QARDHUL HASAN FINANCING

(Comparative Study between El-Zawa UIN Malang Indonesia and Melaka Islamic Religion Council Malaysia)

THESIS

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MAULANA MALIK IBRAHIM

STATE ISLAMIC UNIVERSITY MALANG

2018

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(Comparative Study between El-Zawa UIN Malang Indonesia and Melaka Islamic Religion Council Malaysia)

THESIS

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STATEMENT OF THE AUNTENTICITY

In the name of Allah,

With consciousness and responsibility towards the development of sciences, the author declares that the thesis entitled:

"*QARDHUL HASAN* FINANCING (COMPARATIVE STUDY BETWEEN EL-ZAWA UIN MALANG INDONESIA AND MELAKA ISLAMIC RELIGION COUNCIL MALAYSIA)"

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"*QARDHUL HASAN* FINANCING (COMPARATIVE STUDY BETWEEN EL-ZAWA UIN MALANG INDONESIA AND MELAKA ISLAMIC RELIGION COUNCIL MALAYSIA)"

The supervisor states that this thesis has met the scientifc requirements to be proposed and to be tested by the Thesis Board of Examiners.

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The Thesis Board of Examiners states that Suyuti Dahlan Rifa'i, NIM 14220101, Sharia Business Law, Department of Sharia Faculty of State Islamic University Maulana Malik Ibrahim of Malang, entitled:

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MOTTO

o][rih amrb gimjiq lofq [jihqbc]bsio][hom ri]b[ha rb qilf

~ Nelson Mandela

A h n s[hg[s[ha fi hchesg rhc cfg t

~Turkish Proverb

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All praise due to Allah, the Cherisher and Sustainer of all the worlds. There is neither might nor power but with Allah the Great, the Exalted. With only His Grace and Guidance, this thesis entitled "*Qardhul Hasan* Financing (Comparative Study between el-Zawa Uin Malang Indonesia and Melaka Islamic Religion Council Malaysia)" could be completed, and also with His benevolence and love, peace and tranquility of the soul. Peace be upon the Prophet Muhammad (saw) who had brought us from darkness into the light, in this life. May we be together with those who believe and receive intercession from Him in the day of Judgement, Amîn.

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Malang, 6th of September 2018

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TRANSLITERATION GUIDANCE

A. General

The transliteration guidance which is used by the Sharia Faculty of The State Islamic University of Maulana Malik Ibrahim Malang is the *EYD* (*Ejaan Yang Disempurnakan*). This usage is based on the Consensus Directive (SKB) from the Religious‟ Ministry, Education Ministry and Culture Ministry of the Republic of Indonesia, dated 22 January 1998, No. 158/1987 and 0543.b/U/1987, which is also found in the Arabic Transliteration Guide book, INIS Fellow 1992.

B. Consonants

Arab	Latin	Arab	Latin
ا	A	ط	Th
ب	B	ظ	Zh
ت	T	ع	‘
ث	Ts	غ	Gh
ج	J	ف	F
ح	H	ق	Q
خ	Kh	ك	K
د	D	ل	L
ذ	Dz	م	M
ر	R	ن	N
ز	Z	و	W
س	S	ه	H
ش	Sy	ء	‘

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ص	Sh	ي	Y
ض	Dl		

C. Vocal, Long-pronounce, and Diphthong

In every written Arabic text in the *latin* form, its vowels *fathah* is written with “a”, *kasrah* with “i”, and *dlommah* with “u”, whereas elongated vowels are written as such:

Elongated (a) vowel = â example قال becomes *qâla*

Elongated (i) vowel = î example قيل becomes *qîla*

Elongated (u) vowel = û example دون becomes *dûna*

Specially for the pronouncing of *ya' nisbat* (in association), it cannot represent by *"i"*, unless it is written as *"iy"* so as to represent *ya' nisbat* at the end. The same goes for sound of a diftong, *wawu* and *ya'* after fathah it is written as *"aw"* da *"ay"*. Study the following examples:

Diftong (aw) =و example قول becomes *qawlun*

Diftong (ay) = يexample خير becomes *khayrun*

D. Ta’ Marbûthah (ة)

*Nf g[l rb[b an*transliterated as “t” if it is in the middle of word, butif it is *Nf g[l rb[b*in the end of word, it transliterated as “h”. For example: الرسالة للمدرسةwill be*al-risalat li al-mudarrisah*, or in the standing among twowords that in the form *mudlaf and mudlafilayh*, it transliterated as

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"t" which is enjoined with the previous word, for example فى رحمة الله *fi rahmatillah*.

E. Auxiliary Verb and *Lafadh al-Jalalah*

Auxiliary verb "al" (ال) written with lowercase form, except if it located at the beginning of word, while "al" in *lafadh al-jalalah* which located in the middle of two words or being or become *idhafah*, it removes from writing. Study the following:

1. Al-Imâm al-Bukhâriy said ...
2. Al-Bukhâriy explains, in the prologue of his book ...
3. *G[ms ; ffbeh[qg ffgs[ms[ffgs[eoh.*
4. *cffbc [ttt[q[d[fff(*

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TABLE OF CONTENT

FRONT COVER i
TITTLE SHEET i
STATEMENT OF THE AUTHENTICITY ii
APPROVAL SHEET iii
PROOF OF THESIS CONSULTATION iv
LEGITIMATION SHEET v
MOTTO vi
ACKNOWLEDGEMENT vii
TRANSLATION GUIDANCE x
TABLE OF CONTENT xiii
ABSTRACT xv

CHAPTER I : INTRODUCTION 1
A. Background of Problem 1
B. Statement of Problem 6
C. Objectives of Research 6
D. Significance of Research 6
E. Operational Definition 7
F. Structure of Discussions 9
CHAPTER II REVIEW OF RELATED LITERATURE 11
A. Previous Research 11
B. Conceptual Framework 14
1. Financing 14
a. Definition 14
b. Type of Financing 16
c. The Principles of Financing 17
d. Purpose of Financing 35
e. Function of Financing 37
2. The Overview of *Qardhul Hasan* 39
a. Definition 39
b. Legal Basis of *Qardhul Hasan* 41
c. Term and Procedure of *Qardhul Hasan* 46
d. Characteristic of *Qardhul Hasan* 47
e. Sources of *Qardhul Hasan* 49
f. Provisions of *Qardhul Hasan* 51
3. The Overview of *Zakat* 52
a. Definition 52
b. Legal Basis of *Zakat* 56
c. Requirements of Wealth be The Source of *Zakat* 59
d. Sources of *Zakat* 61
e. Receiver (*Mustahiq*) of *Zakat* 66
f. Law of Crediting Property's Zakat 68
CHAPTER III : RESEARCH METHOD 70

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

A. Research Locus 71
B. Type of Research..... 71
C. Research Approach 72
D. Data Sources..... 73
E. Data Collecting Method 75
F. Data Analysis Method..... 76
G. Data Validity Technique 78
CHAPTER IV : FINDINGS AND DISCUSSION 80
A. Overview of Research Object 80
1. El-Zawa UIN Maulana Malik Ibrahim Malang..... 80
a. Background of Establishment of El-Zawa UIN Malang 80
b. Legal Basis of Establishment of El-Zawa UIN Malang..... 82
c. Vision and Mission of El-Zawa UIN Malang 83
d. Work Programs of El-Zawa UIN Malang 84
e. Members of El-Zawa UIN Malang..... 97
2. Melaka Islamic Religion Council (MAIM) 98
a. Background of Establishment of MAIM..... 98
b. Legal Basis of Establishment of MAIM..... 99
c. Objective, Vision and Mission of MAIM..... 100
d. Work Programs of Melaka Islamic Religion Council (MAIM) 102
e. Subsidiaries of Melaka Islamic Religion Council (MAIM) 105
f. Members of MAIM 107
g. Organization Chart of MAIM..... 108
B. Comparative Study of *Qardhul Hasan* Financing between El-Zawa UIN Malang Indonesia and Melaka Islamic Religion Council Malaysia 109
1. Implementation of *Qardhul Hasan* Financing in El-Zawa UIN Maulana Malik Ibrahim Malang Indonesia..... 109
2. Implementation of *Qardhul Hasan* Financing in Melaka Islamic Religion Council Malaysia..... 117
C. Similarities and Differences of *Qardhul Hasan* Financing Contract between El-Zawa UIN Malang Indonesia and Melaka Islamic Religion Council Malysia 125
1. The Similarities of *Qardhul Hasan* Financing..... 125
2. The Differences of *Qardhul Hasan* Financing..... 126
D. *Fiqh* Analysis Against the Implementation of *Qardhul Hasan* Financing Between El-Zawa UIn Malang Indonesia and Melaka Islamic Religion Council Malysia 128
CHAPTER V : CLOSING 132
A. Conclusion 132
B. Suggestion..... 133
BIBLIOGRAPHY 135
APPENDIXES 140
CURRICULUM VITAE 151

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ABSTRAK

Suyuti Dahlan Rifa'i, 14220101, 2018. ***Pembiyaan Qardhul Hasan (Study Perbandingan antara El-Zawa UIN Malang Indonesia dan Majlis Agama Islam Melaka Malaysia)***. Skripsi, Jurusan Hukum Bisnis Syariah, Fakultas Syariah, Universitas Islam Negeri Maulana Malik Ibrahim Malang. Pembimbing: Dr. Burhanuddin Susamto, S.H.I., M.Hum.

Kata Kunci: *Qardhul Hasan*, Pembiyaan, Lembaga Amil Zakat

Pengentasan kemiskinan merupakan kewajiban bagi semua umat Islam, sebagai bentuk *[g[l g[lo h[bc gohae[l* yang juga merupakan ajaran dasar dalam Islam. Belakangan ini hampir setiap negara terdapat suatu lemabaga yang konsen di bidang zakat dan pemberdayaan ummat /masyarakat, salah satunya dengan menggunakan pembiyaan Qardhul hasan yang mana bagi seseorang yang membutuhkan dana untuk memenuhi kehidupan. Ada beberapa lembaga amil zakat (LAZ) khususnya di Indonesia dan Malaysia. Salah satunya lembaga zakat dan infaq El-zawa UIN Malang dan Majlis Agama Islam Melaka (MAIM) malaysia. Dalam penelitian ini, terdapat rumusan masalah. Pertama, bagaimana perbandingan pembiyaan *Qardhul Hasan* antara El-zawa UIN Malang Indonesia dan Majlis Agama Islam Melaka Malaysia?. Kedua, bagaimana analisis fiqihiyyah terhadap implementasi pembiyaan *Qardhul Hasan*?.

Penelitian ini tergolong dalam jenis penelitian empris. Pendekatan penelitian ini menggunakan pendekatan yuridis sosiologis. Dengan teknik analisis deskriptif-komparatif yakni menghubungkan data yang satu dengan data yang lain, kemudian menarik kesimpulan dari data-data tersebut sehingga diperoleh gambaran dengan membandingkan dari masing-masing sumber dan dapat mengetahui persamaan dan perbedaan kedua lembaga tersebut dalam pembiyaan *Qardhul Hasan*. Metode pengumpulan data terdiri dari metode wawancara, dan dokumentasi.

Hasil penlitian ini menunjukkan bahwa: pertama, pelaksanaan pembiyaan *Qardhul Hasan* pada el-zawa dan MAIM memiliki persamaan dalam sumber dana pembiyaan *Qardhul hasan* yaitu kutipan dana zakat. Sedangkan, perbedaan pembiyaan *Qardhul hasan* antara lain: el-Zawa memberikan pinjaman dana maksimal Rp. 5.000.000 dengan angsuran 20 bulan, MAIM membeikan pinjaman dana maksimal RM.5.000 dengan angsuran 2 tahun 9 bulan. El-zawa mempunyai dua macam pembiyaan *Qardhul Hasan* yaitu: 1. *Qardhul Hasan* Consumtive, 2. *Qardhul Hasan* Productive, sedangkan MAIM hanya melalui Ashnaf Gharimin. Kedua, praktek pembiyaan *Qardhul Hasan* boleh dilakukan karena dalam Status kepemilikan dan pendistribusian harta zakat di el-zawa and MAIM menggunakan konsep *talfq* (menyatukan dua pendapat atau lebih dalam satu kasus), yaitu status kepemilikan mengikuti *g[tb[M* , dan pendistribusian mengikuti pendapat *madzhab jumhur* termasuk di dalamnya adalah Imam Hanafi.

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ABSTRACT

Suyuti Dahlan Rifa'i, 14220101, 2018. ***Qardhul Hasan Financing (Comparative Study between El-Zawa UIN Malang Indonesia and Melaka Islamic Religion Council Malaysia)***. Thesis, Department of Islamic Business Law, Faculty of Sharia, State Islamic University of Maulana Malik Ibrahim of Malang. Supervisor: Dr. Burhanuddin Susamto, S.H.I., M.Hum.

Keywords: *Qardhul Hasan*, Financing, Zakat Receiving Institutions

Poverty reduction is an obligation for all Muslims as a form of *amar g[lo h[bcg ohe[l* which become the basis of Islamic teaching. Recently, almost every country there are institutions that concentrates in the field of *zakat* and empowerment of society (*ummah*) whereby, one of the ways by using *Qardhul Hasan* financing for someone who needs funds to fulfill life. There are several of Zakat Receiving Institutions (LAZ) especially in Indonesia and Malaysia. One of them is institution of zakat and infaq El-zawa UIN Malang and Melaka Islamic religion council (MAIM) Malaysia. In this study, there is a formulation of the problem. First, how is the comparative *Qardhul Hasan* financing between el-Zawa UIN Malang Indonesia and Melaka Islamic Religion Council Malaysia?. Second, how is *Fiqh* analysis against the implementation of *Qardhul Hasan* financing?.

This research is classified into the types of empirical research. Approach this research use the juridical sociological approach. With descriptive-comparative analysis techniques connect data that one with other data, then drawing conclusions from the data so obtained the picture intact and profound by comparing from each source and be aware of the similarities and differences of these two institutions in the financing of *Qardhul Hasan*. Data collection methods consist of interviews, and documentation.

The results of this research show that: First, implementation of *Qardhul Hasan* financing in el-zawa and MAIM have similarities in the funding sources of *Qardhul Hasan*, namely zakat funds. Whereas, the difference *between Qardhul Hasan* financing are: el-Zawa providing a maximum loan of Rp. 5,000,000 in installments of 20 months, MAIM providing a maximum loan of RM. 5.000 in installments of 2 years 9 months. El-zawa has two types of *Qardhul Hasan* financing namely: 1. *Qardhul Hasan* Consumtive, 2. *Qardhul Hasan* Productive, while MAIM only financing on *Ashnaf Gharimin*. Second, the practice of the financing of *Qardhul Hasan* is allowed because the status of ownership and distribution of the assets of zakat in el-zawa and MAIM uses the concept of *talfq* (uniting two opinions or more in one case), namely the ownership status following the *Mh ! g[tb[* , and the distribution of the opinions of the *jumhur* schools including Imam Hanafi.

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ملخص البحث

سيوطي دحلان رفاعي، 14220101، 2018. **تمويل القرض الحسن (دراسة مقارنة بين الزاوا لجامعة الحكومية الإسلامية بمالانج إندونيسيا ومجلس دين الإسلام ملك ماليزيا)**، قسم التجار الشريعة، كلية الشريعة، جامعة مولانا مالك إبراهيم الإسلامية الحكومية بمالانج.
المشريف:الدكتور برهان الدين سوسمتو، الماجستير

الكلمة الرئيسية: القرض الحسن، تمويل، مؤسسات عميل الزكاة.

التخفيف من حدة الفقر واجب على جمع المسلمين. في الآونة الأخيرة كاد كل بلد لديه مؤسسة تتركز في مجال الزكاة وتمكين الأمة / المجتمع ، واحدة منها باستخدام قرض الحسن لمحتاج الأموال لتحقيق الحياة. هناك العديد من مؤسسات عميل الزكاة ، خاصة في إندونيسيا وماليزيا. واحد منهم الزاوا لجميعة الحكومية الإسلامية مولانا مالك إبراهيم و مجلس دين الإسلام ملك بماليزيا. صيغة المشكلة في هذا البحث. أولاً، كيف المقارنة بين تمويل قرض الحسن في الزاوي لجامعة الحكومية الإسلامية بمالنج إندونيسيا ومجلس دين الإسلام ملك ماليزيا؟ ثانياً ، كيف يتم تحليل الفقية على تنفيذ تمويل القرض الحسن؟

نوع البحث هو البحث التجريبي. هذا النهج البحثي يستخدم نهجًا قانونيًا اجتماعيًا. باستخدام تقنية التحليل الوصفي المقارن التي تربط بيانات واحدة بآخر، ومن كل مصدر ويمكن معرفة أوجه التشابه والاختلاف بين المؤسستين في تمويل القرض الحسن. طريقة جمع البيانات تتكون من أساليب المقابلة ، والوثائق.

.تشير نتائج هذا البحث إلى: أولا ، تنفيذ تمويل القرض الحسن على احدهما في مصادر التمويل لتمويل قرضه الحسن تحديدا زكاة الصناديق. و الفرق بين تمويل قرض الحسن هو: الزوي يوفر الحد الأقصى لقرض 5،000،000 روبية على أقساط لمدة 20 شهرا ، MAIM يوفر أقصى قرض من RM.5000 على أقساط لمدة 2 سنوات و 9 أشهر. تمتلك الزوي نوعين من التمويل لقرض الحسن ، وهما: 1. القرض الحسن الاستهلاكي ، 2. القرض الحسن الإنتاجي ، بينما لا يمر إلا عبر الأصناف الغارمين. ثانياً ، اتفقت العلماء علي ممسوح ممارسة تمويل القرض الحسن في الزوي ومام، لأنه قد استوفى الشروط والأحكام ، من بين أمور أخرى: من حيث تمويل رأس المال وأهداف التمويل ومتطلبات التموي.

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CHAPTER I

INTRODUCTION

A. Background of Research

As a religion that believe to *l[bg[n[h fcf [f[gch*, Islam does not only regulate the relationship between human and God, but also regulate a role of human behavior to social environment. Instinctively, human being cannot live without the aid of others. The social worshiping (*ibadah*) in Islam has materialized through some religious duties such as *zakah*, *infaq*, *shadaqah*, *waqaf* and *hibah*. Poverty reduction is an obligation for all Muslims as a form of *[g[l g[lof nahi munkar* which become the basic of Islamic teaching. Allah (Glory to Him, The Exalted) said in Quran surah *al-Hadid* verses 11:

مَنْ ذَا الَّذِي يُقْرِضُ اللَّهَ قَرْضًا حَسَنًا فَيُضَاعِفَهُ لَهُ وَلَهُ أَجْرٌ كَرِيم

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Qbi amcnrb[nq i o f f[h ; ff[b [ai i s f f[h mi B q cffg o f tiply it for bcg [h b q cffb[p [hi f l q[l (Q.V. *al-Hadid* 57:11) [1]

The verses above explained that Allah invited to do *infaq* in His way with reward to who wants to doing it, so Allah will double the reward by giving a virtue become seven hundred times and will get the gain of revenge in heaven.[2] Lending the useful things to Muslim people is an agreement of *Qardhul Hasan*. It is become a capital effort that available in many institutions which have the money loans services program for underprivileged communities. [3]

Fiqh Muamalat covers all the contract of Islamic Finance such as *Musyarakah, Mudarabah, Murabahah, Tawaruq, Ijarah, Wadiah* and etc. *Qardhul Hasan* is one of them which mean a kind of gratuitous loan that can help all Muslims who need money, especially in certain needs. Thus, *qard* enhances brotherhood among the Muslims. The main objectives of *qard* are: To help the needy fellow people, to establish better relationship among poor and the rich, the mobilization of wealth among all people in the society, to perform a good deed that is encouraged and appreciated by the Allah Almighty and His messenger, to strengthen the national economy, to facilitate the poor to create new jobs market and business ventures by using their

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[1]QS. al-Hadid (57): 11
[2]Kementrian Agama RI, *Al-Kol [h [h N[mdhs[" amcs[ha am g j ol h[e[h &*Jilid 9, (Jakarta: Widya Cahaya, 2011), p. 674.
[3] Muhammad Syafi'i Antonio, *Bank Syariah dari Teori ke Praktek* (Jakarta: PT Gramedia Pustaka Utama, 2001), p. 132.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

merits, skills and expertise, to establish a caring society, to eradicate unemployment problem from the society.

Recently, almost every country there are institutions that concentrate in the field of *zakat* and empowerment of society (*ummah*), one of the ways by using *Qardhul hasan* contract which is for someone who needs funds to fulfill life. There are several of amil zakat institutions (LAZ) especially in Indonesia and Malaysia. One of them is institution of zakat and infaq El-zawa UIN Malang and Melaka Islamic religion council (MAIM) Malaysia.

The existence of "eL-Zawa" has been benefited by students, employees, *mustadl'afin*, and *mustahiqqin*, both inside and surrounding of UIN Maliki Malang. The study center of *zakat* and *waqaf* (El-Zawa) State Islamic University of Maulana Malik Ibrahim Malang is a center of *zakah* and *waqaf* institution agency inside university. This institution was established based on the Decree of the Rector No.Un.3 / Kp.07.6 / 104/2007 dated January 27, 2007, regarding the Appointment of Zakat Management Center and Zakat Endowments, It is one of the pillars of Islam that must be fulfilled by all Muslims. It is a special unit in Campus which manages and makes *zakah* and *waqaf* as a focus study. The social function of el-Zawa institution is accumulation and distribution activities of social funds (*zakat*, *waqaf, infaq*, *shadaqah*, and *hibah*) and *Qardhul Hasan.* Its mean loaning funds activity without financial return with the returning back of loaning funds by borrower as his obligation at once or in installments on the specific time with goods

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warranty evidence, and it is only distributed to students and official employees of campus.[4]

Meanwhile, Majlis Agama Islam Melaka (MAIM) was founded on September 28, 1960. It is intended to manage the affairs of the Islamic State of Malacca in addition to assist and advice His Majesty the Yang di-Pertuan Agong. Establishment of Majlis Agama Islam Melaka strengthened by the enactment of the establishment of: Administration of the Religion of Islam (State of Malacca) 2002 Section 4 subsection 1. There shall be a body known as the "Majlis Agama Islam Melaka" to assist and advise the Yang di-Pertuan Agong in matters relating to Islam. As a policy-making body Agama Islam Negeri Melaka, some agencies / institutions Islam was established as the Islamic Religious Department, Mufti Department, Shariah Court and subsidiaries MAIM to implement the decisions or policies made by MAIM.[5] MAIM has the supremacy to collect *zakat* in the country. Because having the authority to make rules and monitoring all matters that relating to the collection, administration and division of *zakat*. Besides, the authorities of collecting or giving permission letter to collect charity donations for the progress of the Muslims in accordance with Islamic law.

The similarities between these two institutions are in function and conviction. As an institution that aspires to become the center of social activity in surrounding of UIN Maliki Malang, el-Zawa launched the

[4] http://elzawa.uin-malang.ac.id Accessed on Monday, December 11. 2017.
[5] http://www.maim.gov.my Accessed on Saturday, March 24. 2018.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

"*Qardhul Hasan*" program in 2008. The program aims to help employees to fulfill the needs of consumptive and productive with proof of guarantee in financing. Whereas Melaka Islamic religious council (MAIM) provides loans to the public/society with a contract of *Qardhul hasan* especially to the *gharimin* without any guarantee in financing.[6] While *Qardhul Hasan's* funding source between the two institutions was taken through *zakat* distribution funds according to their respective countries, with a different system of government between Indonesia-Malaysia and in terms of managing the *zakat* system it is also different. Thus, it will produce differences in the results of financing *Qardhul Hasan* in both institutions.

Therefore, the author wants to know about the implementation of financing products of *Qardhul Hasan* Contract financing between these two institutions. Those phenomenon interest the author to make the research under the title, "*Qardhul Hasan* Financing (Comparative Study between el-Zawa UIN Malang Indonesia and Melaka Islamic Religion Council Malaysia)".

[6]*Gharimun* is the plural [in Arabic] of *ghaarim* basically said that means the person who has debts. While *gahriim* also means people who are in debt and it is also sometimes defined as a person with creditors. The original meaning of the word in the language of *Gharm* is fixed / permanent. Retrieved on this website http://www.maim.gov.my/index.php/my/contact/asnaf-zakat-program/gharimin.

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B. Statement of Problem

From the background of the problem, the questions will be proposed in the title are as follow:

1. How is the comparative *Qardhul Hasan* financing between el-Zawa UIN Malang Indonesia and Melaka Islamic Religion Council Malaysia?
2. How is *fiqh* analysis against the implementation of *Qardhul Hasan* financing between el-Zawa UIN Malang Indonesia and Melaka Islamic Religion Council Malaysia?

C. Objective of Research

From the statement of problems above, the objectives of research are as follow:

1. To know about comparative *Qardhul Hasan* financing between el-Zawa UIN Malang Indonesia and Melaka Islamic Religion Council Malaysia.
2. To explore the *fiqh* analysis against implementation of *Qardhul Hasan* Financing between el-Zawa UIN Malang Indonesia and Melaka Islamic Religion Council Malaysia.

D. Significance of Research

There are some benefits that are able to obtain from the results of this research covers two things, namely theoretical benefits or academic benefits and practical benefits.

1. Theoretical Benefits

   This research is expected to provide additional concept and knowledge regarding financing contract of *qardhul hasan* and

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comparative study both of two institutions in Indonesia and Malaysia. In the other hand, it will also enhance the literature in field of law particularly. This research can be providing materials and input as well as a reference for related research in field of law specifically.

2. Practical Benefits

The research result is expected to make a contribution and suggestion for policy makers in implementing of *qardhul hasan* financing both two institution in Indonesia and Malaysia. This research can be used as a research material for the other students or researcher in the field of Islamic Economic.

Meanwhile, the practical benefits can be obtained from the results of the research and share the knowledge to other people. In addition, fulfill the last task of academic as a requirement of undergraduate degree (S1) in Sharia Faculty, The State Islamic University of Maulana Malik Ibrahim Malang, Indonesia.

E. Operational Definition

1. *Qardhul Hasan*

Qardhul Hasan (Benevolent Loan) is a noble act because of non-profit material returns. It is highly encouraged in Islam because it can help people in need from being oppressed by the borrower. It aims to foster love, brotherhood and unity.

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2. Financing

Financing is the process of providing funds for business activities, making purchases or investing or funding that given by a party to other parties due to support the investment which was planned.[7] In other words, financing is funding issued to support planned investments. Financing also takes advantage of the fact that some will have a surplus of money that they wish to put to work to generate returns, while others demand money to undertake investment (also with the hope of generating returns), creating a market for money.

3. el-Zawa

A special institution betrothed in society devotion and public services. The aim of this institution is formed of *zakat* and *waqf* as the field of research, education and professionalism in the Management of *zakat* and *waqf* based on University in Indonesia.

4. MAIM

Melaka Islamic Religion Council *(Majlis Agama Islam Melaka)* is intended to manage the affairs of the Islamic State of Malacca in addition to assist and advice His Majesty the Yang di-Pertuan Agong. The aim of institution is Make MAIM as a unifying organization *ummah* and the Muslim community in reference problems that arise. In the other hand,

[7]https://www.investopedia.com/terms/f/financing.asp Accessed on Saturday, March 24. 2018.

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designing and shaping the development of self-esteem *Asnaf* with pure and noble in improving the socio-economic.

F. Structure of Discussion

To provide the thesis systematically and well relationing of each chapter, researcher describes the structures of the thesis as follows:

Firstly, chapter I is introduction. This chapter contains: background of research as the basis reason of writing the research. Then the next are the statement of problem and objective of problem. The statement of problem is the Question of the research that must be answered. The objective of problem explains the achieved result of the research. Furthermore, the significance of the research provides the thinking on *Fiqh* analysis of *Qardhul hasan* (Benevolent Loan) financing. The last is structure of discussion that can give a good basis picture and systematic research plot.

Secondly, chapter II is a Review of Related Literature. In this chapter discusses about literature that consists of the previous researchs and the theories. Previous researchs are informations of research that had been done by previous researchers. Chapter II aims to review the concepts and theoretical basis for research analysis. The previous researchs mention the differences and similarities between previous and current researchs.

Thirdly, chapter III is research method. In this chapter is a research method that is directive step of research as tool of research. This chapter

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provides the steps used to discuss the problem of research. The research method explains the tools and methods to analyze the data obtained.

Fourthly, chapter IV is a findings and discussion. In this chapter provides the description of the case. This chapter focuses to see the description of the case, the commentaries of scholars, and Islamic book. This chapter will be processed with entering the data and information from previous chapter. So, the result obtained is accurate and undoubtable.

Finally, chapter V is a Conclusion and Suggestions. The last chapter provides conclusion of research discussion. Then it is completed with suggestion as additional thinking. The chapter is expected to understand about the research.

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CHAPTER II

REVIEW OF RELATED LITERATURE

A. Pervious Research

The related research in *Qardhul hasan* financing contract is not the first to do, particularly relate to specifically discuss about it, which has previously done some research related to this. In this case, the author finds some things have not gotten around by researchers before. Then, this research is not research duplication.

There are some previous researches about the *Qardhul hasan* financing. First, research on contract of *Qardhul hasan* financing had been done by several researchers, such as Fachruddin titled, "*Pengelolaan Al-Qard AlHasan Pada BPRS Margirizki Bahagia Yogyakarta Dalam Perspektif*

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

Hukum Islam". In the thesis Fachruddin said that the concept of *al-qadr al-hasan* who is did by BPRS Margarizki Bahagia in line with the mission of charity (*infaq* and *sadaqoh*), namely to optimize the empowerment of the funds to help people that face economic difficulties and to help the economically disadvantaged in its efforts to get out of poverty, so that not only is the obligation of a moment for the payer without considering the improvement of the welfare of its recipient.

The same research was also done by Meutika Azizah titled, "*Penerapan Fungsi Sosial (Charity) Pada Baitul Maal Wat Tamwil Dengan Cara Bantuan Modal Dengan Sistevm Al- Qardhul Hasan (Benevolent Loan) (Studi Kasus Di Bmt Harapan Kita Bantul)*". In the thesis Meutika said that finding the previlege and primacy in the implementation of the system of *al-qardhu al-hasan* on BMT Harapan Kita Bantul. The results showed that the application of the system *al-qardhu al-hasan* has a social function that can help and improve the degree of people who are not able to. If the BMT has a *Baitul Mal* which is stronger that the application of *al-qardhul al-hasan* can be implemented properly. This is a concern of *BMT Harapan Kita* to the environment of the surrounding community.

In the other hand, Sapto Hadi Santoso was also done the research titled, *J ffem[h[[h J g cfs[[h K[l bof B[san Di Pusat Kajian Zakat Dan Wakaf El-Zawa Uin Maliki Malang Tinjauan Fatwa DSN-G OCJCP),* . In the thesis Sapto said that the concept of implementation of *Qardhul Hasan* contract in the center of *zakat* study and *waqaf* of El-Zawa. The similarities of

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this research with the research proposed by the author are on the general discussion of the contract of *Qardhul Hasan*. The difference on the object of the research; the author examines the implementation of *Qardhul hasan* contract financing between two different institutions. Which is the system and Financing agreement between the two institutions are different between el-Zawa UIN Malang and Melaka Islamic Religion Council Malaysia.

Table 2.1
Previous Research

Name	Title	Material Object	Formal Object
Fachruddin[8]	*Pengelolaan Al-Qard AlHasan Pada BPRS Margirizki Bahagia Yogyakarta Dalam Perspektif Hukum Islam*	Shariah People's Financing Banks (BPRS) Margirizki Bahagia Yogyakarta	Optimized the empowerment of the funds to help people that face economic difficulties and to help the economically disadvantaged in efforts to get out of poverty.
Meutika Azizah [9]	*Penerapan Fungsi Sosial (Charity) Pada Baitul Maal Wat Tamwil Dengan Cara Bantuan Modal Dengan Sistem Al-Qardhul Hasan (Benevolent Loan)*	*Baitul Maal Wa Tamwiil* (BMT) Harapan Kita Bantul	The application of *al-qardhul al-hasan* can be implemented properly. This is a concern of BMT Harapan Kita to the

[8]Fahrudin, *Pengelolaan Al-Qard AlHasan Pada BPRS Margirizki Bahagia Yogyakarta Dalam Perspektif Hukum Islam,* (State Islamic University Sunan Kalijaga Yogyakarta: 2010).
[9]Meutika Azizah, *Penerapan Fungsi Sosial (Charity) Pada Baitul Maal Wat Tamwil Dengan Cara Bantuan Modal Dengan Sistem Al- Qardhul Hasan (Benevolent Loan) (Studi Kasus Di Bmt Harapan Kita Bantul)* (Sebelas Maret University Surakarta; 2010).

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

	(Studi Kasus Di Bmt Harapan Kita Bantul).		environment of the surrounding community.
Sapto Hadi Santoso [10]	*Pelaksanaan Pembiayaan Qardhul Hasan Di Pusat Kajian Zakat Dan Wakaf El-Zawa Uin Maliki Malang Tinjauan Fatwa DSN-MUI/IV/2001,*	Pusat Kajian Zakat Dan Wakaf El-Zawa UIN Maliki Malang	Focusing on practicing and financing of *Qardhul Hasan* due to Contamplation of Fatwa DSN-MUI/IV/2001

B. Conceptual Framework

1. Financing

a. Definition

Financing is funding that given by a party to other parties to support the investment which was planned. In other words, financing is funding issued to support planned investments. Financing in Islamic financial institutions or in technical is terms of earning assets. According to the provisions of Indonesian Bank (BI) is funding of Sharia Financial Institutions in rupiahs or foreign currencies in the form of financing, Credit, *Qard*, Sharia securities, placements,

[10]Sapto hadi santoso, *Pelaksanaan Pembiayaan Qardhul Hasan Di Pusat Kajian Zakat Dan Wakaf El-Zawa Uin Maliki Malang Tinjauan Fatwa DSN-MUI/IV/200*, (Islamic State University of Maulana Malik Ibrahim Malang; 2013)

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

equity capital, temporary of equity capital, commitments and contingencies on administrative accounts and Indonesian Bank *wadiah* certificates.[11]

In a narrow meaning, financing is used to define financing that did by funding institutions such as sharia financial institutions to clients. Broad financing means is funding which was issued to support planned investments, whereby done by personally or other person.[12] Financing is provided money or invoice that can be assume alike, based on agreement, loan agreement between bank and financial institution. Other party who obligated due to pay off the debt after certain time with a rewards or profit sharing, as follows: [13] (a) Provision of negotiable instruments that equipped with note purchasing agreement (NPA). (b) Captivating a bill within a factoring activities

Meanwhile, according to Law no. 10 Year 1998 concerning on Banking, explain that Financing based on *sharia* principles is the provision of money or equivalent that based on agreement between the bank and other parties, requiring the party's financed to refund the money or the bill.[14]

Financing is provision of money or bill (invoices) that be able to offered, based on agreement between the bank and another party, requiring the party's financed to refund the money or bill (invoice) after a certain period of time in profit sharing.[15] Fund disbursement is called financing; "In the distributing funds

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[11]Muhammad, *Manajemen Bank Syariah*, (Yogyakarta : UPP AMP YKPN, 2005), p. 17
[12]Ismail, *Perbankan Syariah*, (Jakarta: Prenadamedia Group, 2011), p. 98
[13]Veitzhal Rivai, *Islamic Finansial Management*, (Jakarta: Grafindo Persada, 2008), p. 4
[14]Law Number 7 Year 1992 Concerning Banking as Amended, by Law Number 10 Year 1998 Chapter 1
[15]Kasmir, *Manajemen Perbankan* (Jakarta: PT. Raja Grafindo Persada, 2004), p. 73.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

of sharia financial institutions must be guided by the prudence's principle of. In this regard, financial institutions are required to research correctly against customers on the basis of financing principles".

b. Types of Financing

Financing is form of provision of fund facilities to fulfill necessity of clients that is a deficit unit. According to its utilities, financing is divided into two criteria as follows: [16]

1) Productive financing, i.e. financing due to production needs. According to its necessity, Productive financing is divided into two categories as follows:

a) Job capital finance

Concerning that job capital finance is financing which is intended to get capital in order business development.

b) Investment finance

Investment financing is provided to client for investment purposes, i.e. the necessities for additional capital to conduct rehabilitations, business expansions, or the establishment of new projects.

2) Consumptive financing, i.e. financing which used to fulfill the consumption needs and will be drained upon those needs. Consumption needs is divided as follows:[17]

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[16]Muhammad Syafi'i Antonio, *Bank Syariah dari Teori ke Praktik* (Jakarta: Gema Insani Press, 2011), p. 160.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

a) Primary needs

Primary needs or unlearned needs or requirements determined by factors innate to a person or his or her environment, such as for food, security, shelter, although services such as education and medical.

b) Secondary needs

Secondary needs are additional needs, as quantitative or qualitative is higher or more luxurious than the primary needs, as regards the goods, e.g. (foods, drinks, clothes, jewelry, vehicles and properties). As for from of services are (educations, health services, tourisms and entertainments).

c. The Principles of Financing

One the basis of its purposes, sharia financing can be broadly classified into four categories as follow:[18] (1) Financing under the principles of sale and purchase (*[c*. (2) Financing under the principles of leasing (*Ijarah*). (3) Financing under the principles of revenue-sharing (*Syirkah*). (4) Financing under complementary contracts.

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[17]Antonio, *Bank Syaria*, p. 161

[18]Adiwarman A. Karim, *Islamic Banking; Fiqh and Financial Analysis* (Jakarta: PT. Raja Grafindo Persada, 2005), p. 97

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

Financing under the principles of sale and purchase is used for owning good, whereas financing under the principles of lease is for acquiring services. Financing under the principles of profit-sharing is used for joint ventures involving obtainment of both goods and services. The explanation above as follows:

1) Financing under the principles of sale and purchase ([c

The principles of sale and purchase are applied in connection with the occurrence of a transfer of ownership over property. The bank's profit margin is fixed and predetermined and is an element of the price of property and sale. Sale and purchase transactions can be distinguished according to the modes of payment and time of delivery of the good, namely as follows: [19]

a) *Murabahah* Financing

Murabahah (*al- [c c m[g[h [dc*) financing is more popularly known as *murabahah.* A term derived from "*ribhu*" (meaning "profit"), *murabahah* is a sale and purchase transaction whereby the bank discloses its profit margin to the client. Under a *murabahah*, the bank acts as a seller, while the client as a buyer. The bank's selling price is equal to its buying price from a supplier, albeit plus a margin of profit.

Both parties must agree on the selling price and payment time. Meanwhile, the selling price is quoted in the contract and, once it is agreed, it cannot be changed in the course of the contracting period. In

[19]Karim, *Islamic Banking*, p. 98.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

banking, the payment in *murabahah* is invariably done through installment (*bi tsaman ajil. or muajjil*).[20]

(1) Legal basis

وَأَحَلَّ اللهُ الْبَيْعَ وَحَرَّمَ الرِّبَا ﴿٢٧٥﴾

on; ff[b b[mj lg cm rl[[h b[m i l c h dhn l m (QS. Al.Baqarah: 275).

And also in hadith is mentioned: it was narrated from salih bin suhaib that his father said:

حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلاَّلُ، حَدَّثَنَا بِشْرُ بْنُ ثَابِتٍ الْبَزَّارُ، حَدَّثَنَا نَصْرُ بْنُ الْقَاسِمِ، عَنْ عَبْدِ الرَّحْمَنِ بْنِ دَاوُدَ، عَنْ صَالِحِ بْنِ صُهَيْبٍ، عَنْ أَبِيهِ، قَالَ قَالَ رَسُولُ اللَّهِ . صلى الله عليه وسلم . " ثَلاَثٌ فِيهِنَّ الْبَرَكَةُ الْبَيْعُ إِلَى أَجَلٍ وَالْمُقَارَضَةُ وَإِخْلاَطُ الْبُرِّ بِالشَّعِيرِ لِلْبَيْتِ لاَ لِلْبَيْعِ "

"The Messenger of Allah (ﷺ m[c 4 rb l [l rbl rbdham dh which there are blessing: A sale with deferred payment; Muqaradhah (profit sharing); and mixing wheat with barley for one's house, but not for sale."[21]

(2) Pillar of *Murabahah* financing

(a) Seller (*[c*)

(b) Buyer (*Musytari*)

[20]Karim, *Islamic Banking*, p. 99.
[21]Sunarto Zulkifli, *Panduan Praktis Transaksi Perbankan Syariah* (Jakarta: Zikrul Hakim, 2007) p. 40.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

(c) Good/object (*G / c*)

(d) Price (*Tsaman*)

(e) Ijab qabul (*Shigat*).[22]

(3) The good is allowed as object of transaction

(a) House

(b) Motorcycles and/ transportations

(c) Purchase of industrial tools

(d) Purchase of firm, warehouse, and other fixed assets

(e) Purchase of asset which is not against Islamic law.[23]

b) *Salam* Financing

Salam is a sale and purchase transaction whereby the object or property of transaction is yet to exist. The object delivery is usually deferred, while the payment is made in cash. The bank acts as a seller, while the client as a seller. At first blush, this seems to resemble a transaction of ijon (advance selling); however, under a *salam* transaction, the quantity, quality, price and time of delivery must be fixed and predetermined. According to sayyid sabiq, *as- salam* named as *as-salaf* (introduction) is a selling product with a specific criteria which is still in burden with a hastened payment.[24]

The selling price is quoted in the sale and purchase contract that, once agreed upon, cannot be changed in the course of the contracting

[22]Zulkifli, *Panduan Praktis*, p. 41.
[23]Ismail, *Perbankan Syariah*, p. 141.
[24]Sayid Sabiq, *Fikih Sunnah* (Bandung: al-ma'arif, 1987), p. 117.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

period. A transaction like this commonly applied in the financing of good that are yet to exist, such as in the purchase of agricultural commodities by the bank for re-selling on a cash or installment basis.[25]The general requirements of *salam* financing would be as follows:

(a) In the purchasing of a product, its specifications of type, size, quality, and quantity must be clearly known; e.g. a purchase of *harum manis* mangoes of quality "A", at Rp 5,000 per kg, to be delivered at a harvest time within two months.

(b) In case the products proves defective or unlike as specified in the contract, the producer must be held responsible and must replace the merchandise with that as specified; otherwise he must return the money he has received.

(c) Considering that the bank does not normally treat the commodities that it buys or orders as inventories, it is allowed to apply a *salam* contract to a third party (second buyer), e.g. to BULOG, whole sellers, or its partners. Such a mechanism is called parallel *salam*.[26]

[25]Zainul arifin, *Dasar-dasar Manajemen Bank Syariah* (Jakarta: Alvabet, 2002), p. 51.
[26]Karim, *Islamic Banking*, p. 100

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

(1) Legal basis

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَنْتُمْ بِدَيْنٍ إِلَىٰ أَجَلٍ مُسَمًّى فَاكْتُبُوهُ ۚ ﴿٢٨٢﴾

I sio qbi have believed, when you contract a debt for a mj]cc nlg&qlcn cn iqh(

Ibn Abbas mentioned in *salam* financing that:

حَدَّثَنَا هِشَامُ بْنُ عَمَّارٍ ، حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ ، عَنِ ابْنِ أَبِي نَجِيحٍ ، عَنْ عَبْدِ اللَّهِ بْنِ كَثِيرٍ ، عَنْ أَبِي الْمِنْهَالِ ، عَنْ ابْنِ عَبَّاسٍ ، قَالَ : قَدِمَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَهُمْ يُسْلِفُونَ فِي التَّمْرِ السَّنَتَيْنِ وَالثَّلَاثَ ، فَقَالَ " : مَنْ أَسْلَفَ فِي تَمْرٍ ، فَلْيُسْلِفْ فِي كَيْلٍ مَعْلُومٍ وَوَزْنٍ مَعْلُومٍ إِلَى أَجَلٍ مَعْلُومٍ" (رواه ابن ماجه)

"Narrated that Ibn Abbas said: The Prophet (peace and blessings of Allaah be upon him) offered the two dates for the two and three dates. He said: "Whoever goes up in a pass, it will fall in a known kilo and a known weight for a known time. ("BH(Ibn Majah).[27]

(2) Pillar of *salam* financing

(a) Buyer (*Muslam*)

(b) Seller (*Muslam alaih*)

(c) Production/ good delivered (*muslam fihi*)

(d) Price

(e) Ijab qabul (*shighat*).[28]

(3) General Condition of *salam* financing

[27]Heri Sudarsono, *Bank dan Lembaga Keuangan Syalc[b melcjmc [h Cfbml[mc* (Yogyakarta: Ekonisia, 2004), p. 64.
[28]Zulkifli, *Panduan Praktis,* p. 41.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

(a) Purchase of production must be known specifically, e.g. category, type, size, quality, and quantity.

(b) Considering that the production which is received is fault or unmatched with contract, so the producer (firm/store) must be responsibility due to re-sending its fund or replace the good that suitable.

(c) Considering that the bank does not normally treat the commodities that it buys or orders as inventories, it is allowed to apply a *salam* contract to a third party (second buyer), e.g. to traditional market trader and partners.[29]

c) *Gmnmbh[* Financing

Gmnmbh[products are similar to *salam* products except that under the letter, payments by the bank can be made in several installments. Islamic banking under the *gmnmbh[* scheme is usually applicable in the financing of manufacturing and construction ventures.[30]

The general conditions under *gmnmbh[* are that goods customary made to order should be clearly specified by their type, size, quality and quantity. The selling price also needs to be quoted in the contract, which, once agreed upon, cannot be changed during its life. If, however,

[29]Sudarsono, *Bank dan Lembaga*, p. 64.
[30]Sudarsono, *Bank dan Lembaga*, p. 65

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

after the contract signing changes occur in the items and price beyond the agreed criteria, all additional cots will be borne by the client.[31]

As for those explanations above then the general conditions under an *amanbh[* financing scheme is as follows:

(a) Item specification must be clear, such a categories, types, size and quantity.

(b) Selling price is agreed upon *amanbh[* financing and should not change during a contract.

(c) Considering that is changed upon ordered criterion and changing price after contract signature, so the whole additional price is still borne by the costumer.[32]

As regard of those statements, the pillar of *amanbh[* financing are as follows:

(a) Seller (*nb[hc*)

(b) Buyer (*musn[nbhc*)

(c) Good (*g[nbho*)

(d) Price (*tsaman*)

(e) Ijab qabul (*shigat*).[33]

[31]Karim, *Islamic Banking*, p. 101
[32]Sudarsono, *Bank dan Lembaga*, p. 65
[33]Zulkifli, *Panduan Praktis*, p. 43

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

2) Financing under the Principles of Leasing (*Ijarah*)

Ijarah transactions are based upon a transfer of benefit. Its principles are, in essence, no different from those of sale and purchase. The only difference lies in the object of transaction. While the objects in sale and purchase transactions are goods, the objects in *ijarah* transactions are services.[34] By the end of a lease, the bank may be able to sell the leased object to the client. This is why it is called in Islamic banking as *ijarah muntahia bittamlik*, or a type of lease that is followed with a transfer of ownership (title) over the object. Both the lease fee and selling price are fixed at the beginning of the contract. [35]

a) Legal basis

(1) Al-Qura'n

وَإِنْ أَرَدتُّمْ أَن تَسْتَرْضِعُواْ أَوْلاَدَكُمْ فَلاَ جُنَاحَ عَلَيْكُمْ إِذَا سَلَّمْتُم مَّآ آتَيْتُم بِالْمَعْرُوفِ وَاتَّقُواْ اللّهَ وَاعْلَمُواْ أَنَّ اللّهَ بِمَا تَعْمَلُونَ بَصِيرٌ ﴿٢٣٣﴾

"And if you wish to have your children nursed by a substitute, there is no blame upon you as long as you give payment according to what is acceptable. And fear Allah and know that ; ff[b ɑmm ɗha i q b[nsi o i (Q.S. al-baqarah (2): 233).[36]

[34]Sutan Remy Sjahdeini, *Perbankan Islam dan Kedudukanya dalam Tata Hukum Perbankan Indonesia*, (Jakarta: Grafiti, 1999), p. 94
[35]Karim, *Islamic Banking*, p. 101
[36]Sudarsono, *Bank dan Lembaga*, p. 66

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

(2) Al-Hadith

حَدَّثَنِي أَحْمَدُ بْنُ سَعِيدِ بْنِ صَخْرٍ الدَّارِمِيُّ، حَدَّثَنَا حَبَّانُ بْنُ هِلاَلٍ، حَدَّثَنَا وُهَيْبٌ، حَدَّثَنَا عَبْدُ اللَّهِ بْنُ طَاوُسٍ، عَنْ أَبِيهِ، عَنِ ابْنِ عَبَّاسٍ، أَنَّ النَّبِيَّ صلى الله عليه وسلم احْتَجَمَ وَأَعْطَى الْحَجَّامَ أَجْرَهُ وَاسْتَعَطَ (رواه احمد وبخاري ومسلم)

Ibn 'Abbas reported that Allah's Apostle (ﷺ) got himself cupped and gave to the cupper his wages and he put the medicine in the hi ml cf (HN. Ahmad, Bukhari and Muslim).[37]

حَدَّثَنَا الْعَبَّاسُ بْنُ الْوَلِيدِ الدِّمَشْقِيُّ ، حَدَّثَنَا وَهْبُ بْنُ سَعِيدِ بْنِ عَطِيَّةَ السَّلَمِيُّ ، حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ زَيْدِ بْنِ أَسْلَمَ ، عَنْ أَبِيهِ ، عَنْعَبْدِ اللَّهِ بْنِ عُمَرَ ، قَالَ : قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ": أَعْطُوا الْأَجِيرَ أَجْرَهُ قَبْلَ أَنْ يَجِفَّ عَرَقُهُ" (رواه ابن ماجه)

li g C h Og [l rb[n rb G mmha l i Allah said, "give the wages before the sweat dried" (HN. Ibn Majah)".[38]

b) Pillar of *Ijarah*

(1) Leaser (*g om[dd*)

(2) Leaseholder (*g o[dd*)

(3) Object (*g [dol*)

(4) Price (*ujrah*)

(5) Benefit (*g [h [[b*)

(6) Ijab qabul (*shighat*)[39]

[37]https://sunnah.com/muslim/39/103, Accessed on Sunday, May 13, 2018.
[38]Sudarsono, *Bank dan Lembaga*, p. 66

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

c) Type of *Ijarah* According to its Object

Based on its object, *ijarah* consists of:

(1) The object of *ijarah* is benefit of good, such as leasing car, leasing house, etc.

(2) The object of *ijarah* is benefit of manpower, such as taxi service, teacher service, etc.

(3) Revenue received from *ijarah* transaction is called *ujrah*. *Al-ujrah* is the promised reward and paid by user benefit as reward for its profit's received.[40]

3) Financing under the Principles of Profit Sharing (*Syirkah*)

The sharia financing products under the principles of profit sharing are as follows:

a) *Musayarakah* Financing

The general form of profit sharing undertakings is *musyarakah* (*syirkah* or *syarikah*). *Musyarakah* transactions are based upon the desire of contracting parties to jointly increase the values of their assets.[41] *Musyarakah* encompasses all forms of business undertakings whereby two or more parties combine resources, be it tangible or intangible assets alike.

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[39]Zulkifli, *Panduan Praktis*, p. 44
[40]Zulkifli, *Panduan Praktis*, p. 44
[41]Saad Al-harran, *Musyarakah Financing: Concept and Applications*, (Selangor: Pelanduk Publications, 1995), p. 2-3

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

Musyarakah is divided into two categories, i.e. *musyarakah* of ownership and *musyarakah* of contract. *Musyarakah* of ownership is occurred due to legacy or other conditions that caused ownership of one asset by two persons or more. Whereas *musyarakah* of contract is occurred due to agreement whereby two persons or more is agreed, that each of them gives a capital of *musyarakah* and share profits and losses.[42]

The general conditions under the *musyarakah* financing are as follows:

(1) All resources are combined and jointly managed into capitals for a *musyarakahi project*. Each capital owner is entitled to determine business policies for the project, which is run by an executor. Each capital owner is entrusted with the running of the project, but is not allowed to conduct certain such activities as:

(a) Mixing the project funds with his or her personal health;

(b) Running the project with another party without the consent of other capital owners;

(c) Provides lending to other parties;

(d) Each capital owner is regarded as ending collaboration in the event of:

[42]Tim Pengembangan Perbankan Syariah IBI, *konsep,Produk, dan Implementasi Operasional Bank Syariah*, (Jakarta: Djambatan, 2001), p. 72

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

- Withdrawal or resignation from the venture;
- Death;
- Legal statement of incompetence.

(2) Any costs incurred during the running of the project within the project's time frame must be collectively known. Profits are to be distributed according to a pre-agreed ratio, while losses are to be shared according to the portion of individual capital contribution.

(3) The project details should be specified in the contract. At the project completion, clients return the fund and it then includes the pre-agreed profit sharing liability to the bank.[43]

b) *Mudharabah* Financing

The word of *mudharabah* comes from *adharbu fil ardhi*, is traveling on business trade. Allah said in His book surah 73 verse 20, "*and others travelling throughout the land seeking of the bounty of Allah*". Entitled also as *qiradh* which comes from word *al-qardhu* means *al-kʃɾb o* (peice), because the owner is cutting part of its welfare in order to trade and gained profits.[44]

A type of *musyarakah* financing that is particularly popular in Islamic banking is *mudharabah*. *Mudharabah* is a form of joint venture

[43]Karim, *Islamic Banking*, p. 103
[44]Sabiq, *Fikih Sunnah*, p. 31

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

of two or more parties whereby the capital owner (*shaibul maal*) entrusts capital to the manager (*mudharib*) under a profit sharing agreement.[45] This particular type emphasizes on a joint undertaking involving 100 percentage capital inlays of advanced cash by the *shaibul maal* and skills by the *mudharib.*

In fiqh literature, *musyasrakah* and *mudharabah* manifest in the agreement of trust (*uquudul amanah*) that demands high level of integrity and sense of justice. As such, all parties must maintain their respective integrity for the sake of collective interest as any mischief conducts by any one party will truly jeopardize the teachings of Islam.[46] The general conditions under a *mudharabah* financing scheme are as follows:

(1) The capital to be submitted to a *mudharib* client should be of cash advance in the form of money or goods that can be valued in a monetary unit. If the capital is submitted in several tranches, the arrangement should be clear and prepared upon.

(2) The output or result of capital management by the *musharib* under a *mudharabah* financing can be calculated in the following ways: (a) Calculation of revenue sharing; (b) Calculation of profit sharing

[45]The essential difference under *musyarakah* and *mudharabah* are lies on the magnitude of contributions to management and financial or one of them. In *mudharabah*, the capital comes from single party, whereas *g om s[l[e[b m*capital comes from two or more parties.
[46]Karim, *Islamic Banking*, p. 104

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

(3) The output is shared according to the agreed stipulation in the contract, payable monthly or otherwise as agreed. The bank as capital owner absorbs all financial losses, except in cases where losses are incurred by the client's carelessness or deviation, such as through embezzlement, deception or misuse of funds.

(4) The bank has the right to supervise management but is not entitled to interfere in the client's business management. If the client deliberately fails in his or her promise, e.g. unwilling to pay or defer payment for liabilities, he or she can be charged with administrative sanctions.[47]

4) Financing under Complementary Contracts

The facilitate financing, usually one or more additional contracts are necessary. Such a complementary contract is not meant to seek profits, but is used to make financing easier. Despite the not-for profit orientation, under a complementary contract it is permissible to ask for compensation for any incurred cost for executing this very contract.[48] However, as for complementary contract are as follows:

a) *Hiwalah* (Transfer of credit/Debit)

The purpose of a *hiwalah* facility is to help supplier obtain cash capital in order to carry on with productive activities. The bank

[47]Karim, *Islamic Banking*, p. 104
[48]Sudarsono, *Bank dan Lembaga*, p. 71

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

is compensated for the cost of credit transfer. To anticipate potential loss, the bank needs to analyze the capacity of the indebted party and verify the transaction between the party that transfers a credit (receivable) and the indebted party.[49]

(1) Type of *Hiwalah*

According to its object, *hiwalah* is divided into two categories are as follows:[50]

(a) *Hiwalah al-dain. Hiwalah* where its object is a debt.

(b) *Hiwalah al-haq.* Where its object is credit or billing rights.

(2) Product of *Hiwlah*

Some of Islamic bank services products that used a *hawalah* contract are as follows:[51]

(a) Factoring (*anjak piutang*), where the customers who have debt to a third party transfer the debt to the bank, then bank will be pay its debt up and bank will bill upon a third party.

(b) Postdated check, where the bank as collector, without pay its debt first.

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[49]Sjahdeini, *Perbankan Islam,* p. 94
[50]Zulkifli, *Panduan Praktis*, p 30
[51]Antonio, *Bank Syariah,* p. 127

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

(c) Bill discounting, basically same as *hiwalah*, but this bill discounting the customer should be paid a fee.

b) *Rahn* (collateral)

According to Syafi'i Antonio, *rahn* is holding one of the borrower's belongings as warranty upon a loan received.[52] The purpose of a *rahn* (collateral) contract is to provide guarantee of repayment to the bank in providing financing. The object of *rahn* must satisfy the following criteria:[53] (1) The object is the property of the client; (2) The object is specific in size, characteristics, and value (based on its real market value); (3) The object can be taken over by the bank although it must not be utilized by the bank.

With the bank's permission, the client may still use the pawned object provided that it will not reduce the value or damage its condition. If the pawned object does become damaged or defective, the client must be held responsible.[54]

In case the client fails to deliver, the bank can execute the selling of the pawned object at the order of a judge. The client has the right to sell it with bank's consent. If the proceeds exceed the liability, the remaining amount belongs to the client.[55]

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[52]Antonio, *Bank Syaria*, p. 129
[53]Karim, *Islamic Banking*, p. 106
[54]Karim, *Islamic Banking*, p. 107
[55]Karim, *Islamic Banking*, p. 107

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

c) *Qardh* (Loan)

According to Syafi'i Antonio, *qardh* is giving of property to other person that is able to billed or withdraw. In other hand, lend of something without expecting rewards.[56] *Qardh* is simply money lending. In Islamic banking, it is usually applied for any of the four purposes as follows:[57]

(1) As a bridging loan for pilgrimage, whereby would be pilgrim is given a loan to meet the requirement of prepayment of travel expenses for pilgrimage.

(2) As cash advance from the sharia from the sharia credit card, whereby a client is given the flexibility to withdraw cash from the bank via ATM. The client has to repay within a given period.

(3) As small business loan, in the case that under the bank's calculation, any other financing scheme such as sale and purchase, *ijarah* or profit sharing would overburden the client.

d) *Wakalah* (representation)

Wakalah is submission, delegation, or assignment. In the context of banking, *wakalah* arises when a client authorizes the bank

[56]Antonio, *Bank Syariah*, p. 130
[57]Karim, *Islamic Banking*, p. 106

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

to represent him or her in carrying out a certain job, such as L/C book-balancing, bill collection, or money transfer.

e) *Kafalah* (Bank's Guarantee)

According to Syafi'i Antonio, *kafalah* is a guarantee that given by the insurer to a third party due to fulfill the second party's obligation or it's borne.[58] In the context of banking, Bank's guarantee can be provided to secure repayment over a certain payment obligation.

The bank can condition the client to deposit a certain amount of cash for this facility as *rahn*. The bank can also accept the funds under the *q [c [b* principles. In the execution of such services, the bank's expenses will be compensated.

d. Purpose of Financing

The purpose of financing based on sharia principles is to increase employment and economic prosperity in accordance with Islamic values. The financing must be enjoyed by many entrepreneurs in field of industry, agriculture and trade to support work opportunities and support the production and distribution of goods and services in order to fulfill domestic needs and export needs.

[58]Antonio, *Bank Syariah*, p. 132

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

In general, the purpose of financing is divided into two groups, namely; the purpose financing of macro-level and the purpose financing of micro-level.[59]

As for the macro, financing aims to:

a) Increase economics; means the society who cannot access as economically, with those financings they can access an economy properly. Finally, it will increase economy level.

b) Availability of funds for business improvements; means for developing business it needs an additional fund. These additional funds can be obtained through financing activities. Parties whose surplus funds can disburse to party are underage, so it can be rolled out.

c) Increase Productivity; means funding gives an opportunity for society's enterprise due to increase its productions. Because production efforts will not be able to run without the funds.

d) Open new job opportunities; by do this sectors through the addition of financing funds, the business sector will absorb labor, this means adding or opening new jobs.

e) Income distribution; meaning society with effort productive able to perform work activities, their means will earn income from the results of his business. Income is part of the community's income. If this happens then the revenue will be distributed.[60]

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[59]Muhammad, *Manajemen Bank*, p. 17
[60]Muhammad, *Manajemen Bank*, p. 18-19

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

As for micro, financing is given in order to:[61]

a) Maximize/optimize profit; means that every business opened has the highest goal of generating business profits. Every entrepreneur wants to achieve maximum profits. To be able to generate maximum profit then they need sufficient funding support.

b) Efforts to minimize risks; means efforts made in order to generate maximum profit, then employers should be able to minimize possible risks arise. Risk of lack of venture capital can be obtained through financing actions.

c) Utilization of economic resources; means economic resources can be developed by mixing natural resources with human resources and capital resources. If, natural resources and human resources exist, and capital resources do not exist then certainly necessary financing. Thus, financing can basically increase the usefulness of economic resources.[62]

e. Function of Financing

Financing has an important role inside economy, trade and finance. In accordance with the purpose of financing, according to Sinungan financing in general has a function as follows: [63]

[61]Muhammad, *Manajemen Bank*, p. 19
[62]Muhammad, *Manajemen Bank*, p. 19
[63]Muhammad, *Manajemen Bank*, p. 19

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

a) Utilizing the capital or money

Savers save their money in financial institutions. The money in a certain percentage is enhanced by the financial institution. Entrepreneurs enjoy financing from banks to expand / enlarge their business.

b) Utilizing the usefulness of a good

Producer with financing assistance can produce materials so that the (utility) of the material increases, for example the coconut (utility) becomes copra and then becomes coconut oil / cooking oil. Increasing (utility) rice into rice, yarn into textile and so on.

c) Utilizing of money circulations

Financing disbursed through accounts, entrepreneurs create the growth of circulation of demand deposits and alike such as checks, demand deposits, money orders, promissory and so on.

d) Economic stability

In the unhealthy economic conditions, stabilization measures are basically directed at several efforts as follows:[64]

1) Inflation controls
2) Increased exports
3) Rehabilitation of facilities
4) Fulfill the basic needs of society.

[64]Muhammad, *Manajemen Bank*, p. 20

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

e) Increase national income

Increased business means increased profits. When this advantage is cumulatively developed again in the sense of the word developed into the capital structure, then the increase will take place continuously.[65]

2. The Overview of *Qardhul Hasan*

a. Definition

According to language *Al Qardh* is cutting. [66] It is said, for example "I am doing *qardh* against something by using scissors". *Qardh* is something you give to someone who someday you will ask again. It's as you cut it off your belongings. The loan itself is sometimes be treasure and honor. The terminological meaning of lending is to surrender the property to the person who uses it to be returned instead of a moment.[67]

Qardul Hasan Loan is one of Islamic loan products in realizing its social responsibility in appropriate with the Islamic thought. In this case, the financial institutions concerned do not earn income, because it is forbidden to request for any reward from the recipients of *Qard*.[68]

According to the *Fiqh* experts, *al qardh* is to give a treasure to others to be returned without any additional. *Al Qardh* (borrowing) is allowed and justified by Sharia. There is no difference of opinion among the scholars in this regard. People

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[65]Muhammad, *Manajemen Bank*, p. 21
[66]Hendi Suhendi, *Fiqh Muamalah,* (Jakarta :PT RajaGrafindo Persada), p. 135
[67]Abdullah Al-Mushlih dan Shalah Ash- Shawi, *G [F[S[ɱ [ɲTajira Jahluhu*, translated by Abu Umar Basyir with title *Fikih Ekonomi Keuangan Islam*, (Jakarta: Darul Haq,, 2008), p. 254
[68]Muhammad, *Manajemen Dana Bank Syariah*. (Yogyakarta : Penerbit Ekonisia, 2004) p. 56

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

may claim to want to borrow. This is not a bad thing, even people who will be lent it is recommended *(mandub).*

Al qardh as one of the basis of product transaction of Islamic banking financing refers to Act no 21 years 2008 article 1 paragraph (25) letter d, article 19 paragraph (1) and (2) letter e, and article 21 letter b number 3. According to this Law *al-qardh* is interpreted as "the loan agreement to the customer with the provisions that the customer is obliged to refund the funds it's received on certain time". According to the Indonesian DSN Fatwa:

a) That Islamic financial institution (LKS) in addition to as commercial institutions should be able to act as a social institution which can improve the economy to the fullest.
b) That one of the means of economic improvement that can be done by LKS is the channeling of funds through the principle of *Al-Qardh*, which is a loan agreement to the client provided that the customer is obliged to return the funds received to the LKS at the time agreed by the LKS and the client.[69]

Qard al-Hasan financing is an agreement amongst the bank as a lender with the customer as the recipient of the loan, whether in the form of money or goods without the requirement of any additional or any cost. The borrower

[69]Fatwa MUI, *Dalam Perspektif Hukum dan Perundang-undangan* (jakarta: Puslitbang Keagamaan Badan Litbang dan Diklat, 2012), p. 267

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

(clients) is obliged to return the money or goods borrowed at the time mutually agreed upon, with an amount equal to the basic of loan.[70]

Qard al-Hasan financing is a financing agreement between an Islamic financial institution and a customer deemed eligible to receive priority for a potential entrepreneur. However, there are no capital than entrepreneur's ability and other individuals who are in urgency situation. The borrower is merely required to return the loan principal at maturity and the bank merely gives a true administration fee for the process.[71]

According to Bank Indonesia Regulation Number 7/46 / PBI / 2005 About *Qardh*, *Qardh* is meant to borrowing funds without pay with the borrower's obligation to return the loan principal at once or installments within a certain time.[72]

b. Legal Basis of *Qardhul Hasan*

The legal basis which is related with *qardh* in accordance with the fatwa of the national Sharia council no. 19 / DSN-MUI / 1X / 2000. [73]

a) Al-Qur'an

يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ ۚ أُحِلَّتْ لَكُمْ بَهِيمَةُ الْأَنْعَامِ إِلَّا مَا يُتْلَىٰ عَلَيْكُمْ غَيْرَ مُحِلِّي الصَّيْدِ وَأَنْتُمْ حُرُمٌ ۗ إِنَّ اللَّهَ يَحْكُمُ مَا يُرِيدُ

[70]Warkum Sumitro, *Asas-Asas Perbankan Islam Dan Lembaga-Lembaga Terkait*. (Jakarta: Penerbit Rajawali Pers, 2010), p. 101
[71]Muhammad, *Manajemen Dana*, p. 124
[72]Regulation of Indonesian bank chapter 1 Number 7/46/PBI/2005 concerning contract and distribution of funds for banks which implements business based activities sharia principles.
[73]Huda, Nurul dan Mohamed Heykal, *Lembaga Keuangan Islam.* (Jakarta: Kencana Prenada Media Group, 2010), p. 59.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

I s i o q bi b[p fc p & o f cffU[ffW]i hnl [ ]mm Lawful for you are the animals of grazing livestock except for that which is recited to you [in this Qur'an] - hunting not being permitted while you are in the mm[n i cbl [g (Ch &; ff[b i l [chm q b[n B chn h m (QS : Al-Maidah 5:1).

Qardh's legal basis of the Qur'an surah *Al-Hadid* verse 11 which read more: [74]

مَنْ ذَا الَّذِي يُقْرِضُ اللَّهَ قَرْضًا حَسَنًا فَيُضَاعِفَهُ لَهُ وَلَهُ أَجْرٌ كَرِيمٌ

Qbi cmcnrb[nq i o f f [h ; ff[b [ai i fs f [h mi B q cff g o fcj fs cn i l bcg [h b q cffb[p [hi f l q [l (QS: Al-Hadid 57:11)

b) Hadith

حَدَّثَنَا يَحْيَى بْنُ يَحْيَى ، قَالَ : قَرَأْتُ عَلَى مَالِكٍ ، عَنْ أَبِي الزِّنَادِ ، عَنْ الْأَعْرَجِ ، عَنْ أَبِي هُرَيْرَةَ :أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ، قَالَ " : مَطْلُ الْغَنِيِّ ظُلْمٌ ، وَإِذَا أُتْبِعَ أَحَدُكُمْ عَلَى مَلِيءٍ ، فَلْيَتْبَعْ " ، حَدَّثَنَا إِسْحَاق بْنُ إِبْرَاهِيمَ ، أَخْبَرَنَا عِيسَى بْنُ يُونُسَ .ح وحَدَّثَنَا مُحَمَّدُ بْنُ رَافِعٍ ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ ، قَالَا جَمِيعًا ، حَدَّثَنَا مَعْمَرٌ ، عَنْ هَمَّامِ بْنِ مُنَبِّهٍ ، عَنْ أَبِي هُرَيْرَةَ ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِمِثْلِهِ (رواه مسلم)

"Narrated from Yahya bin Yahya, he said: I am read from Malik from Abi Zinad from A "rajdari Abi Hurairah that Rasullullah P.B.U.H said: Delays (payments) made by people who capable is a tyranny " (HN. Muslim)

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[74]Musthafa Dib Al-Bugha, *Fiqh Al-G o [q [b[b*, diterjemahkan oleh Fakhri Ghafur dengan judul *Buku Pintar Transaksi Syariah*, (Jakarta: Mizan Publika,2010), p. 52.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

أَخْبَرَنَا قُتَيْبَةُ بْنُ سَعِيدٍ ، قَالَ : ثنا أَبُو عَوَانَةَ ، عَنِ الأَعْمَشِ ، عَنْ أَبِي صَالِحٍ ، عَنْ أَبِي هُرَيْرَةَ ، قَالَ : قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ " : مَنْ نَفَّسَ عَنْ مُسْلِمٍ كُرْبَةً مِنْ كُرَبِ الدُّنْيَا ، نَفَّسَ اللَّهُ عَنْهُ كُرْبَةً مِنْ كُرَبِ الآخِرَةِ ، وَمَنْ سَتَرَ عَلَى مُسْلِمٍ ، سَتَرَهُ اللَّهُ فِي الدُّنْيَا وَالآخِرَةِ ، وَاللَّهُ فِي عَوْنِ الْعَبْدِ ، مَا كَانَ الْعَبْدُ فِي عَوْنِ أَخِيهِ (رواه النسائ)

*Jeople who release a Muslim from his troubles in the world, **Allah** will release his troubles on the Day of Judgment; and God al**ways** helping His servant as long as he (likes) helps his brother "**(HN. Nasai)***[75]

c) Consensus of Scholars *"Œdg [o ff g [*

The Scholars have agreed that *Qardhul Hasan* allowed. The Scholar's agreement is based on human nature that cannot live without helping each other. Therefore, borrowing has become a part of life in this world. Islam is a religion that is truly concerned about all the needs of *ummah*.[76]

From the arguments about the obligation of *al qardh* it is known that on essentially borrowing law is *sunnah* for the person who lends and *mubah* for the person who borrows. This is the law of al *qardh* in the usual situation. Sometimes there are changing situations depending on the cause of a borrower. Therefore, the law may change as follows:

[75]Antonio, *Bank Syariah*, p.128
[76]Antonio, *Bank Syariah*, p.128

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

1) *Haram*

Someone give a loan, but he knows that the loan would be used for haram-like acts to buy a drink of *khamar*, gambling.

2) *Makruh*

The lender knows that the borrower will use his property not for the benefit, but to dissipate and waste it. Likewise the borrower knows that he will not be able to repay the loan.

3) *Wajib*

When he knows that the borrower needs property to support himself, his family, and his relatives according to the size prescribed, while the borrower has no other way of earning it than by borrowing.

d) Fatwa of National Sharia Board No. 19/DSN-MUI/IV/2001 concerning on *Qardh*

First: General Regulations:

1) *Al-Qardh* is loans to customers (*muqtarid*) that required.
2) Customers *Al-Qardh* shall return the principal amount received at the agreed time.
3) Administrative costs are charged to customers.
4) LKS may request a guarantee to the customer whenever it is deemed necessary.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

5) Customers *Al-Qardh* may provide voluntary contributions (additional) to LKS as long as they are not agreed upon in the contract.
6) If the customer cannot partially refund or all obligations at the agreed time and LKS has confirmed its inability, LKS may do several things as follows:
    (a) Extending the repayment period, or
    (b) Write off some or all of its obligations.

Second: Sanctions:

1) Regarding that customers do not show to returns part or all of its obligations and not because of its inability, LKS can impose sanctions on customers.
2) Sanctions imposed on customers as referred to point 1 may be..... And no limited to the sale of collateral goods.
3) If the guarantee goods are insufficient, the customer must still fulfill its obligations properly.

Third: Source of Funds:

1) Share capital of LKS
2) The advantages of LKS which set apart, and

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

3) Other institutions or individuals who entrust their *infaq* distribution to LKS. [77]

c. Term and Procedure (*rukun*) of *Qardhul Hasan*

In general aspects of Islamic civil law (*fiqh muamalah*) in the form of good transactions or sale and purchase, lease. Thus, required its pillars and requirements of such transactions, the procedure of *Qardhul hasan* there are four criteria, among others:[78]

a) The borrowing party (*Muqtaridh*)

The borrower should do well to that person and the benefit of the lent goods belonging to the borrower and the goods lent to the lender's property.

b) The lending party (*muqridh*)

The party who provides the loan must be eligible to virtuous and trustworthy to keep the goods

c) Funds (*Qard*)

Funds in a *qardhul hasan* contract must have benefits that may take by borrower and the benefits of non-defect goods due to the agreed use of the agreement.

Hanafiyah scholars argue that the *qard* is deemed valid on *mitsil* property, which is does not happen difference that causing a variance

[77]DSN MUI, *Qardh* , Fatwa DSN MUI. No. 19/DSN-MUI/IV/2001 Concerning on Qardh, 3.
[78]Sunarto Zulkifli, *Perbankan Syariah.* (Jakarta : Zikrul Hakim, 2000) p. 22.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

in value. Among those allowed are objects that are weighed, measured, or counted. [79]

d) Ijab qabul (*sighat*)

The ijab qabul (*sighat*) is a *lafadz* ie *Mu'ir* (the creditor) is the owner of the goods, and *musta'ir* (the debtor) must be *baligh*, intelligent and the objects that are handed down can be taken advantage or utilized. [80]

The term of *Qardhul hasan* contract in such transactions as explicitly is as follows: [81]

a) *Qardh* or goods that are lent should the goods have benefits, illegitimate if there is no possibility of utilization, because *qardh* is a contract against property.

b) *Qardh* cannot be implemented except with the *ijab* and *qabul*, as well as in buying and selling ([c).

d. Characteristics of *Qardhul hasan* (benevolent loan)

Cost loan for consumer and commercial purposes. However, the other kind of loan known as *Qard-al-hassan* (benevolent loan), identified as a loan for community members who are under financial distress and therefore, has special purpose in the Islamic economic system.[82]

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[79]Rachmat Syafe'i, *Fiqh Muamalah*, (Bandung: Pustaka Setia, 2001), p. 154
[80]Sarib Muslim, *Akuntansi Keuangan Syariah Teori dan Praktek*, (Bandung: CV Pustaka Setia, 2015), p. 269
[81]Heykal, *Lembaga Keuangan*, p. 62.
[82]Iqbal Z & Mirakhor A, "Islam's Perspective on Financial Inclusion Economic," *The World Bank*, (2013), pp.179-200.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

Key characteristics of *Qard-al-hassan* are as following:[83]

a) It is a non-rewarding loan (with no expectations of any monetary return) but the borrower is under moral obligation to repay the principal depending on the borrower's financial capacity to do so. The creditor would forego the demand for payment of principal if despite best efforts and good intentions by the borrower; he/she cannot repay the principal due to economic hardships.

b) The incentives for lenders to extend credit based on *Qard-al-hassan* are clearly benevolent and spiritual as they are abiding by Allah's Command to supply such loans for benevolent purposes. The element of benevolence and expectation of reward from the Creator in this world or hereafter is the expected return instead of any monetary reward. For the lenders, no monetary reward can be monetized for such benevolent act. Sadr and Torabi said make an interesting observation arguing that rational lenders optimize the return to their portfolios by constructing a diverse portfolio of *Qard-al-hassan* lending and investments in risky assets—thus optimizing return on their portfolio through combining monetary and non-monetary returns.[84]

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[83]Iqbal Z/ Shafiq B, "Islamic Finance and the Role of Qard-Al-Hassan (Benevolent Loans) in Enhancing Inclusion: A Case Study of Akhuwat," *ACRN Oxford Journal of Finance and Risk Perspectives*, (October, 2015), Vol.4 Issue 4, p. 23-40.

[84]Sadr, S.K and Omid T, "Qardhul Hasan and Micro Financing in Zamir Iqbal and Zurina Shafii, (Eds.) State of Islamic Finance: A Retrospective Assessment and Looking Forward," *University Sans Islam Malaysia (USIM)*, (2015), Nilai, Malaysia.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

c) The primary objective of *Qard-al-hassan* is to help poor get on their feet to become part of economic activities in a dignified and cost effective manner. Since poor do not have any material collateral, social capital is the only collateral for extending such credit. This also provides an incentive to poor to perform and be able to have access to such credit in the future.

d) The practice of *Qard-al-hassan* has also been associated with enhancing harmony among poor and rich segments of the society which leads to more cooperative, collaborative, and caring society.

e) The institution of *Qard-al-hassan* can be effectively used to eradicate extreme poverty through opportunities to poor to create new jobs market and business ventures by using their merits, skills and expertise.

f) Finally, *Qard-al-hassan* can serve as tool to enhance financial and social inclusion in the society. By extending credit to poor, they can be brought into the formal financial sector and as they come out of poverty, they are better integrated and included in the society. In this respect, *Qard-al-hassan* is one of the tools to achieve economic and social justice as envisioned by Islamic economics.[85]

[85]Mohieldin, Iqbal, Rostom, Xu, "The Role of Islamic Finance in Enhancing Financial Inclusion in OIC Countries 8th International Conference on Islamic Economics and Finance," *Center for Islamic Economics and Finance, Qatar Faculty of Islamic Studies, Qatar Foundation*, (2011).

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

e. Sources of *K[l bo fB[m[h m*Funds

In Islam, since interest is prohibited, a new view of Islamic loan theory needs to be discussed. In discussing *qard*, several studies, among others refer to several verses in the Holy Qur' an. They refer to the following verses, i.e., Chapter al-Baqarah: verse 245, Chapter al-Maidah: verse 12, Chapter Al-Hadid: verse 11 and 18, Chapter al-Taghabun: verse 17 and Chapter al-Muzammil: verse 20. In those studies, they refer to the verses and also al-hadith as to define, and validate the approval of qard. The theoretical foundations from these sources, later, were expanded by many scholars such as Tabari, Ibnu Kathir, al-Suyuti, al-Qurtubi, al-Baidhowi and al-Jalalyn.[86]

Qardhul hasan has been used as a commercial facility (with some returns) in financial transactions. For example, in Malaysia, it has been practiced in business activities and it becomes the business model as witnessed in the operations of pawnbroking (via Ar-Rahnu scheme). Other countries such as Iran, Indonesia, Pakistan, Bangladesh, Vietnam and others also introduce the same business modal.

The funding of *Qardhul al-Hasan* comes from several categories, are as follows:[87]

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[86]Az-Zahabi, Muhammad Hussain, *Al-tafsir Wal-mufassirun* (Qaherah: Maktabah Wahbah, 2000) Vol.1, p.147.
[87]Antonio, *Bank syariah*, p. 133.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

a) *Qardhul Hasan* needed to help customers finance quickly and short term. These funds can be taken from the capital.

b) *Qardhul Hasan* needed to help small businesses and social needs, which can be sourced from *zakat*, *infaq* and alms funds (*shodaqoh*).

f. Provisions of *Qardhul Hasan* Contract

Based on the DSN fatwa, then the DSN consideration establishing *al-Qard* as a legitimate economic system according to Islam is:[88]

a) Islamic financial institutions (LKI) as well as commercial institutions should be able to act as a social institution that can improve the economy maximally.

b) As one of economic improvement that can be handled by LKS is the distribution of funds through the *Qard* principle, which is a loan agreement to the customer with the conditions: that the customer is obliged to return the funds received to the LKS at specified time.

c) The agreement is in accordance with Islam, the DSN deems it necessary to establish a fatwa on *Qard* to be guidelines by LKS.

As the contract that was occurred, there are some things that to be noticed in some *Qardh* Terms are as follows:-[89]

[88]Heykal, *Lembaga Keuangan*, p. 61.
[89]Heykal, *Lembaga Keuangan*, p. 63.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

a) *Al-qardh* is a loan that is given to customers (*muqtaridh*) that required.

b) The Customer of *al-qardh* shall return the principal amount received due to certain time.

c) Administrative costs are charged to customers.

d) LKS may request a guarantee to the customer whenever necessary.

e) Customers gives additional (donations) with voluntary to LKS during not permissible in contract.

f) If the customer is unable to return part or all of its obligations at the contract time and the LKS has confirmed its inability, then LKS may ensure:

1) Extend the payback period

2) Removing (write of) some or all of its obligations.

3. The Overview of Zakat

a. Definition

Zakat is the most prominent feature of an Islamic economic system. *Zakat* is the third pillar of Islam coming only after a declaration of faith and prayer. The word *zakat* appears in eighty-two verses of the Quran and literally means purity, development, blessings and praise but in practice is translated as alms. The social importance of *zakat* is its role in helping in the treatment of poverty; it is seen as a tool for acquiring a more equitable distribution of wealth, for achieving social

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

stability and solidarity, discouraging hoarding, and encouraging the circulation of capital in the economy.[90]

Zakat then is really not a form of charity, but a right of the recipients, which supports its role as a social stabilizer. *Zakat* plays a fundamental role in the economic system, ensuring the proper distribution and circulation of wealth and *zakat* purifies the wealth of the individual, but it also keeps the social, economic and political body or structure of the *Umma* from deterioration".[91] *Zakat* is thought of as a way to spiritually cleanse oneself and purify one's money.[92] *Zakat* requires that a donor's intention of giving be solely as an act of piety.

Literally, the word zakat has several meanings: *al-barakah* (blessing), *[hh[g* (growth and development), *a - aharah* (chastity), and *a - ala* (clean).[93]

According to Yusuf Qardawi, the definitions of zakat are:[94]

1) Part of the wealth by specific requirements, which God requires to its owner (*g ot [ee*), to be submitted for whom entitled to receive it (*mustahiq*) by specific requirements too.
2) *Al- c [[b [f g fs [b [f dng [s s [b* which means worship in the field of wealth which has very important position in building up the

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[90]Emara, N. F, *Islam: 'A Guide for the Perplexed': Study and Evaluation of an Attempt of Application: Alleviating Poverty in Tafahna al-ashraf*, Thesis MA (Cairo: American University, 2003), 239-239.
[91]Dean H & Khan Z, "Muslim Perspectives on Welfare," *Journal of Social Policy, 26*(2) (1997), 193-209.
[92]Kuran T, "Islamic Redistribution through Zakat: Historical Record and Modern Realities," In M. D. Bonner, M. Ener & A. Singer (Eds.), *Poverty and Charity in Middle Eastern Contexts*, (2003), Albany: State University of New York Press, (pp. 275-293).
[93]*Majma Lughah al- ; l[s s [b, al-G o d[g [f Wasith*, (Mesir: Daar el-Ma'arif, 1972), p. 396
[94]Ghazi Inayah, *Teori Komprehensif Tentang Zakat dan Pajak*, (Yogyakarta: Tiara Wacana, 2003), p. 3

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

society. Therefore, in the *[fKol h* and *al- [* , many commands for paying zakat and also praise for the people who do it.

The etymology of word of *zakat* comes from the Arabic *zaka-yazku-zakah*. Because the base word of *zakat* is *zaka* (Arabic), which means blessing, growing, clean, good and growing. [95] While the term of zakat according to terminology, Zakat is part of certain property which has reached the requirement (*Nisab*) which is required by Allah SWT to be issued to the right receiver with a certain requirement.[96] As already mentioned in the Qur'an:

قَدْ اَفْلَحَ مَنْ تَزَكّٰى ﴿ ١٤ ﴾

"He has certainly succeeded who purifies himself" (QS: Al-Ala 87:14).[97]

In the term of *ms[l[* , *zakat* has a divers understanding, including:

a) According to Yusuf Qardhawi, *Zakat* is certain possessions required by Allah to be given to the righteous.
b) Abdurrahman al-jaziri opines that *Zakat* is the handover of certain ownership to the righteous with a specific condition.
c) Muhammad al-jarjani in his book *al-n[lc[n* defines *Zakat* as an obligation that Allah has ordained for Muslims to expend some of their possessions.

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[95]Fakhruddin, *Fiqh dan Manajemen Zakat di Indonesia*, (Malang: UIN-Malang Press, 2008), p13.
[96]Syarif Hidayatullah, *Ensiklopedi Hukum Islam Ibadah Tanpa Khilafiah Zakat* (Jakarta: Indocamp, 2008), p 3.
[97]Q.S. Al-A'laa: (87): 14

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

d) According to Wahbah Zuhaili in his book *Al-fiqh al-islami wa adillatuhu* defines to kind of four school thoughts (*Madzhab*) : [98]

1) Hanafiyyah

Zakat is defined as the ownership of certain property to particular person/party that has been determined by Shari '(Allah Almighty) to expect His pleasure.

2) Malikiyyah

Zakat is expending a specific part of the treasure which has reached *nishab* for the righteous. When it reaches perfectly and extents *haul*, except minerals, plants and *rikaz*.

3) Syafi'iyyah

Zakat is the name of something to be excluded from property and body in a certain way.

4) Hanabilah

Zakat is a mandatory right in certain property for certain groups at specific time.

Meanwhile, in the term of Zakat according to Law number 23 years 2011 concerning about Management of Zakat; zakat is a treasure which must be expended by Muslims or business entities to be given to the righteous in accordance with Islamic Sharia.[99]

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[98]Wahbah Az-Zuhaili, *Fiqh Islam Wa Adillatuhu* (jakarta: Gema Insani, 2011), p 177.
[99]Law Number 23 year 2011 Concerning Management of Zakat, Chapter 1.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

From several terms that have been described above, it can be concluded about the definition of zakat, which is part of the obligatory property which must be issued to certain righteous which has been determined by the *Gmf[g c] M[l c[b* by paying attention about *nishab* and *haul*. Zakat in Islam is divided into two; zakat *fi rah* and zakat. Zakat *fi rah* is a personal zakat which obligatory issued by Muslim towards *[ffi l* during Ramadan. The amount of this zakat is equivalent to 2.5 kilograms of staple foods in the region concerned. While zakat *g f* is a wealth zakat that must be issued within a period of one year and meets *ni* include the results of commerce, agriculture, mining, marine products, livestock, wealth findings, gold and silver, and the salary of work (profession). Each type has its own calculations.[100]

There are various forms of *zakat*—a *zakat* on money, on trade, on merchandise etc. A Muslim is responsible for paying *zakat al-maal* (or alms on money) equivalent to 2.5 percent of his net worth, if after meeting his needs, he reach *nisab* (possesses the equivalent of 85 grams of gold or 600 grams of silver) for a period of one year.[101]

There is a specific *nisab* for each type of *zakat* but generally Muslims calculate *zakat* as two and a half percent of their net income, which must be paid on money, merchandise, profit derived from harvest, livestock, stocks and shares,

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[100]Abdul Al-Hamid Mahmud Al-Ba'ly, *Ekonomi Zakat: Sebuah Kajian Moneter dan Keuangan Syariah*, (Jakarta: PT. Raja Grafindo Persada, 2006), p. 3

[101]Ismail S, *Political Life in Cairo's New Quarters: Encountering the Everyday State* (Minneapolis: University of Minnesota Press, 2006)

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

bonds and securities.[102] In addition, twenty percent of all extracted resources are subject to *zakat* after deducting the cost of extraction. There is also a compulsory *zakat* al-fitr (alms on feast) in which every Muslim who can afford to plays a *zakat* equal to the amount it costs to feeds a person in need for one day.

b. Legal Basis

Zakat can be a potential source of funds that can utilize to improve the welfare of human life. Especially the poor, so they are able to live a decent life independently, without hanging his fate on mercy of other people.[103] It is reminiscent of how important zakat in our obligations as Muslims. In Qur'an and Hadith were mentioned that word of *zakat* along with the word of *Salah*. In the Qur'an word of *zakat* in the form *g[lc[n* is mentioned 30 (thirty times), including 27 (twenty seven times) mentioned in one verse within prayer, and once inside the same context with the prayer but not in one verse. [104]

a) Al-Quran

1) QS. Al-Baqarah: 267

يَا أَيُّهَا الَّذِينَ آمَنُوا أَنْفِقُوا مِنْ طَيِّبَاتِ مَا كَسَبْتُمْ وَمِمَّا أَخْرَجْنَا لَكُمْ مِنَ الْأَرْضِ ۖ وَلَا تَيَمَّمُوا الْخَبِيثَ مِنْهُ تُنْفِقُونَ وَلَسْتُمْ بِآخِذِيهِ إِلَّا أَنْ تُغْمِضُوا فِيهِ ۚ وَاعْلَمُوا أَنَّ اللَّهَ غَنِيٌّ حَمِيدٌ

[102]El Daly M, *Philanthropy in Egypt: A Comprehensive Study on Local Philanthropy in Egypt and Potentials of Directing Giving and Volunteering towards Development (First Edition Ed)* (Cairo: Center for Development Studies (CDS), 2007), p. 57.
[103]Masjfuk Zuhdi, *Masail Fiqhiyah*, (Cet. X; Jakarta: PT. Toko Gunung Agung, 1997), p. 241.
[104]Fakhruddin, *Fiqh dan Manajemen*, p. 44.

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I si o&qbi b[p fc p &mj h lig rb aii rbchamqbc]b si o b[p earned and from that which we have produced for you from the earth. And do not aim toward the defective therefrom; spending [from that] while you would not take it [yourself] except with closed eyes. And know that Allah is l i h [h Jl[amqilrbs([105]

2) QS. Al-Baqarah : 110

وَأَقِيمُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ ۚ وَمَا تُقَدِّمُوا لِأَنْفُسِكُمْ مِنْ خَيْرٍ تَجِدُوهُ عِنْدَ اللَّهِ ۗ إِنَّ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ

; hd establish prayer and give zakat, and whatever good you put forward for yourselves - you will find it with Allah. Indeed, Allah of what you do, is M cha([106]

As for both verses above are the basic verses is prescribed to fulfill zakat. In fact, as globally encouraging Muslims to put some of their wealth to public interest and explicitly encourage the *Muzakki* to fulfilling his zakat to be given to the *Mustahik* who has been defined by *ms[l c.* Indeed every good thing that cultivated by people will get a reward by Allah.

b) Hadith

عن أبي عبدالرحمن عبدالله بن عمر بن الخطاب رضي الله عنهما قال: سمعت رسول الله صلى الله عليه وسلم يقول: (بني الإسلام على خمسٍ: شهادة أن لا إله إلا الله وأن محمدًا رسول الله، وإقام الصلاة، وإيتاء الزكاة، وحج البيت، وصوم رمضان)؛ رواه البخاري ومسلمٌ.

Cb [l rb G mmha l i ; ffb "ﷺ) say, "Islam has been built on five [pillars]: testifying that there is no deity worthy of worship except Allah

[105]Departemen Agama RI, *Al-Kol [h [h N ld g[b[hhs[*, p. 45.
[106]Departemen Agama RI, *Al-Kol [h [h N ld g[b[hhs[*, p. 17.

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and that Muhammad is the Messenger of Allah, establishing the salah (prayer), paying the zakat (obligatory charity), making the hajj (pilgrimage) to the House, and fasting in Ramadhan. Narrated bukhari [h g omfg ([107]

The hadith above is the legal basis of obligatory *zakat*. These substances can be interpreted that zakat is one of the poles of religion, so if one of the building's pole is not sturdy, the building will not be able to stand perfectly. In other words, paying zakat is an obligation which is indistinguishable from the obligations of the Islamic *Ummah* into testifying *(shahadah)*, prayer, fasting and *hajj* for the capable.

c. Requirements of Wealth be The Source of Zakat

In general, the *al-Kol h* states that zakat was taken from each of the wealth we have, as stated in Surah at-Taubah verse 103 and al-Baqarah verse 267. Yusuf Qardawi stated that the definition of wealth (*al-g j*) is everything that desirable by human to keep and have it.[108] There are some requirements of wealth that could be source of zakat as follows:

1) Full-owned

The wealth is controlled and can be used by the owner, there is no rights of others in it and can be enjoyed usefulness.[109]

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[107]https://sunnah.com/nawawi40 Accessed on March 5, 2018.
[108]Yusuf Qardawi, *Fiqh Zakat*, (Beirut: Muassasah Risalah, 1991), p. 126
[109]Yusuf Qardawi, *Hukum Zakat*, translated by Salman Harun, etc., ed.12, (Bogor: Pustaka Litera AntarNusa, 2011), p. 128

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2) Developed

The wealth can be developed intentional or be potentially to developed. Definition of "growing" according to recent language is the characteristic of wealth which provides some profit, revenue or income, as well as increased and produces the production.[110]

3) Achieve the *ni*

Islam does not require any zakat on how much wealth is growing, although very small, but it gives a provision itself, namely certain amount in the science of *fiqh* called *ni* .[111] However, there are some scholars who do not require *ni* on the result that grows from the ground.[112]

4) Free from debt

Scholarly had notion that a debt is barrier of zakat compulsory, or at least reduce the obligatory need, in the case of stored wealth such as money and goods trade. While for the wealth that looked like livestock and agricultural products, some of *fiqh* scholars argue that the debt does not preclude the wealth to be obligatory of zakat.[113]

5) Passed one year

Ownership in the hands of the owner has passed its time twelve months of *Qamariyah*. This requirement is only for cattle, money and goods trade, which can be incorporated into the term "zakat of capital". But

[110]Qardawi, *Hukum Zakat*, p. 138
[111]Qardawi, *Hukum Zakat*, p. 149
[112]Qardawi, *Hukum Zakat*, p. 150
[113]Qardawi, *Hukum Zakat*, p. 157

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crops, fruits, honey, metal, treasure, and other similar are not required one year, and all of it can be incorporated into the term "zakat of income".[114]

d. Sources of Zakat

The types of wealth that become the source of zakat according to Yusuf Qardawi are as follows:

1) Zakat of livestock

The terms of livestock that must be issued in this zakat are as follows:[115]

a) Reach the *ni* . The minimum number of camel which can affect by zakat is five camels, whereas for goats is forty. For the cows, there is a difference opinion between five until thirty cows or fifty cows.

b) It has been owned for one year

c) It is grazed

d) Not employed

The amount of zakat which issued from the minimum number is one livestock animal and applied the multiples.

2) Zakat of gold and silver

The terms of gold, silver and money that must be issued zakat are as follows:[116]

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[114]Qardawi, *Hukum Zakat*, p. 161
[115]Qardawi, *Hukum Zakat*, p. 170

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a) Reach the *ni* which for gold is 85 grams or 20 dinars, while the silver 595 grams or 200 dirhams. The *ni* of money follows the *ni* of gold.

b) It has been owned for one year

c) Free from debt

d) More than staples

As for the amount of zakat issued is 2.5 %

3) Zakat of trading asset

The terms of trading asset that must be issued in this zakat is as follows:[117]

a) The trade contains two elements: actions and intentions. The action is the act of buying and selling, while the intention is intent to make a profit.

b) Reach *ni* about 85 grams of gold

c) It has been owned for one year

d) Free from debt

e) More than staples

The amount of issued is 2.5 %

4) Zakat of agriculture

Yusuf Qardawi follow the opinion of Abu Hanifa on the types of plants that must be issued the zakat is all types of plants that grow on

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[116]Qardawi, *Hukum Zakat*, p. 270-272
[117]Qardawi, *Hukum Zakat*, p. 312-314

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the ground.[118] While the *ni* measure of this zakat are five loads of camels (*wasaq*) as saying of the Prophet Muhammad: “Less than five *wasaq* is not obligatory to zakat."[119] The amount of zakat issued in plants is as Bukhari narrated from Ibn Umar from the Prophet: “The irrigated by rain or springs, or swamp, the zakat is tenth, and the irrigated by the help of animals, the zakat is twentieth”.[120]The zakat is issued every harvest.

5) Zakat of honey and animal production

Honey shall be issued the zakat about tenth based on the *al-* *[* of Amr ibn Syu'aib; from his father from his grandfather from the Prophet: "Verily Rasūlullāh take zakat of honey for a tenth”.[121] While its *ni* equal to the price of five *wasaq* (653 kg).[122]

6) Zakat of minerals and marine products

The discovery of hidden treasure kept by formerly people in the soil such as gold, silver, copper, and other valuable purse must be issued the zakat by 20%. There is no *ni* and does not pass the *aul*. For zakat of mining products, then it is looked from the business level. If it is obtained without difficulty then the zakat is 1/5 part.

[118]Qardawi, *Hukum Zakat*, p. 337
[119]Qardawi, *Hukum Zakat*, p. 342
[120]Qardawi, *Hukum Zakat*, p. 355
[121]Qardawi, *Hukum Zakat*, p. 397
[122]Qardawi, *Hukum Zakat*, p. 404

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Conversely, if it is obtained hardly, then the zakat is 1/40 part. Its *ni* like zakat of plant and does not apply the *aul*.[123]

While the marine resources such as pearls, *marjan*, amber and others subject to zakat by 20% or 2.5% depending on the workload and the resulting number. Similarly, fishes are subjected to zakat by 20% if it reaches the *ni* in 200 dirhams.[124]

7) Zakat of investment of factory, building, and so on

The amount of zakat which is imposed on income of buildings and factory is in analogy with agricultural income, by 10% or 5%.

8) Zakat of profession

Yusuf Qardawi opines that *ni* of salary is based on *ni* of money in the amount of 85 grams of gold because many people obtain the salary in the form of money.42 The amount of zakat of income earned from work is like the income of employees and professional groups that they get from their work, so the amount of zakat is 1/40.43

9) Zakat of sticks and bonds

The trading company whose capital is in the form of goods for trade and the material does not fixed; it collected the zakat from its stocks, in accordance with the prevailing price in the market, added with the profits, while the amount of zakat is 2.5% after issuing the

[123]Qardawi, *Hukum Zakat*, p. 424
[124]Qardawi, *Hukum Zakat*, p. 432

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value of the equipment included in the stocks.[125] Zakat is also subject to the bond because it is receivables which still possible to be returned and has been owned for one year.

e. Reciever (*Mustahiq*) of Zakat

In surah at-Taubah verse 60 mentioned explicitly who are entitled to receive zakat:

إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسَاكِينِ وَالْعَامِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ وَالْغَارِمِينَ وَفِي سَبِيلِ اللهِ وَابْنِ السَّبِيلِ فَرِيضَةً مِّنَ اللهِ وَاللهُ عَلِيمٌ حَكِيمٌ ﴿٦٠﴾

*Nb j i i l-due (*Zakat*) is only for those who are poor and needy and those who collect it, and for those whose hearts are to be conciliated for Islam, and for the freeing of slaves, and for debtors, and for spending in the way of Allah and for the traveller. This has been ordained by Allah. And Allah is knowing, Qom (* [126]

From the verse above, it can be known that people who are entitled to receive zakat (*mustahiq*) divided into eight categories (*a h*). Yusuf Qardawi defines *mustahiq* of zakat such as follows:

1) Indigent and Poor

Yusuf Qardawi combines these two categories into one chapter of discussion, but still divides it into two kinds:[127] (a) The poor who are able to work and earn a living, he can also fulfill himself as artisans,

[125]Qardawi, *Hukum Zakat*, p. 494
[126]QS. At-Taubah (9): 60
[127]Qardawi, *Hukum Zakat*, p. 536

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merchants, and farmers. (b) The poor who are unable to earn a living, like lame, blind, elderly, widows, children, and so on. They may be given zakat at sufficiently. For example, given a fixed salary per year, even either also given monthly if he is worried to doing wasteful or spend money in unimportant requirement.

2) *g cf*

g cf are those who carry out the activities of zakat affairs, such as: collector treasurer, guards, recorder, counters, and divider to the *mustahiq*. God provides a salary for them taken from zakat funds as a reward and not taken from others.[128]

3) Converts

Converts are those who expected their heart inclination or belief can grow about Islam or obstructed their evil intentions on Muslims or expectations of their protections and helping the Muslims from the enemy.[129]

4) *Ldk*

Ldk is the plural of *Raqabah*. This term in the *al-Kol h* means males slave and females slave. Zakat must be used to liberate the slave and eliminate all forms of slavery. Currently, the slavery does not

[128]Qardawi, *Hukum Zakat*, p. 545
[129]Qardawi, *Hukum Zakat*, p. 563

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longer exist, so the zakat can be given to Muslim prisoners who are held by the infidel enemy.[130]

5) *A l cg h*

A l cg h is the plural of *a l cg* which means that the person who owes money. According to Imam Malik, Syafi'ī and Ahmad, the person who owes money is divided into two groups:

a) For the benefit of himself, like to make a living, buying clothes, perform marriages, treat the sick, and so forth. Those who meet disasters and calamities also belong to this group.

b) For the benefit of society, such as reconciling the dispute of two groups.

In addition, Yusuf Qardawi also added that lend by a good way (*qar alhasan*) is part of the zakat target, he uses *kœ m*and the result is borrower same with debtor.[131]

6) *M fcff b*

Literally, *m fcff b* defined as conveying path at the pleasure of Allah, both creed and deed. The scholars of the four schools define *m fcff b* with Islamic jihad and war which implement by the name of God and its aim is change the human from worshiping against fellow

[130]Qardawi, *Hukum Zakat*, p. 592
[131]Qardawi, *Hukum Zakat*, p. 608

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human beings to the God only; removing human from the narrowness life to the spaciousness and from the mayhem to the justice of Islam.[132]

Nowadays, kinds of jihad are not only limited to the strength of the army, but extends into other forms, such as:[133]

a) Establish a representative Islamic activity center
b) Establish a good newspaper printing office
c) Spread some good Islamic books
d) Hire strong, trustworthy and sincere people to conduct the activities above
e) Help the preachers who call on the true Islamic teachings

7) *C ho Mf f*

According majority of scholars, *C ho mf f* is an allusion to the traveler those who pass from one area to another.[134]

f. Law of Crediting Property's *Zakat*

Classical scholars have no one to discuss this problem; however, contemporary scholars allow crediting zakat property. Among these scholars are: *Muhammad Abu Zahrah, Husain Makhluf, Hasan Abd. Rahman,* and *Yusuf al-Qar awi.* They argue that the returning debt comes from the *zakat* property, so it

[132]Qardawi, *Hukum Zakat,* p. 635
[133]Qardawi, *Hukum Zakat,* p. 643-644
[134]Qardawi, *Hukum Zakat,* p. 661-663

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would be better if the *zakat* property is credited (loaned) in a free way to return to *Baitul Mall*, so that Muslims are not caught up in practice of interest (*riba*).[135]

Furthermore, Rafiq Yunus al-Maṣri explained about credit law in terms of people who give credit as follows: [136]

a) *G [h* because helping people in need.

b) *Wajib* if the person applying for a loan is forced to borrow to cover the needs of life and his family and the person who gives credit is a rich person and able to help him.

c) *G o b* if not to meet urgent needs.

d) *G [el b* if you lend to someone who is known to be someone else who needs the credit more, or knows that the money is for the neediest, such as excessive.

e) *Haram*, if he knows the credit will be used for something that is forbidden such as drinking khamr, or gambling, or bribing.

[135]Thoriquddin, *J ha f ff[h T[e[n Jli oerc J lmj erc G[k id Al-ms[l [b C ho ms l&* (Malang: UIN-Maliki Press, 2014), p. 43
[136]Thoriquddin, *Pengelolaan Zakat*, p. 44

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CHAPTER III

RESEARCH METHOD

The research method is an important factor in a research, the success of a research depends on the exact method used. According to Soerjono Soekanto research is a scientific activity related to the analysis, methodologically, systematically, and consistently. Those mean in accordance with a method or a particular way, systematic is based on a system. While consistent means based on the absence of contradictory things in a particular framework.[137]

[137]Soerjono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: Universitas Indonesia, 2010), p. 42.

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Thus, in order to meet the scientific research criteria, the researcher prioritizes the method in accordance with the provisions of legal research methods, namely:

A. Research Locus

In this research, the researcher did the research located in two locations. First, el-Zawa pusat kajian zakat and wakaf UIN Maliki Malang, addressed in Gajayana Street No.50, Dinoyo, Lowokwaru District, Malang City, East Java 65144. Second, majlis agama Islam melaka (MAIM), addressed in Pusat Islam Melaka, Bukit Palah,, 75400 Melaka, Malaysia. In that location, the researcher did the research about the *Qordhul Hasan* Financing concerning into Comparative Study between two institutions el-Zawa Uin Malang Indonesia and Melaka Islamic Religion Council Malaysia.

The location of the research was chosen based on particular consideration, because of the problem which the researcher found in el-Zawa UIN Malang and Melaka Islamic Religion Council Malaysia when the researcher did pra research, so the researcher chose this location to be the location of the research.

B. Type of The Research

Before the research was done, the first step done was to determine the type of the research which functioned as main base of the research which had the effect on the overall implementation of the research.

In this research, the researcher used empiric legal research that is research whose object is about phenomenon which happened around the

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researcher, such as non-literature social, institute or state phenomenon. Juridical empiric research observes social law phenomenon in society.[138] So in this research the object of the research is the implementation and financing of *Qardhul hasan* contract both two institution, and the objective of this research is to know what kind of concept which was done in the *Qordhul Hasan* Financing concerning into Comparative Study between two institutions el-Zawa Uin Malang Indonesia and Melaka Islamic Religion Council Malaysia.

C. Research Approach

Research approach was chosen based on type of the research, problem of the research, and objectives of the research. And also explain urgency of research type used in examining and analyzing the research data.[139]

Approach according to Van Dyke is an approach consist of criteria of selection criteria employed in selecting the problems or questions to consider and in selecting the data to bring to bear; is consists of standards governing the inclusion of question and data.[140]

Approach of research in this research was juridical sociology approach, which was an approach that analyzes the problems that arise in the

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[138]Bahder Johan Nasution, *Metode Penelitian Ilmu Hukum*, (Bandung : Mandar Maju, 2008) p. 124.
[139]Tim Penyusun, *Pedoman Penulisan Karya Ilmiah Fakultas Syariah*, (Malang: UIN Press, 2013), p. 28.
[140]Van Dyke, Vernon, *Political science: A Philosophical Analysis*, (Standford University Press, Standford, 1965) p. 114

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midst of a society that needs an answer as soon as possible. In general, the issue revolves around the political level of government's policy in many ways, the socio-economic disparity with all its aspects, cultural issues and international relations, crime rates that at any time the frequency is increasing.[141] In which there was accordance between the practices of *Qordhul Hasan* Financing concerning into Comparative Study between two institutions el-Zawa Uin Malang Indonesia and Melaka Islamic Religion Council Malaysia.

D. Data Sources

Data is a real testimony or material that can be used as the basis of assessment (analysis or conclusions).[142] Data Source is source where is research data is found. Kind of data which used in juridical empiric research, divided into 2 types, that are: primary data and secondary data.[143]

Primary data is data which is gotten from first source.[144] Primary data is data which directly gotten from problem through interview to informant. While in this research, research interviewed parties who involved in *Qardhul Hasan* Financing between el-Zawa UIN Malang and Melaka Islamic Religion Council Malaysia, which were the director, secretary and officials.

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[141]Nasution, *Metode Penelitian*, p. 130.
[142]Wahid Murni, *Cara Mudah Menulis Proposal dan Laporan Penelitian Lapangan* (Malang:UM Press, 2008), p. 41
[143]Tim Penyusun, *Pedoman Penulisan Karya Ilmiah Fakultas Syariah*, (Malang: UIN Press, 2012), p. 28.
[144]Amiruddin and Zainal Asikin, *Pengantar Metode Penelitian Hukum*. (Jakarta: PT Raja Grafindo Persada, 2004), p.30

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While Secondary data is data that is used to describe a problem that is obtained from outside objects, but are still dealing with the problems to be researched. The sources of secondary data is obtained from the books or written literature. Secondary data which used in this research are:

1. Primary legal material, that is legal material which binding,[145] such as:
    a. Al-Quran, Hadith, Consensus of Scholars as Islamic legal source
    b. Regulation of Indonesian bank chapter 1 Number 7/46/PBI/2005 concerning contract and distribution of funds for banks which implements business based activities sharia principles.
    c. Law Number 23 year 2011 Concerning Management of Zakat, chapter 1.
    d. FATWA DSN MUI. No. 19/DSN-MUI/IV/2001 Concerning on *Al-Qardh,*
2. Secondary legal material, that is legal material which is closely related to primary legal material and can help analyzing and understanding of primary legal material. Those are *Tafsir* Al Qur'an, related books, research result, scientific journals, website and articles.
3. Tertiary legal material, that is legal material which gives information of primary legal material and secondary legal material, such as dictionary, encyclopedia, and guidebook writing scientific papers.

[145] Soejono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: UI Press,1986), p. 52.

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E. Data collecting Method

Data collection method is a systematic procedure to obtain the data needed. The data collection method used is interview and documentation. The interview talks about the certain intention.

In this research, data collecting method which used by the researcher are bellows:

1. Interview

   Interview is situation of role between individual face to face, when interviewer or researcher ask questions which is planned to obtain relevant answer with research problem to respondent.[146]

   Kind of interview which used is semi-structured or called general guide where the implementation is freer, because the objectives to find problem as more openly to party who is interviewed can easier to asked opinion and his ideas.[147]

   In this research, researcher makes an interview to all parties who involved in institution invoice in el-Zawa Uin Malang Indonesia and Melaka Islamic Religion Council Malaysia. That is:

   a) Mohd Hairulamin bin Haji Mohd Sis as Official Treasurer of Melaka Islamic Religion Council (MAIM) Malaysia.
   b) Sakinah as Scretary Treasurer of Melaka Islamic Religion Council (MAIM) Malaysia.

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[146]Amiruddin, *Pengantar Metode*, p. 82
[147]Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif dan R&D*. (Bandung: Alfabeta. 2009), p.233.

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c) Nurul Yaqien as Official Director of el-Zawa UIN Malang,

d) Idrus A. Rahman as Treasurer of el-Zawa UIN Malang.

2. Documentary

Technique of exploring data use written literature. In the implementation of documentary method, researcher investigates objects written which in this case is note, transcript, book, newspaper, etc. From definition above, can be taken a definition that this method is data collect with quotes, writes on documents, notes which can give proof or information to a problem.

While documents which will be as data from this research are:

a) Interview document in photo and written part

b) Invoice document which be payment item.

F. Data Analysis Method

Data analysis method is a technique to process the data obtained and to make the research be readable by reader. The steps used to process data are editing, classifying, verifying, analyzing, concluding and comparating.[148] From the formulation above, we can draw the outline that the data analysis intends to organize the data.

After done the analysis to understand the relationship between aspects of one another that the problem of research so as to provide a complete

[148]Tim Penyusun, *Pedoman Penulisan Karya Ilmiah Fakultas Syariah*, (Malang: UIN Press, 2012), p. 2.

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picture. Furthermore, then researcher explains specifically the steps as follows:

a. Editing

The process of data checking is done in examining data which has been collated by researcher so as to reduce errors and improve the systematic writing, either in the form of primary data or secondary data which related on research of *Qardhul Hasan* financing comparative study between el-Zawa UIN Malang Indonesia and Melaka Islamic Religion Council Malaysia.

b. Classifying

After the editing process is complete, then the processing subsequent data is classification or grouping data. Classification is the process of selecting from the data collected by researcher into subchapters which will research by researcher, so as to create compatibility between the themes of the systematic writing.

c. Verifying

Verification is almost the same as the qualification, but in the selection process of verification is used to select whose data accordance with the theme of research or not.

d. Analyzing

After the data has been collected and compiled as systematic writing, then the researcher using the comparative analysis that explains the relation of the two concepts of *Qardhul Hasan* financing

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comparative study between el-Zawa UIN Malang Indonesia and Melaka Islamic Religion Council Malaysia. The next process was to analyze the data so that it can solve the problem mentioned in problem of research.

This research will define expressly the similarities and differences so that the nature of the object understood more broadly. This is included in the descriptive-comparative analysis section which is expected to be a general overview of development of *Qardhul Hasan* financing in two institutions between el-Zawa UIN Malang Indonesia and Melaka Islamic Religion Council Malaysia. As well as be able to compare from each the resources used and knowing the similarities and differences of both concepts.

e. Concluding

After all data have been presented and analyzed based on the perspective adopted, the next step is to conclude from all Data which have been presented into a concise but meaningful conclusions.[149]

f. Comparative

Comparative research is comparative research. This research was conducted to compare the similarities and differences of two or more facts and the properties of the object being examined based on a particular frame of mind. In this study, the variables are still independent but to sample more than one or in a different time.[150]

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[149]Tim Penyusun, *Pedoman,* p. 29.
[150] Nazir, *Metode Penelitian,* (Jakarta: Ghalia Indonesia, 2005) p. 26

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According to Nazir comparative research is a kind of descriptive research that wants to find answers fundamentally about causation, by analyzing the factors that cause or the emergence of a particular phenomenon.[151] Comparative research is "post facto", meaning that data collected after the event in question occurs. Expost stacking is a systematic empirical study where researchers do not directly control the independent variables because the manifestation of the variable has occurred or because the variable basically cannot be manipulated. Researchers did not perform treatments in comparing and finding causal relationships of variables. Researchers only look for one or more of the consequences and test it by tracing the past to look for causes, possible relationships, and their meanings. This study tends to use quantitative data.

G. Data Validity Technique

Validity Technique according to Bogdan is data analysis is the process of systematically searching and arranging the interview transcripts, field notes, and other material that you accumulate to increase your own understanding of them and to enable you to present what you have discovered to others.[152]

[151]Nazir, *Metode Penelitian,* p. 27
[152]Sugiyono, *Metode penelitian kuantitatif kualitatif dan R&D*, p 244.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

In this research, data validity technique is done with analysis data as follow. First, reviewing all data which is obtain from several sources, such as interview result, private document, original document and internet. Those data is red, selected, studied and reviewed. Second, stages make a main summary, the process, and the questions which are effective, so constantly within the topic. Third, arrange data into units which is categorized on next stage. Finally, last stage is conduct checks against the validity of data, and then next with interpretation stage and the result be able to procced with analysis method.

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CHAPTER IV
FINDINGS AND DISCUSSION

This chapter describes clearly the profile and the general condition of research object, followed by deeply analysis about the principles, mechanisms, and *fiqh* analysis of *Qardhul Hasan* Financing Comparative Study between el-Zawa Uin Malang Indonesia and Melaka Islamic Religion Council Malaysia.

A. Overview of Research Object

1. El-zawa UIN Maulana Malik Ibrahim Malang

a. Background of Establishment of El-Zawa UIN Malang

The Center for Zakat and Waqf Study "el-Zawa" is one of the special units affianced in the field of social services, both in the fields of education, research, and social services. As one of the institutions that carry out the mandate of the *Tri Dharma Perguruan*

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Tinggi, State Islamic University (UIN) Maulana Malik Ibrahim Malang has a number of supporting units that function to realize its vision and mission.[153]

Historically, the formation of this unit was preceded by the implementation of the Southeast Asia Zakat Seminar and Expo by the Faculty of Sharia UIN Maliki Malang in association with the Zakat Management Institute (LMZ) Jakarta and the University Technology Mara (UiTM) Malaysia on November 22, 2006 at UIN Malang. In this event, the Minister of Religion of the Republic of Indonesia, Muhammad M. Basyuni along with the Chancellor of UIN Malang signed the establishment of the Center for Zakat and Waqf Studies. After two months from this event, on January 27, 2007, Chancellor of Maliki Malang State University issued a Chancellor's Decree Number: Un.3 / Kp.07.6 / 104/2007 dated January 27, 2007 concerning the Appointment of Manager of the Center for Alms and Endowments in Islamic University Negeri (UIN) Malang, appointed M. Fauzan Zenrif as chairman and Sudirman Hasan as secretary.[154] Since 2009, the position of chairman was carried out by Sudirman Hasan and accompanied by Moh Toriquddin as secretary.[155]

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[153]Pusat Kajian Zakat dan Wakaf eL-Zawa UIN Maliki Malang, *Annual Report*, Tahun 2016, p. 4.
[154]Pusat Kajian Zakat dan Wakaf eL-Zawa UIN Maliki Malang, *Annual Report*, Tahun 2016, p. 5.
[155]http://elzawa.uin-malang.ac.id/profile/sejarah/, accessed on Thursday, June 14, 2018.

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To provide an identity that easily known and memorized by the society, this unit was given the name "El-Zawa", abbreviation for *al-Zakat wa al-Waqf*, which means *zakat* and *waqf*. The word "*Zawa*" itself means remove and keeping away. Thus, the existence of this unit is expected to keep the Muslims society from unclean assets through the culture of *zakat* and *waqf*.

Besides, this institution expected to reduce of poverty in the society. For six years through the management of the potential of *Zakat, Infaq,* and *Sadaqah* within State Islamic University of Maulana Malik Ibrahim Malang, El-Zawa with its various programs has been providing benefits to the surrounding societies. The first fund managed by El-Zawa was not more than Rp. 250,000 and now has reached 1.4 billion. In 2013, El-Zawa'sa plans to get a new mandate, namely to study and manage the potential of *Hibah* from the societies for the social benefit of Muslims.

b. Legal Basis of Establishment of El-Zawa UIN Malang

The legal basis for the establishment of eL-Zawa begins with the implementation of seminars and Southeast Asian zakat expo by the Sharia Faculty of State Islamic University of Maulana Malik Ibrahim Malang in association with the Zakat Management Institute Jakarta (IMZ) and the University Technology Mara Malaysia (UiTM) on November 22, 2006 at UIN Malang. In this event the Minister of Religion of the Republic of Indonesia, Muhammad M. Basyuni

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along with the Chancellor of State Islamic University of Maulana Malik Ibrahim Malang signed the establishment of the Center for *Zakat* and *Waqaf* Study. After two months from this event, on January 27, 2007, Chancellor of Maliki Malang State University issued a Chancellor's Decree Number: Un.3 / Kp.07.6 / 104/2007 dated January 27, 2007 concerning the Appointment of Manager of the Center for Alms and Endowments in Islamic University Negeri (UIN) Malang, appointed M. Fauzan Zenrif as chairman and Sudirman Hasan as secretary. Since 2009 the position of chairman was carried out by Sudirman Hasan and accompanied by Moh Toriquddin as secretary.[156]

c. Vision and Mission of El-Zawa UIN Malang

As for some of the Vision and Mission of the el-Zawa UIN Malang are as follows:[157]

Vision: Become an advanced, transparent and professional institution in the development of studies and management of *zakat* and *Waqf*.

Mission: (1) Developing the knowledge of *Zakat* and *Waqf* in Indonesia, both in education, research, and social services. (2) Realizing a center of management of *Zakat* and *Waqf* based on Campuses in Indonesia.

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[156]Pusat Kajian Zakat dan Wakaf eL-Zawa UIN Maliki Malang, *Annual Report*, Tahun 2016, p. 5.
[157]http://elzawa.uin-malang.ac.id/profile/visi-dan-misi/, Accessed on Thursday, June 14, 2018.

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d. Work Programs of El-Zawa UIN Malang

1) Economic Category

a) *Mudharabah* Small Micro Medium Enterprise (UMKM)

Mudharabah UMKM is a financing program for UMKM by using the principle of profit sharing. The funds used to finance UMKM mudharabah is derived from *zakat* / *infaq* funds that have not been distributed to *mustahiq*. The purpose of this program is in addition to society economic empowerment, also intended to produce *zakat / infaq* funds to develop.

Mudharabah UMKM is a continuation of *Qardhul Hasan* UMKM program. That is micro, small and medium enterprises that have succeeded through the *Qardul Hasan* UMKM program able to proceed to the UMKM *mudharabah* program with a larger funding nominal, ie a maximum of Rp. 25,000,000 (twenty five million rupiah). The profit sharing ratio set by El-Zawa is not too high, a maximum of only 10% of the profits. In fact, this profit sharing can be paid in installments together with the principal capital installments within a period of 10 months to 20 months. Until 2016, there were 10 UMKM *mudharabah* customers with a total financing

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of Rp. 63,685,000 (sixty three million six hundred eighty five thousand rupiah).[158]

b) Male Barbershop Unit of El-Zawa

Since founded one year ago, the barbershop of El-Zawa is still providing benefits. Among the benefits obtained from hair cutting services are: (1) Facilitating UIN maulana Malik Ibrahim students to always be neat their hair; (2) Sharing financial benefits between students as workers (*mudharib*) with El-Zawa as investors (*shohibul mal*). In 2016, funds were collected through Rp. 3,960,000 (three million nine hundred sixty thousand rupiah).[159]

c) *Qardhul Hasan* Small Micro Medium Enterprise (UMKM)

To support society economic empowerment, El-Zawa has been offering *Qardhul Hasan* UMKM programs to provide capital loans to entrepreneur's micro, small and medium. Funds where used for providing capital loans are from inventory *zakat / infaq* funds that have not been distributed to *mustahiq*. Until 2016, UMKM that had received capital loans were 96 people with total financing of Rp. 115,500,000 (one hundred and fifteen million five hundred rupees). The fund is

[158]Pusat Kajian Zakat dan Wakaf eL-Zawa UIN Maliki Malang, *Annual Report*, Tahun 2016, p. 13.
[159]El-Zawa, *Annual Report*, Tahun 2016, p. 13.

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rolling in nature so it must be returned so it can be distributed to receiver.[160]

d) *Qardhul Hasan* Employee

Qardhul hasan is a form of kindness loan which is intended for employees and contract lecturers / BLU, including employees of PNS class II. The funds used to provide loans are funds for *zakat / infaq* supplies that have not been distributed. Through *Qardhul Hasan*, those who need temporary loans can take advantage of this program. The maximum loan that can be given is Rp. 5,000,000 with a maximum repayment of 20 months. The zakat funds through the *Qardul Hasan* program must be returned to be distributed to other *mustahiqs* in need.

In 2016, there were 196 employees who took advantage *Qardhul Hasan* program with a total financing of Rp. 957,500,000 (Nine hundred fifty seven million five hundred rupiah). If added to the number of previous customers who still have installments, the total reaches Rp. 1,247,321,890 (one billion two hundred forty seven million, three hundred twenty one thousand eight hundred ninety rupiah).[161]

[160]El-Zawa, *Annual Report*, Tahun 2016, p. 12.
[161]El-Zawa, *Annual Report*, Tahun 2016, p. 11.

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e) *Qardhul Hasan* of Education Lecturer

To optimize the utilization of funds *zakat / infaq* which has not been distributed to *mustahiq*, el-Zawa has facilitated the lecturers requires a temporary loan for settlement doctoral education/S3. The loaned funds must be returned in accordance with the stipulated time, so that it can be immediately distributed to reciever. Until 2016, there were 3 lecturers who submitted *Qardhul Hasan* doctoral education with a total fund still in the process of being repaid in the amount of Rp. 5,000,000 (Five million rupiahs).[162]

f) *Qardhul Hasan* of Students

Qardhul Hasan student is a loan given to students to meet funding needs related to academic activities. The fact that it's not all students qualify as scholarship recipients provided by El-Zawa. Therefore to facilitate student needs, El-Zawa provides an in-house program temporary loan form that must be returned accordingly set time. Until the end of 2016, students those who use *Qardhul Hasan* are 2 people, with a nominal value of Rp. 3,500,000.[163]

[162]El-Zawa, *Annual Report*, Tahun 2016, p. 14.
[163]El-Zawa, *Annual Report*, Tahun 2016, p. 23.

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2) Social Category

a) Charity Box of Superior Orphans

A superior orphan of charity box is a program collection and *infaq* to be channeled through scholarships superior orphan. Fund raising through a charity box has was launched two years ago until now it is still being run to expand sharing opportunities. In 2016, funds collected through this program is Rp. 2,826,500 (two million eight hundred twenty six thousand five hundred rupiah).[164]

b) Break fast With Orphans and the Elderly

The form of happiness waited for people who fasting are break fast and when meeting His Rabb. To pick up the happiness, el-Zawa held an open fasting event together with the recipient of the superior orphan scholarship recipient and the father/mother of the elderly noble charity beneficiaries. The breaking ceremony which is packed in the form of Ramadhan pesantren for orphans and tausiyah ramadhan for the entire audience is carried out smoothly.

c) Mass Circumcision

Distribution of *zakat/infaq* funds can be done through humanitarian social activities, including through mass

[164]El-Zawa, *Annual Report*, Tahun 2016, p. 21.

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circumcision for free. Participants who register are children of age schools that are mostly from poor families. Participants register in addition to getting circumcision facilities for free, too get the piety clothes for uniforms and compensation from El-Zawa. The number of participants who participated in the mass circumcision program in 2016 was 21 childrens. El-Zawa's mass circumcision program which cooperates with the medical faculty of UIN Maulana Malik Ibrahim it become well.[165]

d) Gifts of Ramadhan

Ramadan gifts are tdistribution of *zakat* funds / *infaq* which is realized in the form of parcel distribution food/drinks in the month of Ramadan. Those are received a ramadhan gift is non-BLU employees in the Maulana Malik Ibrahim State Islamic University. Through this program, el-Zawa hopes to facilitate the *muzakky* to share happiness in the month of Ramadan. In 2016, the *zakat / infaq* funds that were channeled through the Ramadan gift were Rp. 11,906,500 (eleven million nine hundred six thousand five hundred rupiah).[166]

e) Health Care Charity

[165]El-Zawa, *Annual Report*, Tahun 2016, p. 23.
[166]El-Zawa, *Annual Report*, Tahun 2016, p. 15.

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Besides free time, health is one of the pleasures that are often overlooked. Healthy feeling is felt when a person is experiencing pain. To ease the burden for our brothers who suffer from illness, El-Zawa has been sharing policies through this entire time healthy care program.

Healthy care charity is a program to distribute *zakat/ infaq* funds to ease the burden of medical expenses for contract employees and PNS type I and II who are hospitalized at the hospital. The assistance provided through this program is a maximum of Rp. 5,000,000. In 2016, the recipient of a healthy care charity program was 4 people with a total of Rp.9,850,000 (nine million eight hundred fifty thousand rupiah).[167]

f) Charity of Condolences

Death is the door to entering eternal life. For those brothers and sisters who were affected by calamity death, surely it is worth getting the expression of defending charity condolences. A charity condolence is an *infaq* fund distribution program to ease the burden on contract employees and civil servants in the Maulana Malik Ibrahim State Islamic University. The distribution of *infaq* funds through this program can be realized in the form of the purchase of basic

[167]El-Zawa, *Annual Report*, Tahun 2016, p. 14-15.

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necessities of Rp. 250,000. in 2016, the *infaq* funds channeled through this program amounted to Rp. 8,735,900 (eight million seven hundred thirty five thousand nine hundred rupiah).

g) Charity of The Elderly

Charity of the elderly program is a charity fund */infaq* which given to *mustahiq* who has entered old age. In fact, few people in the elderly can enjoy their old days just because of economic backwardness. Even among those who were still forced to work to support themselves and their families, so they did not have time to worship properly. Through the noble elderly charity program, El-Zawa has been trying to ease their burdens through regular monthly grants. Up to 2016, the number of seniors who received El-Zawa scholarship was 32 people, but 4 of them had died. The total zakat funds channeled through this program is Rp.47,100,000 (forty seven million thousand rupiah).[168]

3) Scholarships

a) Scholarships of Superior Orphans

Happiness with orphans is part of the practice of worship. Orphans are children who do not have a mother and / or father because he has died. The orphans who have the right

[168]El-Zawa, *Annual Report*, Tahun 2016, p. 8.

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to receive compensation through this program are orphans from families whose category is mustahiq.[169]

Until 2016, el-Zawa has provided compensation and mentoring to orphans around the UIN Maulana Malik Ibrahim. Compensation is given in kind education assistance scholarship program between Rp. 75,000 to Rp. 125,000 each month is adjusted to the level of education from kindergarten to high school. The number of orphans who received compensation was 81 children. The total funds channeled through this program amounted to Rp. 91,540,000 (ninety-one million five hundred forty thousand rupiah). While mentoring orphans is carried out by providing tutoring, both related to religious material (reading / writing the Qur'an), as well as general learning material in accordance with the competence of cadre students who are deployed.

b) Scholarships of El-Zawa Cadres

El-Zawa cadre scholarship program is a program distribution of *zakat / infaq* funds in the form of SPP scholarships for Maulana Malik Ibrahim UIN students who meet the requirements. Students who are entitled to receive scholarships are those who are in addition to the category of

[169]http://elzawa.uin-malang.ac.id/program/beasiswa-yatim-unggul/ Accessed on Thursday, June 14, 2018.

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Ibnu Sabil, also because they come from underprivileged families and achievers.[170] Therefore providing scholarship benefits in addition to paying attention to aspects of achievement also pay attention to aspects of appropriateness in terms of salvation.[171]

In 2016, the number of cadre scholarship recipients class III is 25 people. All of these students have the right to receive funds from El-Zawa to pay the first period of the tuition fee, which totals Rp. 36,285,000 (thirty six million two hundred thousand eighty five thousand rupiahs) while in the second period, eligible students are entitled to 12 SPP payment funds. With a total fund of Rp.22, 467,500 (twenty two million four hundred sixty seven thousand five hundred rupiah), so the total funds disbursed amounted to Rp. 58,752,500 (fifty eight million seven hundred fifty two thousand five hundred rupiah).[172]

c) Scholarships of *Akar Tangguh*

Akar tangguh scholarships are educational scholarships given to the sons and daughters of non PNS employees UIN maulana Malik Ibrahim starts from kindergarten to high school/ SLTA. As parents, of course they really expect their

[170]Idrus Andy, *Interview*, (Malang, 6 March 2018)
[171]El-Zawa, *Annual Report*, Tahun 2016, p. 9.
[172]http://elzawa.uin-malang.ac.id/program/beasiswa/ Accessed on Thursday, June 14, 2018.

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children can go to school so that someday can reach success in his life both world and hereafter. But the reality is that not a few parents sometimes find it difficult to fund their children's school because of economic limitations.[173] To ease the burden of education costs for parents of children, el-Zawa has provided *zakat / infaq* funds which are realized in the form of a strong roots scholarship program. Until 2016, there were 62 strong roots scholarship recipients with a total of Rp. 57,800,000 (fifty seven million eight hundred thousand rupiah).[174]

d) Mentoring of Targeted Schools

The mentoring school assistance program is follow-up to the MoU between El-Zawa and educational institutions. The assistance given by ElZawa is through sending UIN Maulana Malik Ibrahim students to foster various extracurricular activities. In 2016, there were 10 volunteer students who had been sent to the target schools to foster extracurricular activities with various skills backgrounds. Nominal funds channeled through mentoring activities amounting to Rp. 8,450,000 (eight million four queens fifty thousand rupiah).

[173]El-Zawa, *Annual Report*, Tahun 2016, p. 8.
[174]http://elzawa.uin-malang.ac.id/program/beasiswa-akar-tangguh/ Accessed on Thursday, June 14, 2018.

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4) Sponsorship Activities

a) Fund Rising Temu Wali

To optimize the fund raising function, ElZawa until now still runs a fund rising program to meet trustees. To run the program, El-Zawa always empowers cadre students in their interests, ranging from the distribution of El-Zawa brochures to the calculation and results of fund rising. In 2016, the zakat, infaq and dakwah funds that were collected from the fund rising were Rp. 25.785,000 (twenty five million seven hundred eighty five thousand rupiah).

b) Training of Cadres

Islam is a religion of advice to give guidance truth. Providing advice is part of the mission that our awareness needs to continue to develop. The fact that not all Muslims have the awareness of preaching due to limited capacity. Therefore to foster the ability to preach, El-Zawa took the initiative to hold training of da'wah cadre with Ahmad Muzakki resource person, M.Ag and Dr. H. Dahlan Tamrin, M.Ag.

c) Milad El-Zawa

On 22 of November 2016 el-Zawa had entering the age of 10 years. To realize gratitude for his role so far, El-Zawa held a simple milad by inviting the people of dhu 'afa diacara

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tausyiyah accompanied by the provision of compensation. From the invitations distributed, there were at least 83 informal workers and from among the fathers or elderly mothers, they could attend the event.

d) Sponsorship Activities

As a charity institution, El-Zawa was never quiet from proposals for student and social activities community in general. To respond to needs that, El-Zawa has been facilitating through sponsorship activities even with limited quota. In 2016, funds channeled for sponsorship activities outside the posdaya proposal are Rp. 22,100,000 (twenty two million one hundred thousand rupiah).

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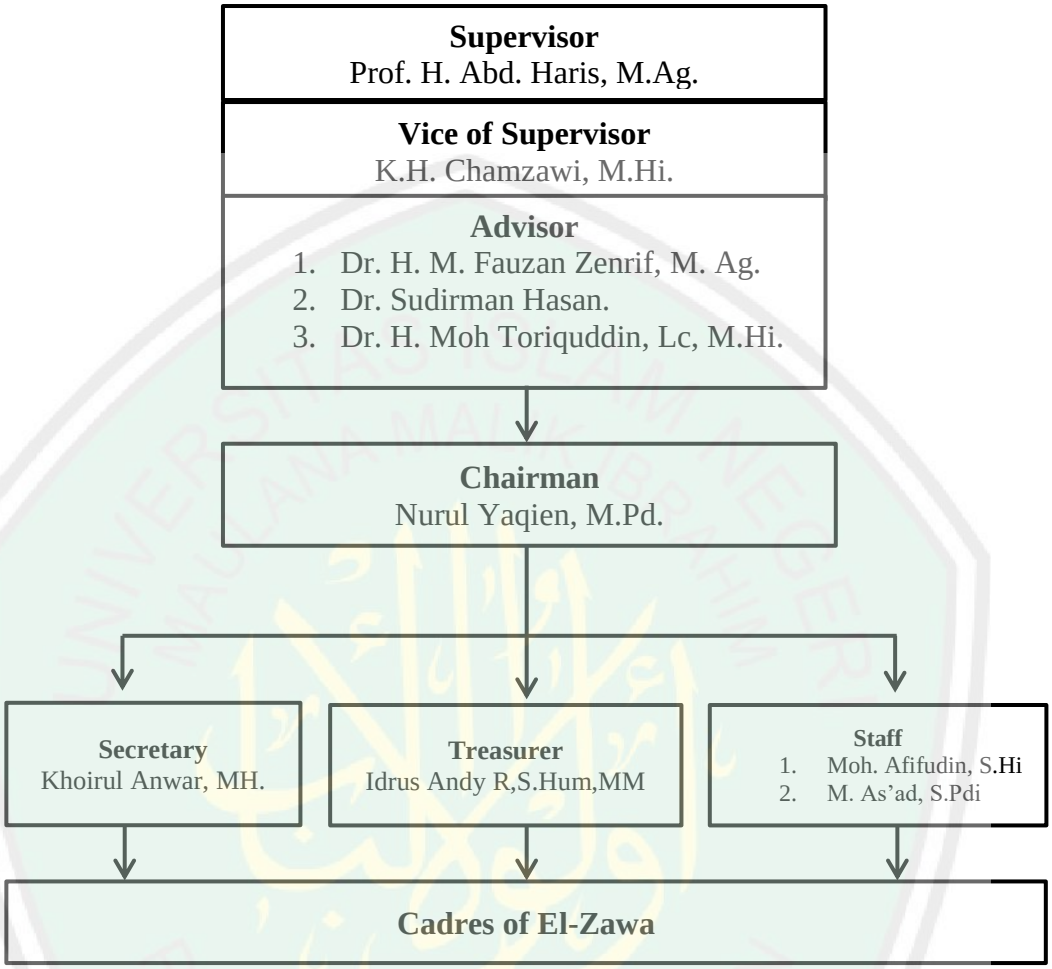
e. Members of El-Zawa UIN Malang



Source: Pusat Kajian Zakat dan Wakaf el-Zawa[175]

[175] *Pusat Kajian Zakat dan Wakaf el-Zawa*, Taken on Tuesday, March 6 2018, at 14:38.

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2. Melaka Islamic Religion Council (MAIM)

a. Background of Establishment of MAIM

On 10 of July year 1511, the sultanate of Melayu Malacca felt to Portuguese side and began the Western colonial era in Malacca, this clonial which lasted until year 466. In the days of western colonialism, the management of Malacca ministry had changed from management based on Shariah law to the conditional carried by western invaders.[176]

Management of Islam is not taken over by the colonial government, but is submitted to the Islamic society. Advancing the departure of the management of Islam depends on the society, so that on 31 of Augus year 1957 reached independence through the Melayu land alliance. It was written in the institutional association that the power of religion was in the state kingdom. Every country in Malaysia has its own Islamic Religion Masjlis.[177]

Majlis Agama Islam Melaka (MAIM) was founded on September 28, 1960. It is intended to manage the affairs of the Islamic State of Malacca in addition to assist and advice His Majesty the Yang di-Pertuan Agong. Establishment of Majlis Agama Islam Melaka strengthened by the enactment of the establishment of: Administration of the Religion of Islam (State of Malacca) 2002

[176]Mohd Hairulamin, *Interview,* (Melaka, 14 September 2017)
[177]Johari Fuadah, *Keberkesanan zakat dalam mengatasi masalah kemiskinan di negeri Melaka, Thesis MA,* (Kuala Lumpur: University of Malaya, 2004), p. 55.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

Section 4 subsection 1. There shall be a body known as the "Majlis Agama Islam Melaka" to assist and advise the Yang di-Pertuan Agong in matters relating to Islam. As a policy-making body Agama Islam Negeri Melaka, some agencies / institutions Islam was established as the Islamic Religious Department, Mufti Department, Shariah Court and subsidiaries MAIM to implement the decisions or policies made by MAIM.[178]

b. Legal Basis of Establishment of MAIM

The most important power given to the Melaka Islamic Religious Council (MAIM) is to assist and advise the Yang di-Pertuan Agung as the religious leader of all matters relating to the religion of Islam and to compile the administrative policy of Islamic religious affairs in this state. [179]

In refining the administration of Agama Islam Negeri Melaka some appropriate enactments have been created and implemented by departments / agencies each List of Enactments ruling:[180]

1) Administration of the Religion of Islam (State of Malacca) 2002.
2) Family Law (State of Malacca) 2002.
3) Syariah Criminal Procedure (State of Malacca) 2002.

[178] http://www.maim.gov.my Accessed on Thursday, June 14, 2018.
[179] Johari Fuadah, *Keberkesanan zakat dalam mengatasi masalah kemiskinan di negeri Melaka*, *Thesis MA*, (Kuala Lumpur: University of Malaya, 2004), p. 56.
[180] http://www.maim.gov.my/index.php/en/maim-information/information/enactment-of-maim Accessed on Thursday, June 14, 2018.

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4) Syariah Court Evidence (Malacca) 2002.
5) Syariah Court Civil Procedure (State of Malacca) 2002.
6) Control Enactment Religious Schools (Melaka) Regulations 2002 and the Registration of Religious Schools (Melaka) 2002.
7) Syariah Offences Enactment (Malacca) 1991.
8) Enactment of Awqaf (Malacca) 2005.
9) Enactment Wills (Malacca) 2005.

c. Objective, Vision and Mission of MAIM

As for some Objective Vision and Mission of Melaka Islamic Religion Council (MAIM) are as follows:[181]

Objective

1) Encourage and mobilize the Muslim community towards improving the science and practice of excellence in accordance with the purpose of creating a viable society, moral and ambitious based on Islamic law.
2) Make MAIM as a unifying organization ummah and the Muslim community in reference problems that arise

[181]http://www.maim.gov.my/index.php/en/informasi/information/objective-vision-mision-maim Accessed on Thursday, June 14, 2018.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

3) Foster unity among peoples of different races, religions and cultures through the missionary effective and robust.
4) To promote and develop the treasury to stabilize the economy as berperancangan neat and careful in the field of investment, construction and businesses that do not conflict with legislation.
5) Build and develop zakat institutions for the benefit of the Muslim community.

Vision

To be a leading organization, efficient, friendly and quality in enhancing the role of the treasury and to enhance the socio-economic development in accordance with Islamic ummah.

Mission

1) The leader of the Baitulmal transformation in improving the development of asnaf, the economy of the ummah creatively and innovatively based on syariah maqasid..
2) MAIM as a driving force for the administration of zakat and Islamic information management of the Melaka state in leading a more prosperous Muslim socio-economic systematic governance and

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

maintaining the principles of syariah maqasid based on high integrity, integrity and professionalism.

3) Accelerate the management and Baitulmal's property towards empowering the economy of the ummah along with the development of current technology in a transparent and efficient manner.

d. Work Programs of Melaka Islamic Religious Council (MAIM)

1) Zakat Category

a) Human Development Program

The amount of increase of *Asnaf* can not be overcome despite the assistance provided. This is because of the difficulty of reliance. Continuous transformation should be done to asnaf groups, especially among family members in order to bring the family out of future poverty.

Academic excellence and student excellence is the cornerstone of developing human capital that will fill the nation's development, in line with the rapid development of the globalization era and the communication and information technology [ICT].[182]

[182]http://www.maim.gov.my/index.php/en/contacts/human-development-program. Accessed on Thursday, June 14, 2018.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

b) *Asnaf* Trace Program

Distribute zakat collection to eight recipients in accordance programs, schemes and projects that have been established in the budget zakat efficiently and effectively and meet the requirements of the statutes of the recipients of assistance.

As for some eight zakat recipients are as follows:

(1) *Fakir*: People who have no property or livelihood but half of its revenues cover basic needs for themselves and their dependents.

(2) *Poor*: People who have no property or livelihood but still can not meet the basic needs of the whole either for himself or his family under his care.

(3) *Amil*: The person who manages zakat in terms of collection, management, control and up to the distributors.

(4) *Muallaf*: People who are new converts to Islam who tamed him with the provided guidance and assistance to enable them to remain steadfast love Islam.

(5) *Riqab*: Slaves who were given the opportunity by his master to redeem and liberate himself but did not have the money for that purpose.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

(6) *Gharimin*: Those who owe permitted by Islamic law as debt for the benefit of the public but can not afford to pay the debt.

(7) *Fisabilillah*: People who are struggling for their needs and program maslahah (interest) people - Muslims to spread Islam.

(8) *Ibnu Sabil*: Musafir which decision or out shopping for travel aimed at both allowed by the legislation.

2) Malacca Waqf & General Resource Management

A program that aims to submitting their property or part of property to the possession or to the possession of law Allah S.W.T with the aim get closer to Allah; and eventually donated benefit or the result to the welfare that determined by *waqif* forever. Endowments are also known by the name of alms deeds which is alms that continuos reward from time to time as long as the reward is utilized.

3) Management of MAL in Melaka

MAL known as *Baitulmal* is a form of administration that manages the property of the deceased person who is unmatched or hedged but does not finish all parts according to faraid. Some MAL Real Estate can be broken into several scopes such as:

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Estate management / Wills, Grants, Alms, and Individual donations, Luqatah, Nazar and Kafarah.

e. Subsidiaries of Melaka Islamic Religion Council (MAIM)

1) MAIM Holdings Bhd

MAIM Holdings Berhad was established by the Majlis Agama Islam Melaka by Section 27 (B) 2 (e) of the Administration of Islamic Law Malacca in 1994 that provides power under Majlis Agama Islam Melaka to set up his company below to carry out business activities. Maim Holdings Bhd has established three subsidiaries active in activities.[183] This organization aimed to be a leading organization, efficient, friendly and quality in enhancing the role of the treasury and to enhance the socio-economic development in accordance with Islamic ummah.

2) Zakat Centre Melaka

Melaka Zakat Centre (PZM) was incorporated in April 2001 which is placed under the management of zakat collection and distribution of zakat PZM placed under Baitulmal Majlis Agama Islam Melaka. Until now the Central Zakat Melaka has a headquarters and six branches throughout Melaka, Melaka

[183]http://www.maim.gov.my/index.php/en/informasi/anak-anak-syarikat-maim/maim-holdings-bhd, Accessed on Thursday, June 14, 2018.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

Sentral, Alor Gajah, Masjid Tanah, Tmn.Aman, Merlimau and Jasin. Central Melaka as Zakat Institutions entrusted to carry out the collection of zakat management has always focused on quality service as the core in the management of Zakat Centre Melaka. This had a positive impact in the Muslim community gives confidence to settle the obligation of Zakat and thus increase the collection of zakat in Malacca.[184]

3) Complex Al-Khawarizmi

Complex Falak Al Khwarizmi was established in 2008 with the status of the company under the control of the Majlis Agama Islam Melaka. Modus Operandi Al Khwarizmi major Astronomy Complex is one of the training centre complete with hostel facilities and metering facilities for joint training or courses. Among the target groups are:[185]

a) Students - students of primary and secondary
b) University students and IPTSJ
c) Government departments and statutory bodies of Educational Institutions

[184]http://www.izakat.com/ Accessed on Thursday, June 14, 2018.
[185]https://www.alkhawarizmimelaka.com.my/latarblkg.html, Accessed on Thursday, June 14, 2018.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

f. Members of MAIM

Chairman
YAB Datuk Wira IR Hj. Idris Bin Hj Haron Chief Minister of Melaka
Deputy Chairman
Y.Bhg Datuk Hj Yaakub Bin Md Amin Deputy Chairman of the Majlis Agama Islam Melaka
Member
Yang Berhormat Datuk Hj Naim Bin Abu Bakar Secretary of Melaka State **Yang Berhormat Puan Haini Binti Hasan** Legal Advisor of Melaka **Yang Berhormat Datuk Zainal Bin Hussin** Financial Officer of Melaka **Sahibus Samahah Datuk Wira Hj Rashid Redza Bin Md Saleh** Mufti of Melaka **Y.Bhg Dato'SAC Shah Gzali Khan Bin Shahadat** Deputy Police Chief Melaka **Y.Bhg Tan Sri Datuk Seri Panglima Dr.Abdul Rahman Bin Arshad** Canselor UCSI University **Y.A.A Tan Sri Ibrahim Bin Lembut** Director / Chief Judge Malaysia **Y.Bhg Datuk Profesor Dr Mizan Bin Hitam** Deputy Reactor (Student Affairs) of international Islamic University (UIA) **Y.Bhg Dato' Ustaz Abd Aziz bin Che Yacob** Religious officials of Istana Negara **Y.Bhg Prof. Emeritus Datuk Wira Dr. Mohd Yusoff Bin Hj Hashim** Vice Caselor Kolej Universiti Islam Antarabangsa Melaka **Y.Bhg Datuk Haji Zainal Abidin Bin Jaffar** Chief Executive Officer of the religious council **Y.Bhg Tuan Haji Zakariah Bin Lemat** Religious Officer **Y.Bhg Datuk Hj Abu@Abu Basar Bin Jamaluddin** Chairman of Shariah officials **Y.Bhg En.Mohd Yusof Bin Abu Bakar** Secretary of Majlis Agama Islam Melaka[186]

[186] *Melaka Islamic Religion Council (MAIM),* Taken on Tuesday, March 6 2018, at 14:38.

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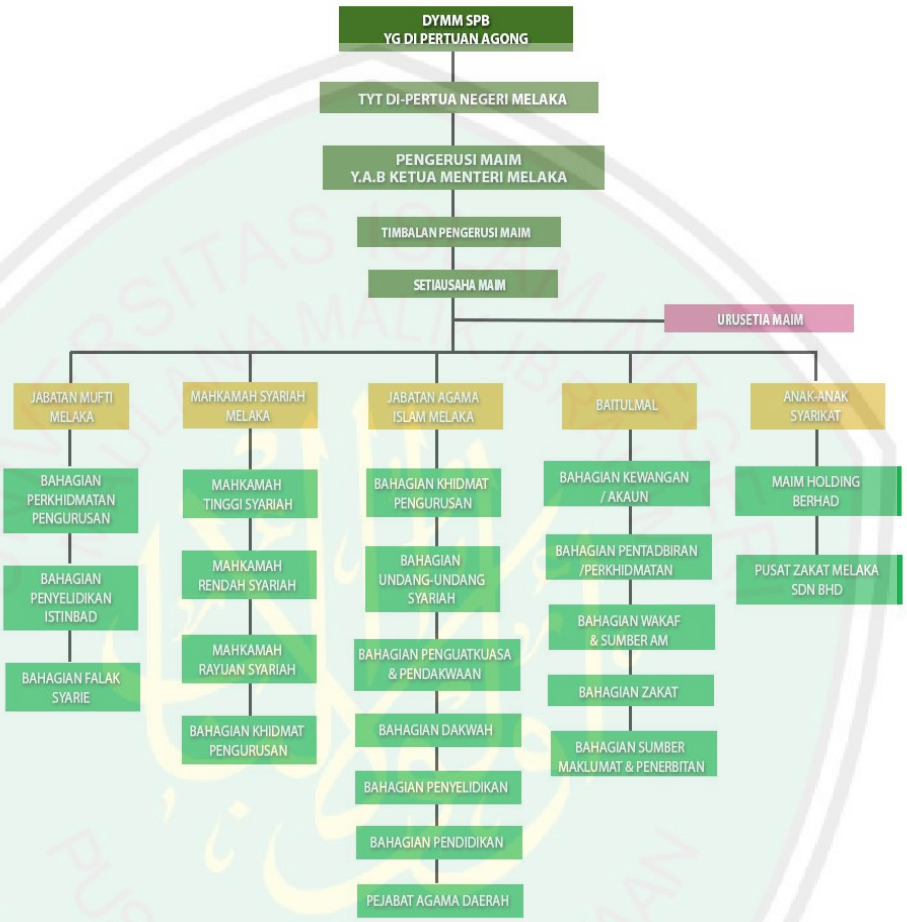
g. Organization Chart of MAIM



Source: Melaka Islamic Religion Council (MAIM)[187]

[187] *Melaka Islamic Religion Council (MAIM),* Taken on Tuesday, March 6 2018, at 14:38.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

B. Comparative Study of *Qardhul Hasan* financing between El-Zawa UIN Malang Indonesia and Melaka Islamic Religion Council Malaysia

1. Implementation of *Qardhul Hasan* Financing in El-Zawa UIN Maulana Malik Ibrahim Malang Indonesia

Along with the fast world's development in the field of economy, not infrequently makes underprivileged people can not fiil their needs. The important role for El-Zawa is helping people so that there is a synergy between the *amil zakat institution* (LAZ) and the societies. The function of the *amil zakat institution* is collecting *zakat m* fund and empower *t[e[nm* fund. In this discussion, the researcher will present the data which obtained from interview's result conducted at the *Zakat* and *Waqf* Study Center "El-Zawa". Researcher begins the discussion deeply about the financing process of *Qardhul Hasan* whereby this product includes financing products that are often needed by the society. To find out the procedure of *Qardhul Hasan* financing as a loan at El-Zawa UIN Malang, in this case the researcher conducted an interview with Mr. Nurul Yaqien as the chairman of El-Zawa as follows:

Nb adhdha i p[fcas mjli o]ni K[lbofB[m[h in El-Zawa was based on ijtihad of the el-Zawa founders, during the leadership period of Mr. Fauzan Zenrif and Mr. Sudirman Hasan. In 2008, el-zawa launched Qarhul Hasan as an interest-free soft loan with an easy submission mechanism. The first Qardhul Hasan issued by el-zawa was the Qardhul Hasan employee who at that time saw the immediate situation around Elzawa. The Qardhul Hasan program launched by eL-Zawa is a form of zakat fund management, namely the utilization of zakat regulated in Law No. 23 year 2011 concerning the Management of Zakat, article 1 stated that zakat management is an activity of planning, implementing, and coordinating in the collection, distribution and utilization of zakat. El-zawa is a zakat institution in the campus, at that time we see the

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

condition of employees who are not civil servants and have a lot of household needs and for now also applies to students, outsiders, mustahiq and several types such as Qardhul Hasan UMKM, Qardhul Hasan lecturer education ([188]

From the interview descriptions above, the data also in accordance with the establishment of el-Zawa which begins with seminar and expo of Southeast Asia Zakat by the Faculty of Sharia UIN Maliki Malang in association with Institution Manajemen of Zakat (lMZ) Jakarta and University Technology Mara (UiTM) Malaysia on 22 of November 2006 in UIN Malang. In this event also, the Minister Religion of the Republic Indonesia, Muhammad M. Basyuni along with the Rector of UIN Malang signed the establishment of the Center for *Zakat* and *Waqf* Studies. After two months from this event, on 27 of January 2007 the rector of UIN Maliki Malang issued a Rector's Decree Number: Un.3 / Kp.07.6 / 104/2007 dated January 27, 2007 concerning the Appointment of Management of the Center study of *Zakat* and *Waqf* in State Islamic University of Maulana Malik Ibrahim Malang, appointed M. Fauzan Zenrif as chairman and Sudirman Hasan as secretary.[189] *The Qardhul Hasan* program launched by eL-Zawa is a form of zakat fund management, namely the utilization of zakat regulated in Law No. 23 year 2011 concerning the Management of Zakat, article 1 stated that zakat management is an activity of planning, implementing, and

[188]Nurul Yaqien, *Interview*, (Malang, 6 March 2018)
[189]Pusat Kajian Zakat dan Wakaf eL-Zawa UIN Maliki Malang, *Annual Report*, Tahun 2016, p. 5.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

coordinating in the collection, distribution and utilization of zakat.[190] With the program developed by El-zawa in the loan above Qarhul Hasan they can utilize the funds of this program with a minimum loan of Rp. 1,000,000 to Rp. 5,000,000 with an instalment of 20 months. Thus the funds channeled through El-Zawa are exact for people in need.

Table 4.1
El-zawa Loan Limit of *Qardhul Hasan*

Financing	Minimun of Loan	Maximum of Loan	Instalments
Qardhul Hasan	Rp. 1.000.000	Rp. 5.000.000	20 Months

Source: Pusat Kajian Zakat dan Wakaf El-Zawa

As for the *Qardhul Hasan* product development model offered at El-zawa institution, it is very fariative, the researcher asked directly about the model of *Qardhul Hasan's* financing in El-zawa to Mr. Idrus Andy as treasurer, as follows:

For the type of Qardhul Hasan itself in el-zawa there are two namely Qardhul Hasan Productive and Consumptive. Inside the campus is like qardul hasan employees, then the external are qardhul hasan UMKM, external to UMKM mudharabah ([191]

For the explanation above that the development which carried out in State Islamic University of Maulana Malik Ibrahim Malang is developing within productive and consumptive, productive development such as *Qardhul Hasan* employee and *mudharaba*. While the external

[190]Act number 23 year of 2011, chapter 1 concerning management of zakat.
[191]Idrus Andy, *Interview,* (Malang, 6 March 2018)

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

development is the development carried out outside State Islamic University of Maulana Malik Ibrahim Malang, with the same development as internal that is productive and consumptive, for example productive development namely *Qardhul* Hasan UMKM and UMKM *mudharabah*.

Table 4.2
El-zawa Type of *Qardhul Hasan* Financing

No.	Type of *Qardhul Hasan*	
1.	*Qardhul Hasan* Consumptive	1. *Qardhul Hasan* Employee 2. *Qardhul Hasan* Motorcycle
2.	*Qardhul Hasan* Productive	1. *Qardhul Hasan* Small Micro Medium Enterprise (UMKM) 2. *Mudharabah* Small Micro Medium Enterprise (UMKM)

Source: Pusat Kajian Zakat dan Wakaf El-Zawa

Researcher continues to explore data regarding the source of funds from loans through the *Qardhul Hasan* financing in el-zawa as follows:

We take the Qardhul Hasan funds from Zakat funds, we are very supported by the rector sides, because indeed with the circular letter from the chancellor/rector for the deduction of salaries for employees both lecturers and non-lecturers at State Islamic University of Maulana Malik Ibrahim we can gain Rp. 45,000,000 (forty five million rupiah) every month. We also take it from three sources, namely the receipting of the infaq / shadaqah funds, the infaq / shadaqah fund, and the infaq / shadaqah fund to meet the parents. For year 2014 our Zakat funds from Rp.38,000,000 to Rp.42,000,000 per month, so every month we have a surplus of 4 million rupiah. But if it is calculated, we publish the first annual report from 2012 to 2016 on a graphical basis. At that time, we got almost 2 billion in income, because we could get the funds to meet the parents only Rp. 100,000,000. We also rotate funds from the acquisition of repayment from Qardhul Hasan financing. [192]

[192]Idrus Andy, *Interview*, (Malang, 6 March 2018)

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

From the explanation above, *Qardhul Hasan's* funding sources in Elzawa were taken from Zakat funds, Infaq/Sadaqah and the screening of qarhul hasan funds themselves. The most funds taken are in the form of zakat taken from salary deductions from all employees working on campus and lecturers who are on campus, the deductions described in the circular letter in the form of zakat, so that they can be collected every month up to Rp. 45,000,000 (forty five million rupiah). The el-zawa annual report chart is also categorized as a surplus from 2012 to 2016.

Table 4.3
El-zawa Fund Sources of *Qardhul Hasan*

Financing	Fund Sources	Types	Nominal
Qardhul Hasan	Zakat	UIN Maliki Malang	Rp. 525.619.904
		Student's Guardian Meeting	Rp. 4.900.000
	Infaq/Shadaqah	Related	-
		Individual	Rp. 3.739.000
		Guardian Meeting	Rp. 19. 585.000

Source: Annual Report El-Zawa Tahun 2016

The loan through the *Qardhul Hasan* contract is given to those in needs; it must fulfill the criteria which were determined by el-Zawa. In this case the researcher asked to el-zawa's treasurer directly as follows:

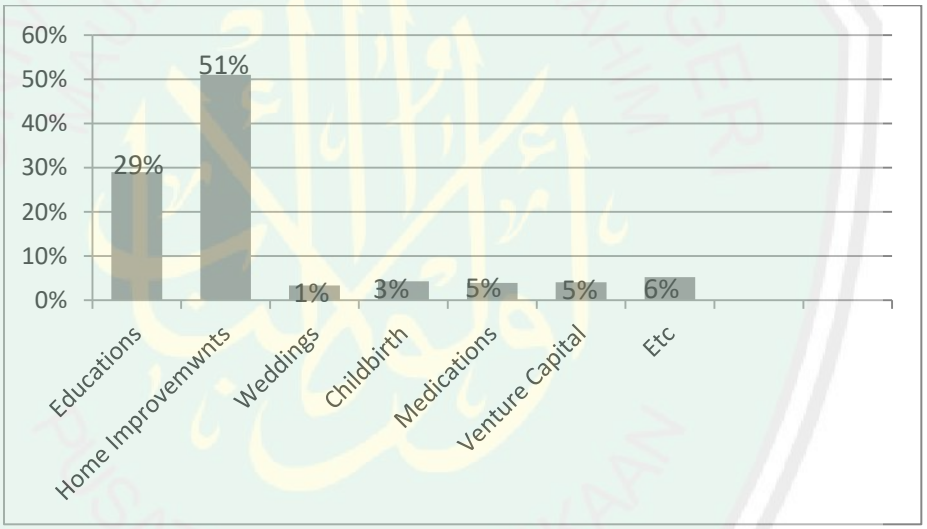
The loan through the Qardhul Hasan contract, we give to several categories, one of them: Fakir-poor/Dhuafa, Riqab, Gharimin, Muallaf, Sabilillah and Ibnu sabil. For Qardhul Hasan consumptive, we give it to: Employees, lecturers and students. For the Qardhul Hasan productive, we give to the people who have fulfilled our terms and conditions. Usually the Qardhul Hasan Fund is most needed by the society in certain

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

month, for June-July it is used for the education costs of their children and for January-March is used to repair / pay the rent for their homes. For the most percentage, it is used for home improvement in January-G [l]b .[193]

Qardhul Hasan's funds which are mostly consumed by customers are in the specified months, among others: January-March and June-July. From January to March it is used for the payment of house rent and home repairs such as rooftop repairs, waterways and other material purchases, because that month concides with the rainy season.

Chart 4.4
El-zawa Cumstomer Loan Chart



Source: Annual Report El-Zawa Tahun 2016

From June to July it is used to pay for the education costs of their children or the purchase of books, stationery and other necessities. The most percentage in *Qardhul Hasan's* loan is from January to March for the needs of home improvements and house rent payments and others.

[193]Idrus Andy, *Interview,* (Malang, 6 March 2018)

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

In the development of the *Qardhul Hasan* program, the el-Zawa institution certainly has a requirement for someone who wants to get a loan through the *Qardhul Hasan* contract, the researcher asks Mr. Idrus Andy as follows:

> *For the requirements, it must be included in the categories that mentioned in the above points and must fill in the registration form for Qardhul Hasan. In 2018 we add the terms of the inadequate statement (SKTM), this applies to Qardhul Hasan Employees/Motorcycle, Qardhul Hasan UMKM and Assistances/Mudharabah UMKM* .[194]

The requirements for someone in a loan through the *Qardhul Hasan* contractt must be included in the categories that were mentioned above among others: employees, lectures, intra-campus students of State Islamic University of Maulana Malik Ibrahim Malang, The poor, *Riqab, Gharim, Muallaf, sabilillah and Ibn Sabil*. The other conditions must fill in the registration form for the *K[l bo f B[m[h m* application and the certificate of inadequacy (SKTM).

Table 4.5
El-zawa *Qardhul Hasan* Requirements

Financing	Requirements
Qardhul Hasan	1. Fill in Form
	2. Enclose a Not Capable Certificate (SKTM)
	3. Enclose a Copy of Family Card (KK) and Indonesian ID Card (KTP) and Rp. 6000 Stamps
	4. Last Salary information

[194]Idrus Andy, *Interview*, (Malang, 6 March 2018)

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

	5. 3x4 Color Photo
	6. List Estimated Necessities Needed
	7. Guarantees (diploma/Certificate, BPKB motorbikes, original SK / Worthy Goods

Source: Pusat Kajian Zakat dan Wakaf El-Zawa

If in case someone happens to be unable to fulfill the requirements for repayment of *Qardhul Hasan* loans at the central institution of study *zakat* and *Waqf* el-Zawa, the following is a statement from Mr. Idrus Andy:

If there are offenses or a fraudulent customer or unpayness at the certain deadline, eL-Zawa has its own method, namely: first, we give a reprimand to them in maximally twice. Second, we report to the center official (the finance department) to deduct the salary from the customer to pay the installment, if the customer has paid off, the customer is subjected to a fine of 10% of the principal loan .[195]

According to eL-Zawa, if the customer fails to repay the loan principal because his business is bankrupt it is not due to the negligence of the customer, so the loan principal is deleted. Whereas for the loan Transaction Procedure through the *Qardhul Hasan* contract. El-Zawa has clearly regulated, in line which was revealed during the interview with Mr. Idrus Andy as follows:

The transaction procedure flow is like. First, customers must fill out an application form. Second, put it in the Red Map. Third, propose to chairman due to come out of decision. Fourth, when the loan funds have been issued we will provide a statement .[196]

[195]Idrus Andy, *Interview,* (Malang, 6 March 2018)
[196]Idrus Andy, *Interview,* (Malang, 6 March 2018)

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

Thus, discribes that the Loan funds through the *Qardhul Hasan* is easy. Customers who desire to apply a loan should fill in *Qardhul B[mfh m* form, among others: attaching 1 copy of ID card, 1 last salary and guarantee's proof of motorbike BPKB. Customers are asked to enter the file into red map, after that the customer will get certificates that have been determined.

2. Implementation of *Qardhul Hasan* Financing in Melaka Islamic Religion Council (MAIM) Malaysia

As an institution which was becoming the central of all Islamic agencies and institutions at the state of Melaka, but also as an adviser on Islamic religious affairs to the religious leader, Sri Paduka Baginda Yang Di Pertuan Agong and the chief minister as the head of the state administrator. MAIM (through Baitulmal) is managing the financial/property *of zakat, wakaf, grants, shadaqah* and all the commissions given by the society in advancing the religion of Islam. The researcher started a more detailed discussion of *Qardhul Hasan's* financing process. To find out the validity of *Qardhul Hasan's* contract at the Melaka Islamic Religion Council (MAIM), in this case the researcher conducted an interview with Mr. Hairulamin as the Official Treasurer as follows:

Yes, in MAIM there is a loan offering activity in the form of Qardhul Hasan contract through a loan of asnaf al-Gharimin. For customers who want to borrow will pay back to MAIM with the same value as the

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

amount it lends and not more than that, in accordance with the agreement without a fee or processing fee .[197]

The researchers concluded that not all products offered by MAIM using *Qardhul Hasan* contract, *Qardhul Hasan's* product at the Melaka Islamic Religious Council (MAIM) institution was granted only through *Asnaf Al-Gharimin's* loan.

Researchers continued to probe the data regarding fund source through the *Qardhul hasan* contract at the Melaka Islamic Religious Council (MAIM) institution as follows:

As for the source of funds we gotten from result of Zakat al-fitr (zakah of breaking the fast) and zakat al-mal (zakah of wealth) based on zakat quotes under the government of Melaka state and disbursed under the loan of asnaf al-Gharimin in accordance with the views are given by Dr. Yusuf al-Qardhawi ([198]

From the explanation above, the researcher concluded that *Qardhul Hasan's* funding source at the Melaka Islamic Religion Council (MAIM) institution was obtained through quotations result of *Zakat al-fitr* (zakah of breaking the fast) and *zakat al-mal* (zakah of wealth) based on zakat quotes under the government of Melaka state which was disbursed through the *Asnaf Gharimin* program with the views are given by Yusuf Qardhawi.

According to Yusuf Qardhawi, if the debt can be paid from the proceeds of *zakat*, then of course it would be more important to borrow

[197]Mohd Hairulamin, *Interview*, (Malang, 4 April 2018)
[198]Mohd Hairulamin, *Interview*, (Malang, 4 April 2018)

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

from *zakat* in a good way, which is clean from the element of *riba*, then it will be returned to the state treasury.[199] Yusuf Qardawi also added that lend by a good way (*qar alhasan*) is part of the zakat target, he uses *kas mand* the result is borrower same with debtor.[200]

The tabel below is a customer achievements over a number of periods in the charity category of Melaka Islamic Religion Council (MAIM) institution as follows:

Table 4.6
MAIM Clients Charter Achievement

Section	Client charter	Level of Achievment						
		2011	2012	2013	2014	2015	2016	2017
Zakat Distribution	Perform an investigation into the application and give assistance to successful applicants within 60 working days from the date of application.	86%	20%	51%	88%	89%	88%	87%

Source: Melaka Islamic Religion Council (MAIM)

[199]Yusuf Qardawi, *Hukum Zakat*, translated by Salman Harun, etc., ed.12, (Bogor: Pustaka Litera AntarNusa, 2011), p. 609
[200]Qardawi, *Hukum Zakat*, p. 608

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

The table explains that the commitment of each members of Melaka Islamic Religious Council (MAIM) in providing services in competently both in terms of service and assistance. From the percentage's result of the charta client shows that from 2014 to 2017 it still remains stable, signifying that MAIM is providing services to society that qualified and categorized. The source of funding of *Qardhul Hasan* through *asnaf gharimin* was quoted over the funding distribution of ***zakat*** in Melaka by MAIM in 2016 as follows:

Table 4.7
Zakat Distribution Year 2016 Melaka State

No.	Asnaf	Nilai Agihan (RM)
1.	*Fakir*	RM. 3.927.675.80
2.	*Miskin*	RM. 25.955.056.00
3.	*Amil*	RM. 12.000.000.00
4.	*Muallaf*	RM. 5.471.242.00
5.	*Riqab*	RM. 24.522.890.00
6.	*Gharimin*	RM. 405.200.00
7.	*Fisabilillah*	RM. 19.993.00
8	*Ibnu Sabil*	RM.3.065.908.00
9	Etc	RM. 0.00
AMOUNT		RM. 75.367.964.80

Source: Portal Pengurusan Maklumat Zakat dan Baitulmall Malaysia

The loan through *Qardhul Hasan's* contract is given to parties who needed, it have to fulfill the type and criteria setted by the MAIM. In this

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case the researcher asked immedietly to MAIM Treasurer Mr Mohd Hairulamin as follows:

The loan is given to the two types of Gharimin; as follows:

1) *People who have debts for the benefit of himself*
2) *People who have debts to the benefit of society*

Applicants must fulfill the requirements of Asnaf Gharimin as follows:

1) *People who owe money for basic needs for themselves and their dependents and meet the goals of legislation for the purpose of debt shall not sin to God unless he repented.*
2) *Those who owe money for benefit theirselves is like giving a living buying clothes, perform marriages, heal the sick, build houses, buy household furniture, marrying children or replace that damaged property of another person as a mistake, forget or similar. Debt levels must not be excessive.*
3) *The purpose owe is to meet the basic needs levels and not for luxury destination for extravagance in the basic preparation is forbidden for any Muslim.*
4) *People who owe due to natural disasters.*
5) *People debt to pay for treatment / medication;*
6) *People owe an inevitable to finance the cost of production to meet the basic human needs.*
7) *The indebtedness requires solution immediately and can not be postponed.*
8) *The purpose owe is to meet the basic needs levels and not for luxury destination for extravagance in the basic preparation is forbidden for any Muslim.*
9) *People who want to get married but facing financial difficulties; [The rate of assistance for the purpose of having walimah required is equal to the goat] - Refer mufti review dated January 10, 2012.*
10) *Those in debt because of his involvement in the community outreach activities such as management orphanage, nursing home, construction of houses of worship or any & nbsp; good deeds in serving the needs / requirements of the general welfare of society*

Customers are also encouraged to fill out application forms through Gharimin asnaf financing and complete other documents or requirements ([201]

[201]Mohd Hairulamin, *Interview*, (Malang, 4 April 2018)

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

From the explanation above, it was concluded that *Ashnaf Gharimin* in Melaka Islamic Religion Council (MAIM) was broadly divided into two categories. First, the person owed due to the benefitness of himself. Second, the person owed due to social benefits. Customers must fill in the application form through *Asnaf Gharimin* financing and complete the documents or requirements, as well as a table of assistance application forms for customers as follows:

Table 4.8
MAIM *Qardhul Hasan* Requirements

Financing	Information and Eligibility Applicants	Dokumen-Dokumen
Asnaf Gharimin (*Qardhul Hasan*)	1. The Applicant is born in Melaka 2. Settling in Melaka less than 10 years (For Non-Malacca)	1. Passport Photo 1x 2. Applicant Identification Card and Spouse 3. Divorced Certificate (Divorced) 1x 4. Pair Death Certificate 1x 5. Last Salary information 1x 6. Identification Card or Child's Birth Certificate 1x

Source: Melaka Islamic Religion Council (MAIM)

The researcher continued the interview regarding the requirements for a customer who wanted to get a loan through the *Qardhul Hasan* contract, the researcher asked to Mr. Mohd Hairulamin as follows:

For requirements for prospective customers who want to borrow through Asnaf Gharimin as follows:

1) The maximum loan amount is RM. 5.000.00;

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

2) *The payment method and repayment installment as follows:*
   a) *Loan RM1,000.00, installment a day RM1.00: a month RM30.00;*
   b) *Loan RM2,000.00, installment a day RM2.00: a month RM60.00;*
   c) *Loan RM3,000.00, installment a day RM3.00: a month RM90.00;*
   d) *Loan RM4,000.00, installment a day RM4.00: a month RM120.00; dan*
   e) *Loan RM5,000.00, installment a day RM5.00: a month RM150.00.*
3) *The maximum payment is 2 years 9 months*
4) *Require a guarantor for each borrower* .[202]

The maximum loan that providing by the Melaka Islamic Religion Council (MAIM) through *Asnaf Gharimin* financing is RM. 5,000.00; and the minimum loan is RM. 1.000.00; The time of payment is for 2 years 9 months.

Table 4.9
MAIM Loan Limit of *Qardhul Hasan*

Financing	Minimun of Loan	Maximum of Loan	Instalments
Qardhul Hasan	RM. 1.000.00	RM. 5.000.00	2 Years 9 months

Source: Melaka Islamic Religion Council (MAIM)

In case someone happens to be unable to fulfill the requirements for repayment of *Qardhul Hasan's* loan at the Melaka Islamic Religion Council (MAIM), the following is a statement from Mr. Mohd Hairulamin as follows:

[202]Mohd Hairulamin, *Interview*, (Malang, 4 April 2018)

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

First, the written notice will be submitted to the borrower "notice of breach" stating the relevant breach and require remedying the breach within fourteen (14) days from the date the borrower receives notice or within a longer period as may be agreed by MAIM.
Secondly, MAIM reserves the right to make the whole loan from the borrower through a legal process in which all costs and expenses in respect of the claim shall be fully borne by the borrower .[203]

From the exposure of interviews, the researcher went on to ask about the loan transaction procedure through *Qardhul Hasan's* contract, the institution of the Melaka Islamic Religion Council (MAIM) has clearly regulated. Similar to what was disclosed when interviewing to Mr. Hairulamin as follows:

Applicants must through a loan application form. For a checked application, the check will be submitted to the borrower and the borrower must sign the agreement and stamp the agreement (

For customers who apply for a loan to MAIM through an *Asnaf Gharimin* loan, they should fill out the application form that has been provided by the institution, after completion the customers need to sign an agreement with a stamp. So that if something happens unexpectedly, then the agreement can be legally valid.

[203]Mohd Hairulamin, *Interview*, (Malang, 4 April 2018)

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

C. Similarities and Differences of *Qardhul Hasan* financing contract between El-Zawa UIN Malang Indonesia and Melaka Islamic Religion Council Malaysia

1. The Similarities of *Qardhul Hasnan* Financing

Qard al-Hasan financing is a financing agreement between an Islamic financial institution and a customer deemed eligible to receive priority for a potential entrepreneur. However, there are no capital than entrepreneur's ability and other individuals who are in urgency situation. The borrower is merely required to return the loan principal at maturity and the bank merely gives a true administration fee for the process.[204]

In the *Qardhul Hasan* financing which is managed by both *Zakat* receiving institution is aimed at educating and utilizing people who are less to explore the potential in living their daily lives. Thus the existence of El-zawa and MAIM has an important role in carrying out the mission to lead a more prosperous socio-economic community of Muslims. *Qardhul Hasan's* financing programs in these two institutions have similarities in the implementation of its contract. Aspects in the implementation of *Qardhul Hasan* in el-Zawa UIN Maliki Malang and Melaka Islamic Religion Council (MAIM) depend on the problems that occur in the field. The similiarity in *Qardhul hasan* financing is the

[204]Muhammad, *Manajemen Dana,* p. 124

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

sources of funds in the two institutions, this clearly seen in the table below:

Table 4.10
The Similiarities of *Qardhul Hasan* Financing

Financing	The Similiarities	
	El-zawa	MAIM
Source Funds	The source of *Qardhul Hasan's* funds in el zawa was taken from Zakat funds, namely salary deductions from all employees who worked at UIN Maliki Malang and in the Guardian's Student Meeting.	The source of *Qardhul Hasan's* funds in Melaka Islamic Religion Council (MAIM) was obtained from the results of *Zakat al-fitr* (zakah of breaking the fast) and *zakat al-mal* (zakah of wealth) based on zakat quotes under the government of Melaka state and spent under *Asnaf al-Gharimin* loan.

Based on the table, the researcher concluded that the source of *K[l bofB[m{h m* fund in Elzawa was taken from Zakat funds and the fund's round. The most funds are taken in the form of *zakat* which taken by salary deductions from all of employees who working in university and lecturers, the deductions described in the circular letter is in the form of *zakat*. Meanwhile, *Qardhul Hasan's* funds at the Melaka Islamic Religion Council (MAIM) was obtained through quotations from *zakat* which is spent through the *Asnaf Gharimin* loan with views by Yusuf Qardhawi.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

2. The Differences of *Qardhul Hasan* Financing

The implementation of the *Qardhul Hasan* financing which is managed by the two institutions of *zakat* namely el-Zawa UIN Maliki Malang and Melaka Islamic Religion Council (MAIM) are very different, this clearly seen in the table below:

Table 4.11
The Differences of *Qardhul Hasan* Financing

Financing	The Differences	
	El-zawa	MAIM
Customers	The loan of *Qardhul Hasan* was given to several groups including: *Fakir, Poor, Riqab, Gharim, Muallf, Sabilillah, Ibn Sabil,* Employees / Lecturers / student of UIN Maliki Malang and Society who categorized.	Loans are given only to *Asnaf Gharimin* which has fulfilled the requirements determined by MAIM.
Loan Limits	Provide a minimum loan of Rp. 1,000,000 and a maximum of Rp.5,000,000 in installments for 20 months.	Give a minimum loan RM. 1,000 and a maximum RM. 5,000 in installments for 2 years 9 months
Type of *Qardhul Hasan* Financing	There are two types of Qardhul hasan Financing, namely: 1. Qardhul Hasan Consumtive 2. Qardhul Hasan Productive.	*Qardhul Hasan's* financing is only through *Asnaf Gharimin*.

Based on the table, the researcher concluded that El-Zawa gave the requirements for customers to be able to borrow *K[l bofb[mfh m*funds to 8 *ashnaf* and all university partners of UIN Malanng. Meanwhile, the

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

Melaka Islamic Religion Council (MAIM) gave just *Ashnaf Gharimin*. *Gharimin* in the MAIM institution is broadly divided into two categories: First, the person owed due to benefitness of himself. Second, the person owed due to social benefits.

Whereas in customer's term of requirements and sanctions, people who infringed the provisions of *Qardhul Hasan's* financing, el-Zawa UIN Maliki Malang and Melaka Islamic Religion Council (MAIM) have own differences, because the two institutions have their own reasons based on the law applied in institutions. The law applied by el-zawa is Law No. 23 Year 2011 Concerning the Management of *Zakat*. In Article 1 it is stated that *zakat* management is an activity of planning, implementing, and coordinating in the collection, distribution and utilization of *zakat*. While the MAIM used the Enactment of the Establishment of: Administration of the Religion of Islam (State of Malacca) 2002 Section 4 subsection 1.[205]

D. *Fiqh* Analysis Against the Implementation of *Qardhul Hasan* Financing between El-Zawa UIN Malang Indonesia and Melaka Islamic Religion Council Malaysia.

In this sub-chapter, the author tries to analyze classical *fiqhiyah* against the implementation of *Qardhul Hasan* financing in the el-Zawa UIN Malang

[205]Enactmemt of the Establishment of: Administration of the Religion of Islam (State of Malacca) year 2002.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

Indonesia and Melaka Islamic Religion Council Malaysia (MAIM). The analysis is directed to find a answer from questions of problem formulation in chapter I.

In classical fiqh there is no discussion about *Qardhul Hasan* contract, but there is a contract which according to the author is the main of the *Qardhul Hasan* contract, namely *al-qardh* contract. The discussion of *Qardhul Hasan* in Islamic jurisprudence cannot be separated from the theory of *al-qardh*.[206] Classical and contemporary scholars have agreed that *al-qardh* may be done. Because basically humans are social beings, so it has become a human nature that cannot live without helping each others.[207]

The paractice of *Qardhul Hasan's* financing in legal sharia financial institutions is allowed (*Jaiz*) if they have fulfilled the requirements and conditions that have been determined. In the Holy Qur'an *Qardhul Hasan* is mentioned in following verses, i.e., Chapter al-Baqarah: verse 245, Chapter al-Maidah: verse 12, Chapter Al-Hadid: verse 11 and 18, Chapter al-Taghabun: verse 17 and Chapter al-Muzammil: verse 20. In those studies, they refer to the verses and also al-hadith as to define, and validate the approval of qard. The theoretical foundations from these sources, later, were expanded by many scholars such as Tabari, Ibnu Kathir, al-Suyuti, al-Qurtubi, al-Baidhowi and al-Jalalyn.[208]

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[206]Wardi Muslih Ahmad, *Fiqh Muamalat*, (Jakarta: Sinar Grafika, 2010), p. 281.
[207]Antonio, *Bank Syariah*, p. 112
[208]Az-Zahabi, Muhammad Hussain, *Al-tafsir Wal-mufassirun* (Qaherah: Maktabah Wahbah, 2000) Vol.1, p.147.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

The legal basis of *Qardhul Hasan* is found in the Surah Al-Hadid verse 11 and Al-Baqarah 245 as follows:

مَنْ ذَا الَّذِي يُقْرِضُ اللَّهَ قَرْضًا حَسَنًا فَيُضَاعِفَهُ لَهُ وَلَهُ أَجْرٌ كَرِيمٌ ﴿١١﴾

Qbi amanrb[nqi of f[h; ff[b[ai i f f[h mi B qcffgofrcj f an il bcg [h b qcffb[p [hi f l q[l (Al-Hadid: 11)[209]

مَّن ذَا الَّذِي يُقْرِضُ اللّهَ قَرْضًا حَسَنًا فَيُضَاعِفَهُ لَهُ أَضْعَافًا كَثِيرَةً وَاللّهُ يَقْبِضُ وَيَبْسُطُ وَإِلَيْهِ تُرْجَعُونَ ﴿٢٤٥﴾

Qbi amb rb[nqcff f[h ri; ff[b[[oncof f[h&qbc]b; ff[b qcff i o f unto his credit and multiply many times It is Allah that giveth (you) Want or j f hrs&[h ri Bcg rb[ff si ol l rolh . (Al-Baqarah: 245)[210]

The verse above asserts that we are encouraged to do charity on the path of Allah because it is included relationship with Allah, along lends wealth to others is remaining social living. In the practice of implementing *Qardhul Hasan* in the El-zawa UIN Malang and Melaka Islamic Religion Council (MAIM) have fulfilled the requirements of *Fiqh Muammalah Al-qardh* in terms of financing capital, financing targets and financing requirements. *Muammalah Al-qardh* or interest-free loans according to the Islamic law is allowed, if it has been fulfilled the terms and conditions, including:

a. *Aqid* is *Muqrid* and *Muqtarid*

El-Zawa and MAIM institutions have fulfilled the qualifications of proficiency in conducting this *muammalah* because in its terms the

[209]QS. al-Hadid (57): 11
[210]QS. al-Baqarah (2): 245

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

two institutions require customers to have an ID card (Identity Card) and other requirements..

b. *G [ko [ff db* is Money and Goods

The money and goods used in this institution are clear.

c. *Shiqhat* is *Ijab* and *Qabul*

The requirements in both institutions require customers who borrow to be present and carry out the required documents.[211]

The fund source is obtained from the *zakat* fund which is the main source of *Qardhul Hasan*. According to Yusuf Qardhawi if the debt can be paid from the proceeds of zakat, then it would be more important to borrow from zakat with a good way which is clean from the element of interest, then it will be returned to the nation's treasury.[212] Yusuf Qardawi also added that lend by a good way (*qar alhasan*) is part of the zakat object, he uses *kœ m* and the result is borrower same with debtor.[213]

The property of zakat is the right of mustaḥiq, the position of 'āmil is like the parents of their children to manage the assets of zakat or in other words the position of' *g cf* is the representative (facilitator) of muzakki to distribute the assets of zakat to mustaḥiq. In managing the assets of zakat amil have freedom in accordance with their initiatives and innovations such as being produced so that the benefits of the zakat will be more felt than just

[211]Ahmad, *Fiqh Muamalat*, p. 252
[212]Yusuf Qardawi, *Hukum Zakat*, translated by Salman Harun, etc., ed.12, (Bogor: Pustaka Litera AntarNusa, 2011), p. 609
[213]Qardawi, *Hukum Zakat*, p. 608

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

consumptive. By distributing this charity in a consumptive manner the hope is that they will be more empowered with zakat assets so that they do not always expect in the following years, they could infiltrate, such as helping orphans, and even giving alms from the proceeds of their efforts.

In this case the theory used in analyzing the verse of *zakat* is by means of Tafsīr *al-fab[q s fc dnrg fs[rc[fkhi [fns[l!s* (interpretation of the language because *khi ns[l s* contains several possibilities).[214] By using this language interpretation we will be able to see the desired meaning in Surat al-Taubah verse 60 as follows:

إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسَاكِينِ وَالْعَامِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ وَالْغَارِمِينَ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ ۖ فَرِيضَةً مِنَ اللَّهِ ۗ وَاللَّهُ عَلِيمٌ حَكِيمٌ

T[e[b rj h aol m[l ihfs il nb jiil[h il nb h s[h il nbi m employed to collect [zakah] and for bringing hearts together [for Islam] and for freeing captives [or slaves] and for those in debt and for the cause of Allah and for the [stranded] traveler - an obligation [imposed] by Allah And ; ff[b amEhi q dha[h Qan . (At-Taubah 9:60).

According to *jumhur ulama* 'that giving zakat to the eight groups is not obligatory, but may only give to some depending on the needs of *musta k*. *Jumhur ulama* 'says that the letter lām in surat al-Tawbah (9): 60 does not mean *li al-nf g fe* but *li ajl* means *li ajli al-ma raf* (for distribution), thus according to the Hanafyah may distribute zakat to all groups and also may only channel to one group because the purpose of the verse is to explain the

[214]Thoriquddin, *Pengelolaan Zakat Produktif*, p. 129

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

group of zakat recipients who may be given zakat not the determination of zakat. In other words, the distribution of zakat assets must not be leveled to all mustahiq groups but may only be channeled to one group.

Relying on his opinion about the property ownership status of zakat on the Syaf'i madzhab, on the other hand in the process of distributing it using the *jumhur Madhhab* including Imam Hanaf. This is what is referred to in fqh as talfīq (bringing together two opinions in one case), or eclecticism. In relation to the case of eclecticism there is no problem because according to most scholars

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

CHAPTER V

CLOSING

A. Conclusion

The similiarities of *Qardhul Hasan* financing in both institutions as follows; El-Zawa took funds from *zakat* distributions, namely employe salary deductions and guardian's student meeting. Meanwhile, Melaka Islamic Religion Council (MAIM) took the funds from the results of *Zakat al-fitr* (zakah of breaking the fast) and *zakat al-mal* (zakah of wealth) based on zakat quotes under the government of Melaka state distributions through the *Asnaf Gharimin* program with views by Yusuf Qardhawi. The differences between *K[l bofB[m[h m* financing in both institutions are El-Zawa giving loans to customers of *Ashnaf* 8, Employees/Lecturers/UIN Malang Students and the

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

societies. Loan limits are given a minimum of Rp. 1,000,000 and a maximum of Rp.5,000,000 in installments for 20 months. There are two kinds of *Qardhul hasan* financing, namely: (1) Qardhul Hasan Consumtive (2) Qardhul Hasan Productive. Meanwhile, Melaka Islamic Religion Council (MAIM) gave loans only to *Ashnaf Gharimin*. Loan limits are given a minimum of RM 1,000 and a maximum of RM. 5,000 in installments for 2 years 9 months. *Qardhul Hasan's* financing is only through *Asnaf Gharimin*.

Qardhul Hasan's financing practices in both institutions of El-Zawa Center for *Zakat* and *Waqf* Studies and the institution of Islamic Religion Council (MAIM) are allowable (*Jaiz*), because the status of ownership and distribution of the assets of zakat in el-zawa and MAIM uses the concept of talfq (uniting two opinions or more in one case), namely the ownership status following the Syāfi'ī madzhab, and the distribution of the opinions of the jumhur schools including Imam Hanafi. Thus the analysis of the Qardhul hasan fiqh contract used in the El-Zawa UIN Malang institution and the Melaka Islamic Religion Council Malaysia has met the requirements.

B. Suggestion

1. El-Zawa UIN Maliki Malang

   The management of zakat funds in el-Zawa UIN Maliki Malang through *Qardhul Hasan* financing program should be reviewed, especially in the consumptive program. Meanwhile, the productive *Qardhul hasan* should

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

be developed in order to exceed the amount of outflows on *Qardhul Hasan* consumptive.

2. Melaka Islamic Religion Council (MAIM)

   Loaning through *Qardhul Hasan* financing program should not be provided only in *Asnaf Gharimin*, but also developed to other programs, which means the societies can accept it widely, especially for those who need it. In accordance with the MAIM vision, namely to enhance the socio-economic development in accordance with Islamic *ummah*.

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

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APPENDIX



Gathering with MAIM's Employees and during Workshop Class



Front View of Melaka Islamic Religion Council (MAIM)

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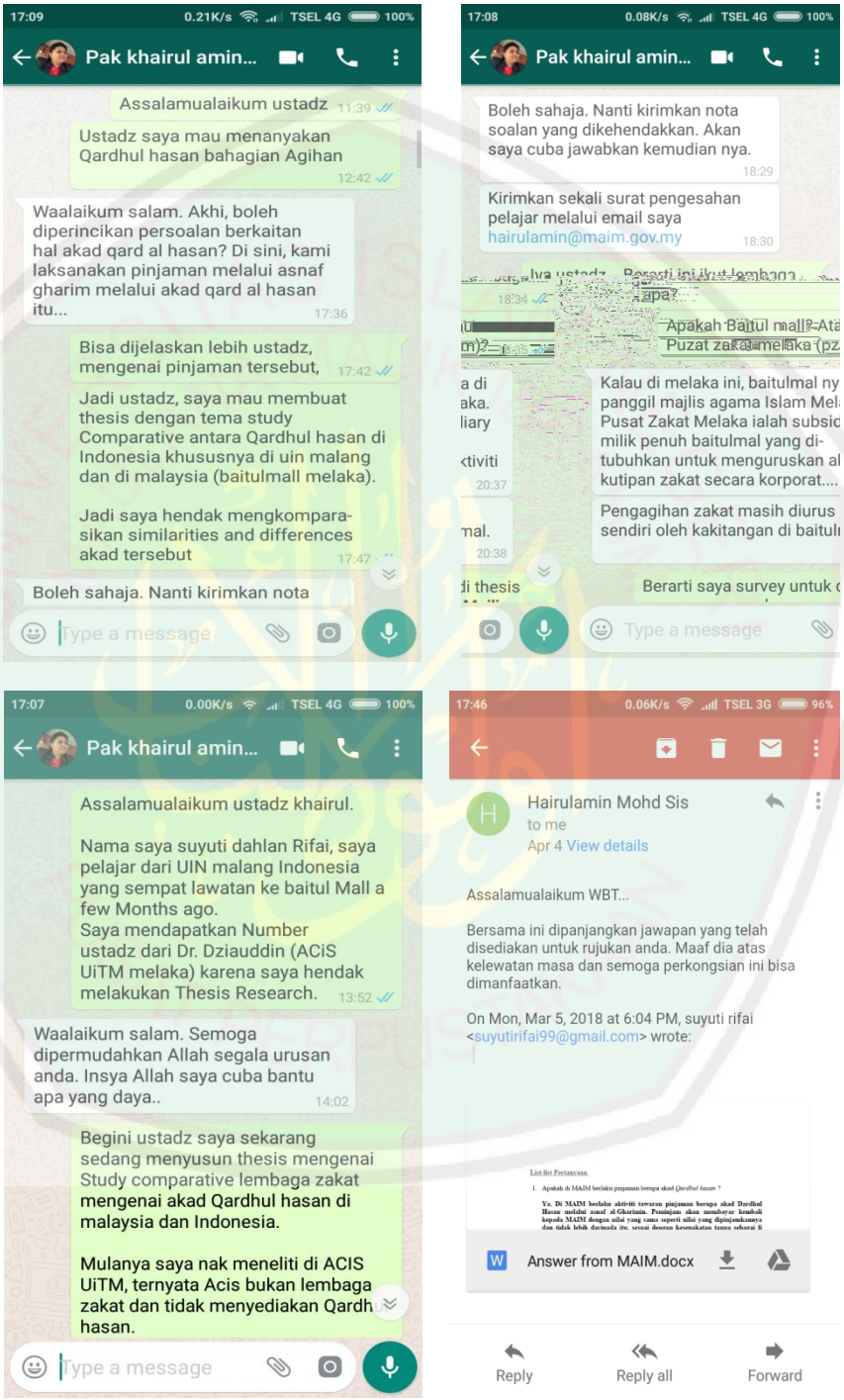
The result of Interviews through Social Media with Mr. Mohd Hairulamin as Treasurer of Melaka Islamic Religion Council (MAIM)



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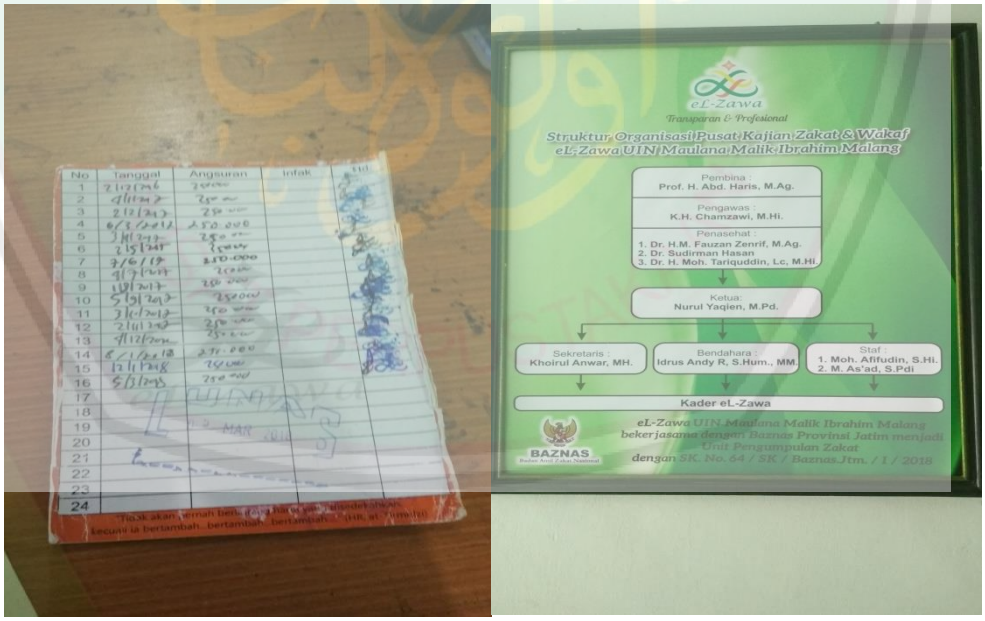
Photos with Mr. Nurul Yaqien as Director of El-Zawa UIN Malang and Mr. Idrus Andy as Treasurer



Photos of draft customers and Chart Members of El-Zawa UIN Malang

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

PUSAT KAJIAN ZAKAT DAN WAKAF "EL-ZAWA"
UNIVERSITAS ISLAM NEGERI MAULANA MALIK IBRAHIM MALANG
Jalan Gajayana 50, Malang 65144, Telepon (0341) 570575, Faks (0341) 570575
Website: www.elzawauin-malang.ac.id

FORMULIR
PERMOHONAN QARDHUL HASAN

Saya yang bertanda tangan di bawah ini:

Nama : .....

Status Pegawai : 1. Pegawai/Dosen Kontrak Honorer : ☐

2. Pegawai Negeri Sipil (PNS) : - ☐ Gol I - ☐ Gol II

Unit Kerja : .....

Status Pernikahan : Sudah/Belum

Jumlah Anak : .....

Alamat Asal : .....

.....Telp/HP:.....

Alamat Sekarang : .....

.....Telp/HP:.....

NIK (KTP/SIM) :.....

Saldo Gaji : Rp. _____,-

Sumber Gaji lain : 1. _____ Rp. _____,- per hari/bulan

Lain 2. _____ Rp. _____,- per hari/bulan

Qardul Hasan Ke : _____

Tanggungan Hutang yang ada : 1. _____ Rp. _____,-

2. _____ Rp. _____,-

3. _____ Rp. _____,-

bermaksud mengajukan Qardhul Hasan kepada Pusat Kajian Zakat dan Wakaf "eL-Zawa" UIN Maliki Malang sebesar Rp. _____ terbilang .....

untuk keperluan .....

dan akan dikembalikan secara berangsur selama ..... bulan.

Untuk melengkapi persyaratan administrasi, bersama ini saya sertakan:

☐ 1 (satu) lembar fotokopy KTP

☐ 1 (satu) lembar Slip gaji terakhir

☐ Bukti jaminan berupa - ☐ BPKB .....tahun.....a.n.....nomor...

☐ Surat berhaga lain .....

☐ Bersedia berinfaq sebesar: [A] Rp. 2.000, [B] Rp. 5.000, [C] Rp. 10.000 [D] .....setiap bulan

Demikian, atas dikabulkannya permohonan ini, saya mengucapkan banyak terima kasih.

Malang, ...
Pemohon,

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

PUSAT KAJIAN ZAKAT DAN WAKAF "EL-ZAWA"
UNIVERSITAS ISLAM NEGERI MAULANA MALIK IBRAHIM MALANG
Jalan Gajayana 50, Malang 65144, Telepon (0341) 570575, Faks (0341) 570575
Website: www.elzawauin-malang.ac.id

LEMBAR PERSETUJUAN

PERMOHONAN QARDHUL HASAN

Ketua Pusat Kajian Zakat dan Wakaf "eL-Zawa" UIN Maliki Malang dengan ini mempertimbangkan permohonan Qardhul Hasan atas:

Nama : .....

Status Pegawai : 1. Pegawai/Dosen Kontrak Honorer : ☐

2. Pegawai Negeri Sipil (PNS) : - ☐ Gol I - ☐ Gol II

Unit Kerja : .....

Alamat Asal : .....

.....

Alamat Sekarang : .....

.....

Telp/HP : .....

Besar Pinjaman : .....

Masa Pinjaman : .....

Bukti Jaminan : .....

.....

*** Menyetujui/Tidak Menyetujui**

Permohonan Qardhul Hasan di atas dengan:

Besar Pinjaman : ..... dari pengajuan .....

Masa Pinjaman : .....dari pengajuan .....

Bukti Jaminan : .....

Dengan pertimbangan : 1. .....

2. .....

3. .....

Demikian lembar persetujuan ini saya tandatangani untuk dapat diperhatikan.

Malang, ...
Ketua,

Nurul Yaqien, M.Pd.
19781119 200604 1 001

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(PERCUMA)
BPBF/Pind 3

Lekatkan
Gambar
Di sini

MAJLIS AGAMA ISLAM MELAKA
KOMPLEKS MAJLIS AGAMA ISLAM MELAKA(MAIM), JALAN BUKIT PALAH ,75150 MELAKA.
TELEFON : 06-283 2077/283 7416 / 2849809 FAX : 06-282 6033

BORANG PERMOHONAN BANTUAN

JENIS BANTUAN : .....

UNTUK KEGUNAAN PEJABAT

TARIKH TERIMA PERMOHONAN

STATUS PERMOHONAN ☐ LULUS ☐ DITOLAK ☐ KIV

JENIS BANTUAN : _____

TARIKH MULA BANTUAN

DAERAH : _____ PARLIMEN : _____

DUN : _____ KARIAH : _____

SILA BACA DAN FAHAM SEBELUM MENGISI BORANG PERMOHONAN INI

KETERANGAN & KELAYAKAN UNTUK PEMOHON

Sila isikan borang permohonan ini dengan **JELAS** dan **LENGKAP**. Permohonan yang tidak jelas/tidak lengakp dan mengandungi maklumat palsu akan ditolak

Butir-butir permohonan hendaklah ditulis dengan **HURUF BESAR**.

a) Pemohon lahir di Negeri Melaka atau
b) Menetap di Negeri Melaka sekurang-kurangnya 10 tahun(sekiranya tidak dilahirkan di Negeri Melaka)

DOKUMEN-DOKUMEN SOKONGAN

Setiap permohonan bantuan perlu disertai dengan salinan dokumen-dokumen sokongan

Dokumen-dokumen yang wajib dikemukakan bagi pemohonan adalah

- ☐ 1 keping gambar berukuran pasport
- ☐ 1 salinan Kad Pengenalan pemohon dan pasangan
- ☐ 1 salinan Sijil Cerai (jika bercerai hidup)
- ☐ 1 salinan Sijil Kematian pasangan (jika bercerai mati)
- ☐ 1 salinan Penyata Gaji pemohon dan pasangan (jika bekerja)
- ☐ 1 salinan Kad Pengenalan atau Sijil Kelahiran anak-anak

Setiap salinan dokumen hendaklah disahkan

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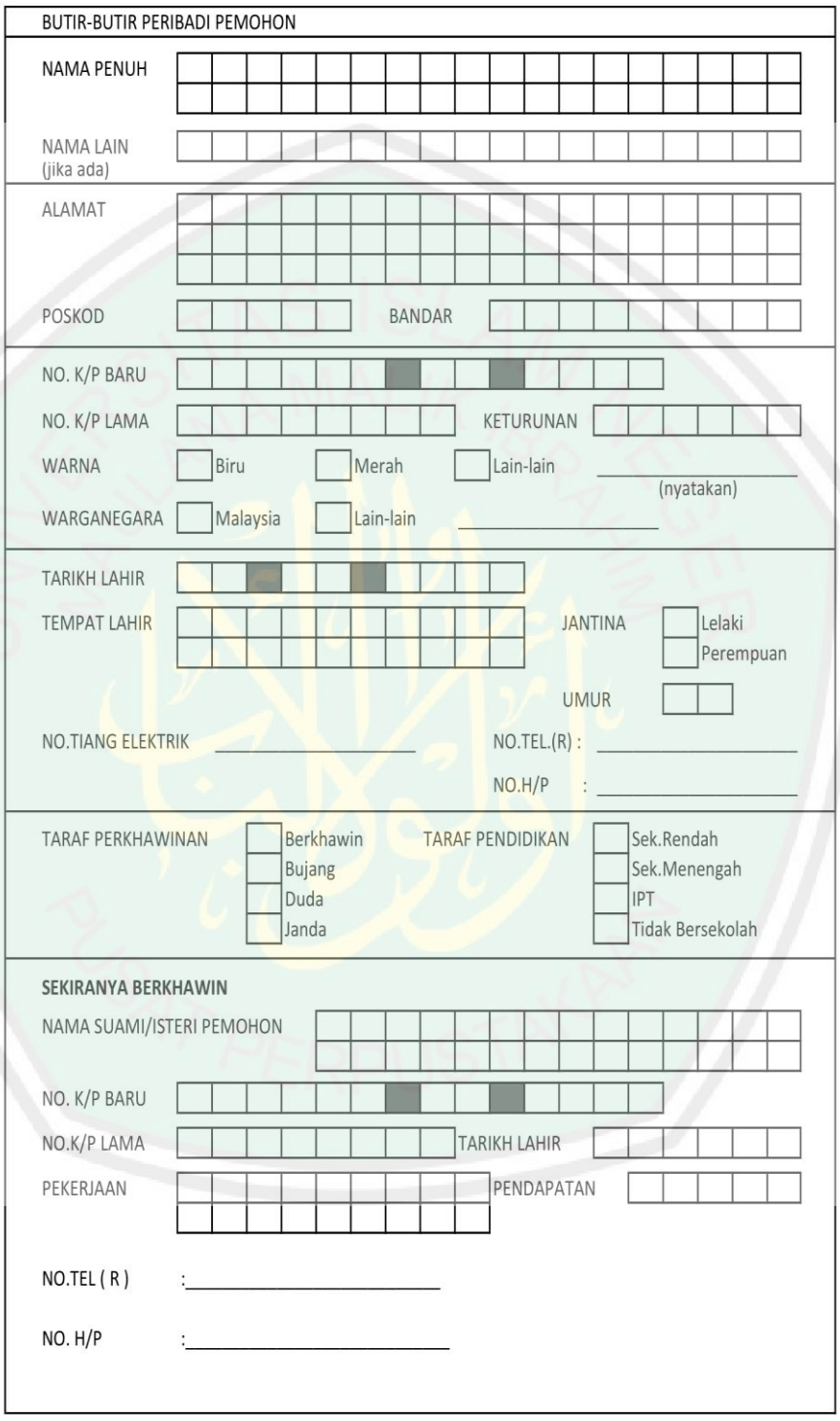

BUTIR-BUTIR PERIBADI PEMOHON

NAMA PENUH

NAMA LAIN (jika ada)

ALAMAT

POSKOD BANDAR

NO. K/P BARU

NO. K/P LAMA KETURUNAN

WARNA ☐ Biru ☐ Merah ☐ Lain-lain _____ (nyatakan)

WARGANEGARA ☐ Malaysia ☐ Lain-lain _____

TARIKH LAHIR

TEMPAT LAHIR JANTINA ☐ Lelaki ☐ Perempuan

UMUR

NO.TIANG ELEKTRIK _____ NO.TEL.(R) : _____

NO.H/P : _____

TARAF PERKHAWINAN ☐ Berkhawin ☐ Bujang ☐ Duda ☐ Janda

TARAF PENDIDIKAN ☐ Sek.Rendah ☐ Sek.Menengah ☐ IPT ☐ Tidak Bersekolah

SEKIRANYA BERKHAWIN

NAMA SUAMI/ISTERI PEMOHON

NO. K/P BARU

NO.K/P LAMA TARIKH LAHIR

PEKERJAAN PENDAPATAN

NO.TEL (R) :_____

NO. H/P :_____

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BUTIR-BUTIR PEKERJAAN DAN PENDAPATAN PEMOHON

PEKERJAAN

PENDAPATAN RM

PENDAPATAN LAIN RM

PENCEN RM

LAIN-LAIN RM

JUMLAH RM

TARAF PEMILIKAN KEDIAMAN PEMOHON

TARAF PEMILIKAN RUMAH

- ☐ Rumah dan tapak sendiri
- ☐ Rumah sendiri dan tapak sewa
- ☐ Rumah sendiri dan tapak menumpang
- ☐ Rumah sewa
- ☐ Menumpang

JENIS RUMAH

- ☐ Kekal
- ☐ Separuh kekal
- ☐ Lain-lain _____

KEADAAN RUMAH

- ☐ Sangat uzur,perlukan pembaikan
- ☐ Masih kukuh,tidak perlu pembaikan

BUTIR-BUTIR ORANG YANG MEMBERI TUMPANG

NAMA :

HUBUNGAN :

KEADAAN FIZIKAL PEMOHON

ANGGOTA DAN PANCAINDERA

- ☐ Cacat
- ☐ Sempurna

Jika Ada Nyatakan : _____

JENIS PENYAKIT(Jika ada)

- ☐ Buah pinggang
- ☐ Sakit Jantung
- ☐ Sakit Mental
- ☐ Kanser
- ☐ Lain-lain _____

JENIS KECACATAN

- ☐ Buta/ Kurang Penglihatan
- ☐ Cacat anggota kaki dan tangan
- ☐ Pekak/Kurang Pendengaran
- ☐ Terencat akal dan sakit jiwa
- ☐ Memerlukan pertolongan utk mandi dsb
- ☐ Boleh bergerak bebas dalam dan luar rumah
- ☐ Boleh bergerak dalam rumah sahaja
- ☐ Lain-lain

CATATAN PEJABAT :

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

KEMUDAHAN ASAS

BEKALAN AIR

- ☐ Paip dalam rumah : sebulan RM
- ☐ Paip awam
- ☐ Telaga
- ☐ Lain-lain

BEKALAN ELEKTRIK

- ☐ Ada : sebulan RM
- ☐ Tiada

KENDERAAN

- ☐ Basikal
- ☐ Motosikal
- ☐ Beca
- ☐ Lain-lain _____

PERALATAN/PERKAKAS RUMAH

- ☐ Televisyen
- ☐ Radio
- ☐ Peti sejuk
- ☐ Mesin Basuh
- ☐ Dapur Gas
- ☐ Perabot
- ☐ Telefon

PEMILIKAN HARTA

JENIS HARTA

- ☐ Tanah
- ☐ Pertanian
- ☐ Rumah
- ☐ Kedai
- ☐ Kebun Getah
- ☐ Simpanan

BUTIR-BUTIR BANTUAN YANG TELAH DITERIMA

JENIS BANTUAN

- ☐ Biasiswa Kecil Persekutuan/Negeri RM
- ☐ Socso RM
- ☐ Jabatan Kebajikan Masyarakat RM

Jenis (Skim Bantuan : _____)

- ☐ Program Pembangunan Rakyat Termiskin
- ☐ Liain-lain Bantuan _____

(Nyatakan)

CATATAN PEJABAT :

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

NAMA ANAK-ANAK PEMOHON

BIL	NAMA & NO.KAD PENGENALAN BARU	UMUR	TINGGAL BERSAMA		PEKERJAAN DAN PENDAPATAN	NAMA SEKOLAH/IPT(JIKA MASIH
			YA	TIDAK		

CATATAN PEJABAT :

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PENGAKUAN PEMOHON

Saya _____mengaku dengan nama Allah bahawa semua keterangan yang telah diberikan di atas adalah benar belaka. Majlis Agama Islam Melaka berhak membatal dan menarik balik bantuan yang diberikan kepada saya sekiranya butir-butir yang diberikan adalah tidak benar.

Tarikh : _____ _____

Tandatangan/Cop Jari Pemohon

PENGESAHAN

I) Nama Pengerusi JKKK :_____

No.K/P : (B)_____ L) _____

No.Telefon :_____

Tandatangan & Cop :_____

Ulasan :

_____

_____

_____

ii) Nama Imam Kariah :_____

No. K/P : (B) _____ L) _____

No.Telefon :_____

Tarikh :_____

Tandatangan & Cop

Ulasan

_____

_____

_____

CENTRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG

CURRICULUM VITAE

Personal Detail



Name : Suyuti Dahlan Rifa'i

Birth Place : Gresik

Birth Date : 16th June 1995

Gender : Male

Religion : Islam

Address : Prikanan Street, Sedagaran Village, Sidayu Sub-district P-C 61153, Gresik Regency, East Java.

Cell Phone : +6281230720084

E-mail : suyutirifai@gmail.com

Formal Education

1998-2000	:	TK KANJENG SEPUH SIDAYU
2001-2006	:	MI ISLAMIYAH SIDAYU
2007-2009	:	MTS SALAFIYYAH MOJOKERTO
2010-2013	:	SMAI AL-MAARIF SINGOSARI

Non-Formal Education

2006-2009	:	PP. MAJMA'AL BAHRAIN MOJOKERTO
2010-2014	:	PPQ. NURUL HUDA SINGOSARI
2013	:	BASIC ENGLISH COURSE (BEC) Pare-Kediri

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