Islamic window operated by the Stanbic bank. Thus, Islamic banking represents 7.5 percent of the banking industry in the country, out of a total of 53 Full-fledged commercial banks, community banks, development banks, and microfinance banks licensed by the Bank of Tanzania (Bank of Tanzania, 2018).

The study by Mhina (2017) reveals that only 2.3% of the total banked population is relishing Islamic banking services in Tanzania. This can act as a big adrenaline shot in expanding the Islamic banking products to tap the market share of the unbanked populace, giving a promising future for Islamic banking in the country. Tanzania is one of the developing countries where Islamic banking and finance is still in an infancy phase of development. However, the statistics indicate conducive prospects, and it is one of the fastest-growing banking systems, which offer financial solutions necessary for economic growth. Despite the lack of official legal and institutional frameworks for Islamic banking in the country, the industry growth is impressive. Thanks to the smooth backing of the Central Bank of Tanzania, in which to support the basic operations of Islamic banking, Islamic banks are given waivers by the Bank of Tanzania to meet some of the basic requirements necessary for their operations.

It is reported that the current market share for Islamic banking deposits in Tanzania as of September 2019 stayed at 1.73 percent, whereas the balance sheet financing-share reported at 1.44 percent, with a total of 208,363 depositors (Zacharia, 2019). This represents an estimated annual growth of 12% from 184,108 depositors reported during September 2018. Further reports by the Central Bank of Tanzania concede that during the year, up to September 2019, in terms of asset growth, the Islamic banking financing was up by 5% to TZS 256.18 billion from 244.2 billion during September 2018.

Likewise, the individual banks' growth in terms of customer base indicates an impressive upward trend, for instance, taking two Islamic banks which started operations in 2011, based on the available data, PBZ Bank when it began operation in 2011 there were 7,742 customers, this number increased to 12,229 in 2012 and then rose again to 16,929 in 2013 representing over 100% customer growth within only three years. On the other hand, Amana Bank, during the year 2011, had 333 depositors. Then rose to 4,266 in 2012, which increased further to 10,685 depositors in 2013 and then ballooned to 85,000 depositors in 2018 (Muhsin, 2018). This upward trend is likely to continue in the upcoming years, given the impressive deposits and customer base growth. However, certain factors have illuminated in winning the customers' faith in Islamic banking leading to the persistent growth in terms of market shares, customers base, and financing. This raises a few pertinent research questions for the researchers and practitioners as to what the determinants for customers are to select Islamic banking.

- i. Is the religious motive the major influence/determinant for the corporate and retail consumers to choose Islamic banking in Tanzania?
- ii. Is the availability of profit-sharing options in Islamic banks the major influence for the corporate and retail consumers' choices?
- iii. Are the low service charges the major determinants of corporate and retail consumers' choices for Islamic banking?
- iv. Does customer care level determine the retail and corporate consumers' choices for Islamic banking?

Nevertheless, in the context of Tanzania, when customers choose Islamic banks, what exactly are the major priorities influencing their choices that act as drivers for Islamic banking growth is a question that the present study is attempting to address. This is so because this area is not well researched in the context of Tanzania's Islamic banking industry. There is a dearth of studies relating to Islamic banks in Tanzania especially to determine the influence of corporate and retail consumer choices for Islamic banking. Most of the available studies are mainly limited to the current state of affairs of Islamic banking, the impacts of practicing Mudarabah, the perception of Islamic banking in Tanzania, and so on. Kulshrestha and Ali (2018), Omar and Yusoff (2019), and Soud (2017), respectively.

Therefore, to bridge the gap, the present study performs thorough surveys of literature to analyze the general determinants of Islamic banks' consumer choices. Then it adopts survey questionnaires to determine the main determining factor and analyze how corporate and retail consumers prioritize

them when choosing Islamic banks in Tanzania. In other words, the literature survey assisted in understanding the overall determinants of consumer choice for Islamic banks in general, then we have contextualized those determinants in the context of Tanzania Islamic banking customers' using the survey questionnaires by analyzing the main determinants and their priorities.

In addition, the study employs the Analytic Hierarchy Process (AHP), a multi-criteria decision-making model of which, to the best of the researcher's knowledge, is the earliest to be adopted in the region. The study will set a new research direction towards prioritizing consumer choices for Islamic banking in general. The finding is also essential for Islamic banking in Tanzania, as being aware of the customer's priority will help lower sales and marketing costs. This is crucial to gauge the measures needed to improve Islamic banking services. Furthermore, it is anticipated that the results are valuable to shareholders in providing a long-lasting and sustainable solution towards prioritizing consumer choice of Islamic banking.

This study is structured into five sections, including the introduction. The second section reviews the extent of the related literature to identify the research gaps. The third section discusses the research methodology and its merits for prioritizing the determinant of consumers' choices for Islamic banks and discusses the qualitative method in the form of interviews. The fourth section presents and analyses the results of the qualitative data. The final section concludes the study and provides recommendations and suggestions for future studies.

LITERATURE REVIEW

There has been a claim that the mode of financing by Islamic banking, which is based on debt creations such as sales, and others, including lease-based, and profit-sharing can be a viable alternative to an interest-based system and curb the trending issue of financialization, as Islamic financing is a development by its nature because it sticks to the real economy financing (Kahf, 2015). According to Kahf (2015), in the debt creation principle, financing cannot go beyond the size of the real economy, where the real economy puts the cap on financing, such that the size of debt cannot exceed the real production of goods and services. Islamic financing, such as sale, is one-to-one financing; that is, goods for goods, services for services as opposed to debt-based financing. This contributes towards a more equitable circulation of wealth and increased equity participation in the economy. Because debt-creation, through a sale, for instance, generates a signal to the producers to replace the amount of commodity/service available in the economy. Therefore, as adopted by Islamic banking, this fascinating financing model can be one of the factors influencing the customer to choose Islamic banking.

However, Hassan (2018) argues that the growth in Islamic finance results from many factors, such as the need for socio-political and economic arrangements based on Islamic principles with a stronger Islamic identity. Thus, when the Muslim customers select Islamic banks tend to show a desire towards religion as a strong attribute in choosing the service of an Islamic bank. But, Erol and El-Bdour (1989) did not find any sufficient evidence to conclude that religious motives are the exclusive reason for choosing Islamic banking products. They rather concluded that the influence of peer groups, profit-loss-sharing modes of financing, and the general awareness of customers on the social-economic development role of the Islamic banks plays an important role in selecting Islamic banking.

The study by Al-Ajmi and Al-Saleh (2009) revealed strong evidence that the Islamic religious principle and social accountability are the two most essential factors that determine the consumer choice for Islamic banking, whereas cost-benefit revealed to be the third most important factor considered in Islamic bank choice. In addition to that, it is also asserted that customers of Islamic banks are more conversant with the products that fit the *Shari'ah* principles. Similar to the findings by Amin *et al.* (2011), where the religious commitment perse found to be insignificant factors in influencing Islamic banks' customers in Malaysia, rather found other three determinants that are significant in influencing customers to choose Islamic private financing, such factors include attitude, social influence, and pricing of banking products and financing.

These findings are contrary to Taib *et al.* (2008), which found religious and social influence to be jointly important in influencing the customer to participate in diminishing partnership as one of the Islamic banking products.

The finding by Subhani *et al.* (2012) reveals that low service charges and high profits sharing are the most determining factors, while religious motives and quality of service followed as essential factors in selecting Islamic banking in Pakistan. The study investigated a bunch of 10 factors, including convenience, services quality, religious motives, accessibility to ATM, privacy, and confidentiality, diversity in financing options, high profit, and low service charges, the influence of friends and family, and welcoming attitude of banking staff.

A similar study by Tahir *et al.* (2011) in Pakistan revealed that most customers valued product features and service quality as major factors for choosing Islamic banks while giving less priority to the religious motive as an instrumental factor.

The study by Guyo and Adan (2013) in Kenya investigated four variables, including religious motives, profit and service charges, financial options, and

Human Resource characteristics. The findings reveal that the four factors jointly influence customers' investment choices with Islamic banks. However, it was concluded that the religious factor played a great role, even though the variety of financing options offered by the Islamic bank had a stronger influence. The findings by Yap *et al.* (2012) reveals that the quality of service has a significant positive influence on customer satisfaction and hence banking service selection.

Therefore, the literature collections have provided suggestive characteristics of the Islamic banking customers' choices in general, thus forming a critical point for the foundation of the research questions in the context of Tanzania's Islamic banking system. On top of that, the studies related to prioritizing the main determinants for corporate and retail consumers' choices for Islamic banking in the context of Tanzania are very limited. Therefore, to bridge the study gap, the present study analyzes this concept with respect to Islamic banking in Tanzania. Besides, the study will apply the model developed by Saaty during the 1970s, commonly known as the Analytic Hierarchy Process-AHP method is employed to rank the determinants of customer choices in Islamic banking, hence filling the research gap and paving the way for further studies.

RESEARCH METHODOLOGY

In Tanzania, knowledge about what determines the corporate and retail customers to choose for Islamic banking is limited. Therefore, the present study analyzes and prioritizes the major factors that entice customers to opt for Islamic banks. The study adopts a mixture of literature surveys and questionnaires. Though there might be several studies related to the determinants of retail consumer choice for Islamic banking in other countries, such studies are limited in Tanzania. On top of that, to analyze the data, we have adopted Thomas L. Saaty's decision-making tool known as Analytic Hierarchy Process (AHP). This will attain two main objectives, first bridging the gap from the Tanzanian Islamic banking literature and secondly opening a new research direction on prioritizing the determinant for corporate and retail consumer choices for Islamic banking.

Previously a sample size of 350 people was arranged; however, due to time limitations, it was reduced to a sample size of 300 respondents after the pilot survey, which discovered non-responses from some of the Islamic bank's customers. However, the final result received a positive response from 250 respondents in both questionnaires and interviews. The sample included the Islamic banks' customers, scholars, practitioners, stakeholders, and staff. The Islamic banks' staff were selected using the snow bowling technique, and this

is so because, during working hours, it was not convenient for them to be approached using random sampling.

And then, the convenient sampling technique was applied to select the Islamic banks' customers, where our agents approached the customers in the banking premises during working hours. In some instances, to select reliable respondents, we have applied purposive sampling to capture the views and opinions of ten banking experts and scholars whom we have interviewed. Also, it was adopted to supplement the auxiliary information to seek clarification from the respondents. The respondents were invited to indicate, on a Likert scale ranging from 1 to 9, representing equally important to extremely important based on factors they believe are crucial when selecting Islamic banks.

Most of the factors under investigation have been adapted from the literature by Kaakeh *et al.* (2019), Kontot *et al.* (2016), and Ashraf *et al.* (2015) on Islamic banking patronage with some modifications to represent issues like profit sharing.

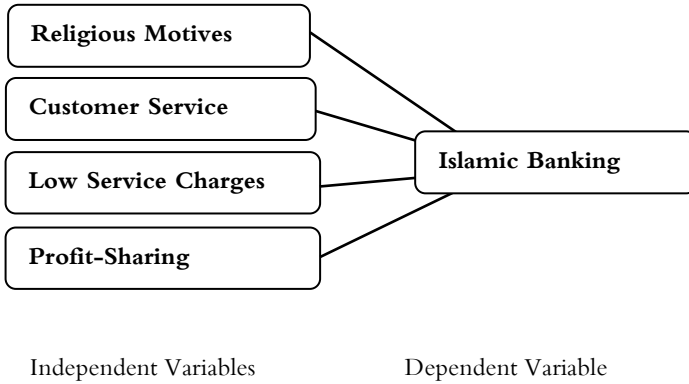
Based on the respondents' feedbacks during the pilot survey, the factors were reduced to 4 from 12. This step was achieved after the pilot study, where we asked the respondents to select the main determinants out of twelve that they consider the most important to influence their choices. Therefore, we included the determinants in the top four, which were further discussed with the experts. This step was also important to dodge the complexity in analyzing too many variables using the AHP Method.

Conceptual Framework

The study has identified four major factors that influence the customers' choices for Islamic banking, as summarized in figure 1, which shows the relationships between Islamic banking and its major determining factors in the form of the independent and dependent variables.

The independent variables may influence Islamic banking as the dependent variable in terms of its growth in customer base, deposits, and market shares. The idea behind putting Islamic banking as a dependent variable is because any changes in the determinants may positively or negatively influence Islamic banking individually or in general.

Figure 1: Conceptual Framework



As shown in Figure 1, the independent variables are religious motives, customer service, potential profit-sharing, and low service charges. Based on the feedback from the pilot study, we have theorized the factors above as the major determinants that influence corporate and retail consumer choices for Islamic banking in Tanzania. Next step, we have analyzed how customers tend to prioritize the four factors when selecting Islamic banking. Given that other things remain constant, we have further hypothesized that when the customer is a Muslim, the chances of being motivated by religious motives are higher as compared to non-Muslim customers. At the same time, other customers may be influenced by other determinants like customer service, lower service charges, and profit-sharing.

Developing the Analytic Hierarchy Process-AHP as the Research Instrument

The Analytic Hierarchy-AHP is the branch of the Multi-Criteria Decision Making (MCDM) model which was developed by Saaty during the 1980s (Karayalcin, 1982). It is the method that is commonly used in ranking a group of decisions in various fields such as government, industry, business, health, education, and so on (Aziz *et al.*, 2016). The model focuses on prioritizing the decision selection criteria by characterizing criteria based on their importance, where the criteria are sorted from the more important to the least important ones. The AHP model is a simple method used to evaluate qualitative and quantitative design by focusing on peer-to-peer comparisons (Zamani and Yousefi, 2013). The criteria are categorized into several steps in a hierarchical form where the objective is identified, followed by sub-criteria and then alternatives. Then the comparisons of the criteria, alternatives, and their

relative rankings are established in the hierarchical construction from the top-level, middle-level, and bottom-level (Zamani and Yousefi, 2013).

With the help of the AHP model, the respondents can make subtle trade-offs in non-quantifiable, non-market attributes of variables under investigation.

Table 1: Evaluation Scales of Pairwise Comparison By Saaty and Vargas, 2012

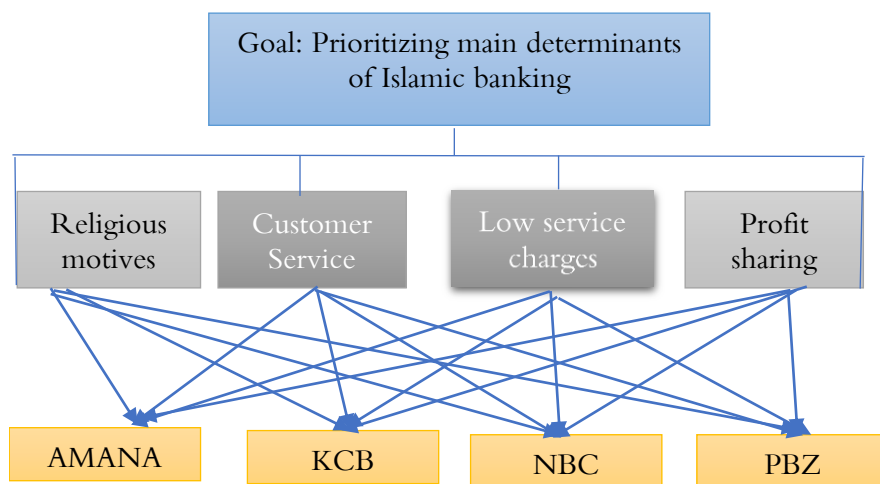
Value	Definition	Elaboration
1.	Equal important	Both choices contribute equally to the objective
2.	Weak	The judgment marginally favors one choice over the other
3.	Moderate important	
4.	Moderate plus	One choice is strongly important than the other
5.	Strong important	
6.	Strong plus	One choice is very strong important in comparison to another
7.	Very strong important	
8.	Very, very strong	One choice is of extreme importance compared to other
9.	Extreme important	
Reciprocal of the above	1/3,1/5,1/7,1/9	The assumption for choices i & j, if i=3, then j is 1/3.

Thus, the present study followed an evaluation scale by Saaty and Vargas (2012), and Pawel (2010) with five important ranking values where the respondents were required to make the judgments-based decision as shown in Table-I; these values were transformed into a matrix with the help of computer software specifically the Expert Choice software.

Presenting the AHP Model as a Research Tool

The goal of the study is identified as to analyze and prioritize the major determinants of corporate and retail consumer choices for Islamic banking in Tanzania. To this extent, three stages to demonstrate the AHP data hierarchy based on goal/objective, criteria, and alternatives are applied from Alam *et al.* (2012), as shown in Figure 2. The criteria are the determinants that may induce the customer to go for Islamic banking like the religious motives, potential profit-sharing, customer service, and low service charges, while the alternatives included the four commercial banks offering Islamic banking such as Amana Bank, KCB Bank Tanzania Ltd, NBC, and PBZ Bank, this is because once the customer is enticed by the aforementioned criteria will have to choose among the four candidates banks to join. This is based on Saaty and Vargas (2012) when adopting the AHP model, the first and foremost step is to decompose or structure the problem into a hierarchy (see Figure 2).

Figure 2: AHP Selection Criterion for the Major Determinants of Consumer Choices for Islamic Banking



Source: The Researcher.

On the top level is the overall objectives or goal for determining factors for choosing the Islamic banks. On the next level are the four criteria that contribute to goal satisfaction, and on the bottom level are the four candidate Islamic banks that are to be assessed based on the criteria on the second level.

As suggested by Ansah *et al.* (2015), a total of four mathematical computations needed to be followed in the Analytic Hierarchy. The first is hierarchy ranking from objective on the top followed by criteria then alternatives at the bottom. The next step is constructing pairwise comparison matrices for the criteria and alternatives as illustrated in matrix 1 and equation 1.

$$A = \begin{pmatrix} a_{11} & a_{12} & a_{1n} \\ a_{21} & a_{22} & a_{2n} \\ a_{n1} & a_{n2} \dots & a_{nn} \end{pmatrix} \dots\dots\dots 1$$

Such that,

$$[A_{ij}], \text{ where, } i, j = 1, 2, \dots, n \text{ } A_{ij} = 1 \text{ for } i = j$$

$$A_{ij} = \frac{1}{A_{ji}} \text{ for } i \neq j \dots\dots\dots 1$$

Where A is the matrix of pairwise comparisons, n is the total number of factors/criteria in the matrix of dimensional vectors (n x n), i and j are two alternatives under comparison. The element value in the diagonal of the matrix is equal to 1 such that $A_{ij} = 1$ or $a^{11} = 1$, $a^{22} = 1$, and $a^{nn} = 1$.

Moreover, the weights from the questionnaire survey were synthesized to obtain a set of findings, which will be discussed in the subsequent section. Below is a summarized stage involved in constructing the AHP instrument.

Stage 1: Identification of objective, criteria, and alternatives

Stage 2: Construction of the pairwise comparison matrices (PCM) with four criteria and four alternatives.

Stage 3: Administration of survey with customers, staff, and professionals to determine the weights of the criteria and alternatives.

Stage 4: Synthesis of the weights using the Expert Choice software.

Stage 5: Ranking of the criteria based on their importance.

DATA PRESENTATION, ANALYSIS AND DISCUSSION

This section presents the findings of the data collected from the field. It is divided into two sub-sections. The first section describes the demographic characteristics of the respondents, and the second sub-section presents and analyzes the research findings.

Demographic Characteristics of the Respondents

The respondents' demographic characteristics are structured into age structure, gender, religion, educational background, corporate banking customer, and retail banking customer Table 2 and Table 3.

From Table 2, most of the respondents comprised the age group from 18 to 45 years old, which made up almost 92% of the total respondents' age group. On the other hand, 134 of the respondents were males and 116 females, equivalent to 56 percent and 44 percent, respectively. Thus, from this observation, we may notice two things; that either there are more male customers of Islamic banks than female customers or male customers were extra active in responding to the survey compared to females.

Table 2: *The Age, Gender, and Religious Characteristic of the Respondents*

Structure	Frequency	Percentage
Age		
18-25	27	11
26-35	80	31
36-45	125	50
46-55	9	4
56-65	9	4
Total	250	100
Gender		
Male	134	54
Female	116	46
Total	250	100
Religion		
Muslim	179	72
Christian	71	28
Total	250	100

Source: Field data.

This difference is also attributed to the fact that most males are more active in doing business which necessitates them having bank accounts either to keep their savings or to facilitate their business transactions.

Moreover, it was observed that the males are having more family financial obligations compared to females, as evidenced by interviews with some of the males' respondents who were asked if their partners had an account with one of the Islamic banks, the answers revealed that their wives had no bank account because they do not have family financial obligations.

On top of that, 72 percent of the respondents were Muslim, while 28 were non-Muslim customers. This implies Muslim customers are more actively utilizing Islamic banking services. Though the number of non-Muslim customers is small compared to Muslim customers, it is important to note that Islamic banks accommodate both customers irrespective of their faith.

It is also important for policy implication for Islamic banks that they need expand marketing strategy to penetrate in serving more non-Muslim population irrespective of the faith. This is essential to clear the misconception from the public that Islamic banking is specific to Muslims alone.

Given the result from Table 3, the survey comprised 111 Islamic banks' corporate customers and 139 retail customers, equivalent to 44% and 56%, respectively. On top of that, 206 out of 250 respondents comprised the highest educational structure from undergraduate to master's degree. This level of education is sufficient for the respondents to make consistent and rational judgments in respect of the determining factors for Islamic banking based on the main four criteria under investigation.

Table 3: *Customer Type and Educational Structure of the Respondents*

Structure	Frequency	Percentage
Customer type		
Corporate	111	44
Retail	139	56
Total	250	100
Educational level		
Primary school	0	0
Secondary school	4	2
Diploma	18	7
Undergraduate	103	41
Master's degree	103	41
Ph.D.	22	9
Total	250	100

Source: Field Data

Analysis and Discussion of the Finding

As stated earlier, the AHP model was employed as a suitable approach to be adopted in this study for prioritizing the determinants of corporate and retail consumer choices for Islamic banking in Tanzania. The data were synthesized and analyzed with the help of Expert Choice software, a software program that

enabled to ranks and ratings of the determinants based on responses from the respondents.

The survey questionnaires were developed based on the criteria decision-making hierarchy as shown in Figure 2. The questionnaires were distributed into three groups, the first was envisioned to capture the information needed in prioritizing the determinants for the Islamic banks’ retail customers, the second group for corporate customers, and the third asked the respondents to rate the four existing Islamic banks of their choices based the four criteria/determinants. Therefore, to get the required number of questionnaires, we have generated six pairwise comparison matrices from each group given the four criteria using equation 2. This allowed the respondents to prioritize the four determinants in the light of the four existing Islamic banks as alternatives.

$$C = \frac{n(n-1)}{2} \dots\dots\dots 2$$

Where C is the comparison matrix, n is the number of criteria which is equal to 4 (i.e. n =4). Thus, it enabled a generation of six questions from each category of respondents.

In addition to that, the ratings were given the priorities as chosen by the respondents based on the fundamental Scale by Saaty and Vargas (Vargas, 2017), as shown in Table I. The data from the survey was compiled and synthesized using geometric means. Also, the Consistency Index (CI) and Consistency Ratio (CR) were produced.

Consistency Index (CI); according to Saaty and Vargas, the AHP model comprises a consistency index for a whole hierarchy. The adjustments must be smaller compared with actual values of eigenvector entries with an inconsistency of 10% or less. This implies that the number of elements should be smaller to maintain consistency (Vargas, 2017). From the survey data, the index (CI) is calculated by equation 3 and ranges from 0.03 and 0.06 for the responses in respect of corporate and retail customers, respectively. Having known these values in mind, we can calculate the Consistency Ratio.

$$CI = \frac{\lambda_{max}-n}{n-1} \dots\dots\dots 3$$

Where CI is the consistency index, n is the number of elements/criteria, and λ_{max} is the random max.

Consistency Ratio (CR); the consistency ratio is obtained by dividing the consistency index (CI) by the random index (RI) (RI is generated from the RI table not provided here). Therefore, CR ranged from 0.035 to 0.070 for the responses of corporate and retail customers for Islamic banks, respectively. Notice that these ratios are below the required standard of 0.10. Therefore, it is appropriate to conclude that the respondents were consistent in making their judgments and that the pairwise matrix was correctly developed. If the CR was greater than 0.10 would indicate the opposite, which would necessitate re-study the problem and revising the entire judgment.

Based on these scales, it convinces that the pairwise matrix was properly developed. Thus, we can proceed in rating and ranking the four determinants of corporate and retail consumer choices for Islamic banking in Tanzania. The generated results are shown in Table 4.

The results in Table 4 show that the respondents placed the highest priority on religious motives as the most determining factor for their choices to Islamic banking with a rating of 0.6035. This further implies that religious motive is the most enticing factor for corporate customers to choose Islamic banking.

Following this finding where the religious motive is revealed to be the most influencing factor for corporate customers to choose Islamic banking. Also, given the fact that religion for Islamic banking is observed through *Shari'ah* compliance in the banking activities. Therefore, this finding serves as a wake-up call for the Islamic banks in Tanzania to comply with *Shari'ah* requirements in all of their operations. This action will gauge as a guiding principle for attracting more customers to join Islamic banks at the same time enabling Islamic banks to implement ethical financing along the *Maqasid Al-Shari'ah*.

The prioritization of religious motives could be due to the respondents' awareness of the importance of *Shari'ah* compliance for Islamic banks, as this is the main distinguishing characteristic of Islamic banking from the traditional commercial banks. Moreover, *Shari'ah* compliance will enable Islamic banking to implement axiomatic principles of justice, fairness and morality, and ethical financing in all financial matters. Practicing these values by Islamic banks, in turn, attract more customers irrespective of their religion. This is because ethical financing, justice, and fairness in financial transactions are important not only to Islamic financing but also to the real world.

The second priority was placed on low service charges rating at 0.1957. The respondents have placed customer service and profit-sharing in third and fourth place, respectively.

Notice from Table 4 such that religion motive is ranked number one, this implies that despite the goodness of Islamic banks in terms of customer services,

coupled with low service charges, and lucrative profit sharing. Nonetheless, customers would be willing to forego all these criteria in favor of religion as the main determinant for choosing Islamic banking. Please note religion in this context also implies compliance with *Shari'ah*- banking system. Thus, it is imperative for Islamic banks to comply with the *Shari'ah* banking practices because without complying with this unique feature, there would be no difference for customers if they were to choose banking with conventional banks.

Table 4: Rating and Ranking the Four Main Determinants of Islamic Banks Corporate Consumer Choices in Tanzania

Determinants	Rating	Ranking
Religious Motives	0.6035	1
Customer services	0.1364	3
Low service Charges	0.1957	2
Profit-Sharing	0.0643	4

Source: The Researcher

On the other hand, P&L received the lowest ranking to understand why respondents did not prioritize P&L sharing in the first place or second place. The interview with some customers revealed that customers as investors in Islamic banks are risk-averse they are not willing to take high investment risk unless they are assured of full *Shari'ah* compliance, transparency, and full accounting disclosure from the Islamic banks.

Following the fact that the profit-sharing mechanism in Islamic finance does not require to guarantee capital and profit, therefore, the deficiency of full accounting disclosure related to Islamic banks' transactions has influenced customers to prioritize the lowest. As per the customers' perspectives, the lack of transparency and full disclosure makes them feel less confident to indulge in the profits and loss sharing contracts.

Unfortunately, except for one full-fledged Islamic bank, the earlier studies show that accounting disclosure and reporting of the transactions related to the sources and uses of funds that are *shariah* compliance are deficient on part of Islamic banks in Tanzania (Soud, 2017). This implies that if Islamic banks were to practice full transparency, accounting reporting, and disclose all the transactions related to Islamic banking activities would enhance more customers' trust in these banks in Tanzania. Moreover, this finding is consistent with Taib *et al.* (2008), Amin *et al.* (2011), and Guyo and Adan

(2013) in Kenya, which revealed among other things, customers placed religious factors as their main determinants for selecting Islamic banks.

On the part of retail consumer choices for the Islamic banks in Tanzania, the computed results show that the respondents placed the highest priority on religious factors, followed by customer services, while low service charges and profit-sharing came in the third and fourth ranking as the main determining factors influencing their choices for Islamic banks Table 5.

The ratings generated were 0.6002, 0.2393, 0.1186 and 0.0419, for religious factors, customer service, lower service charges, and profit-sharing, respectively.

Moreover, to understand why profit-sharing available with Islamic banks was given the lowest ranking among the four determinants, this study interviewed several retail customers and found that many respondents were unaware about whether they had ever received a share of profits in their accounts from Islamic banks. This was attributed to the fact that many of the customer categories were not aware whether they had received such profits in the form of *Hibah* or gift or through investment products such as account holders' investment account such (AHIA) like *Mudarabah* available with Islamic banks. However, further interviews with some of the respondents realized most of these customers did not keep an enormous amount of saving throughout the year in their banks' accounts that would allow them to earn noticeable amounts as profit shared. Nevertheless, they still considered this option (profit-sharing) as an important factor.

Thus, the finding indicates that retail consumers are more cognizant of religious factors followed by good customer services. This further implies that retail customers do not mind foregoing the benefits of service charges in place of *Shari'ah* compliance and customer services when selecting Islamic banks. This finding further indicates that the customers joined the Islamic banks with significant influence of religious motives. Moreover, in terms of customer services, the findings showed that customers generally were happy with customer care, and that is one of the reasons they have been influenced when deciding on investing in Islamic banking. However, the respondents cited some issues like long queues of customers, long hours spent for transactions, slow or little assistance for inquiries, and frequent breakdown of ATM in some of these Islamic banks are among the things that they recommended for more improvement on the part of Islamic banks' authority.

Generally, these findings, however, did not match those of Taylor and Baker (1994); Levesque and Mcdougall (1996); and Jamal and Naser (2002), who

found out that customer care satisfaction influenced most of the customers in opting for their banks.

Table 5: Rating and Ranking the Four Main Determinants of Islamic banks Retail Consumer Choices in Tanzania

Determinants	Rating	Ranking
Religious Motives	0.6002	1
Customer services	0.2393	2
Low service Charge	0.1186	3
Profit-Sharing	0.0419	4

Source: The Researcher

Therefore, based on these findings, it is imperative for Islamic banks' policy implications when designing their marketing strategy and product price discrimination to reflect customer needs by differentiating between corporate and retail customers' segments based on their priorities.

Based on the respondents' judgment, the researcher then rated and ranked the four Islamic banks, i.e. Amana Bank, KCB Tanzania Ltd, NBC Bank, and PBZ Bank, based on the four factors using the Expert Choice software program. The ratings and rankings of the four Islamic banks in relation to the four determinants are shown in Table 6. In this category, the respondents were asked to rate the individual banks based on the four-mentioned factors; the results are mixed. Amana Bank was given a high rating in terms of *Shari'ah* compliance; however, the researcher realized that this was partly attributed because Amana Bank is the only Islamic bank that operates full-fledged Islamic banking. Hence this was sufficient to entice customers to believe that the bank has full compliance with *Shari'ah*. NBC Bank and KCB Tanzania Ltd were given high ratings in terms of customer services, whereas PBZ Bank was given a high rating in terms of lower and affordable banking charges.

Furthermore, notice from Table 6 where in terms of religious motives the highest ranking of 0.464, was given to Amana bank. This implies that customers would place the highest trust in Islamic banking when it is operating as a full-fledged Islamic bank as compared to window service.

In other words, it implies that when a bank operates, a full-fledged Islamic bank will win customers' trust than when it operates as a window service.

Table 6: Ratings and Rankings of the Four Islamic Banks in Relation to the Four Determinants

No	Determinants	Islamic banks			
		Amana	KCB (T) ltd	NBC	PBZ
1	Religious motives	0.464	0.248	0.217	0.244
		[1]	[2]	[3]	[2]
2	Customer service	0.231	0.330	0.363	0.212
		[2]	[1]	[1]	[3]
3	Low service charges	0.212	0.216	0.249	0.438
		[3]	[3]	[2]	[1]
4	Profit-sharing	0.174	0.172	172	0.092
		[4]	[4]	[4]	[4]

Source: The Researcher

In terms of customer services, the KCB (T) Ltd and NBC ranked highest with a rating of 0.330 and 0.363, respectively, which implies that apart from religious motives, the good services provided by these two banks enticed customers to join them. PBZ Bank ranked highest with a rating of 0.438 in terms of lower service charges, which also implies that apart from the religious motives, the PBZ Bank also attracted its customer following the lower service charges.

CONCLUSION AND RECOMMENDATION

Conclusions

The study analyzes and prioritizes the main determinants of Islamic banking's corporate and retail consumer choices in Tanzania. The study looked specifically at four main determinants: religious factors, customer service, low service charges, and profit-sharing. Though many factors may influence customers' choices, such as the influence by family members or peer influence, reputation, and accessibility of the banks, sometimes customers have their priority in their minds which mostly influence their choices. Therefore, the study focused only on four main determinants. This followed the pilot study, which requested the respondents to select the main factors out of twelve that most influence their choices. Therefore, the study focused mainly on four factors that came in the top four of the list.

The survey covered several parts of the country such as the North Zone, Southern Highland, Central Parts, Coastal Zone, and Lake Zone. The sample size of 250 respondents from all four Islamic banks covered using random sampling, snow bowling, and purposive sampling.

The findings revealed that, as for corporate customers, the respondents placed the highest priority on religious motives as the most determining factor for their choices for Islamic banking with a rating of 0.604 followed by lower service charges with a rating of 0.196 standing in the second place. The respondents in this category have placed customer service and profit-sharing in third and fourth place, respectively.

This also implies that despite how good the Islamic banks might be at delivering good customer service, coupled with low service charges, and how attractive is the sharing profits nevertheless, customers are willing to forego all other criteria just for the religious factor that entails the *Shari'ah* compliance.

On the part of the retail consumer choices for the Islamic banks in Tanzania, the findings show that the respondents placed the highest priority on religious factors, followed by customer services, while low service charges and profit-sharing came in the third and fourth places, respectively.

Moreover, the respondents were asked to rate the individual banks based on the aforementioned factors; the results are mixed, while Amana bank was given a high rating in terms of *Shari'ah* compliance. At the same time, NBC Bank and KCB Tanzania ltd received high ratings in terms of customer services, while PBZ Bank was given a high rating in terms of lower and affordable banking charges. On the other hand, the respondents were undecided regarding the profit-sharing from Islamic banks to customers mostly because many respondents were unaware whether they received a share of profits from Islamic banks.

Recommendations and Policy Implication

Following the findings of this study, it is imperative to summarize the recommendations, which are crucial for policy implications for Islamic banking in Tanzania.

The findings revealed that the respondents placed the highest priority on religious motives as major determinants, influencing their choices. Therefore, the Islamic banks in Tanzania need to comply with *Shari'ah* requirements since this motive entices customers to join Islamic banks.

The findings also revealed that there are more Muslim customers than non-Muslim customers in Islamic banks. Again, Islamic banks must expand their marketing strategies to reach even more people, irrespective of their faith. This

also necessitates a great need for Islamic banks to prepare programs on different media to provide knowledge to the society on the role of Islamic banking. This is vital to clear the misconception in society that Islamic banking is dedicated to serving the Muslim populace alone.

The Areas that Need Further Research

Based on the findings of this research, it is essential to note that there is a pressing need for further research on investigating *Shari'ah* compliance for Islamic banking in Tanzania. This is because the responses from the survey have indicated that customers are enticed by this factor, so it is important to reaffirm whether these banks are complying with the *Shari'ah* requirements, even though Islamic banks in Tanzania are operating in an environment where there are no proper mechanisms for an institutional and legal framework for Islamic banking, still it is important to abide with the fundamental basis of Islamic banking services.

There is also a need to investigate whether Islamic banks provide profit-sharing in the form of *Hiba* (gift) due to the seigniorage right that these banks are privileged for using customers' deposits for creating more money. As many respondents were not aware of profit-sharing, there is also a need to understand why the customers did not keep their saving in bank account throughout the year, as it is believed that banking institutions are safe places for money keeping. Perhaps this could be why many customers missed the profit-sharing from Islamic banks as it is done annually at the end year.

Moreover, based on the scope of this study, there is a need to broaden the factors and including large sample sizes that may play a role in influencing the customer's choice of a bank. It is also important for further research on whether Islamic banking considers the concept of *Maqasid al-Shari'ah* (objectives of the *-Shari'ah*) properly during their financial undertakings.

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AUTHORS' PERCENTAGE-BASED CONTRIBUTION

The contributions of each author to the study by percentages are as follows:

The percentage-based contribution of the author is 100%.

The Author: Literature review, data analysis, writing, research design, model construction.

DECLARATION OF CONFLICTING INTERESTS

There is no financial or individual relationship with a person or an institution in the context of the study. Also, conflicting interests do not exist.

ETHICAL APPROVAL OF THE STUDY

All rules within the scope of “Instruction on Research and Publication Ethics for the Higher Education Institutions” were observed through-out the study. No actions mentioned in the Instruction's second chapter titled “Actions Against to Scientific Research and Publication Ethics” were taken in the study.