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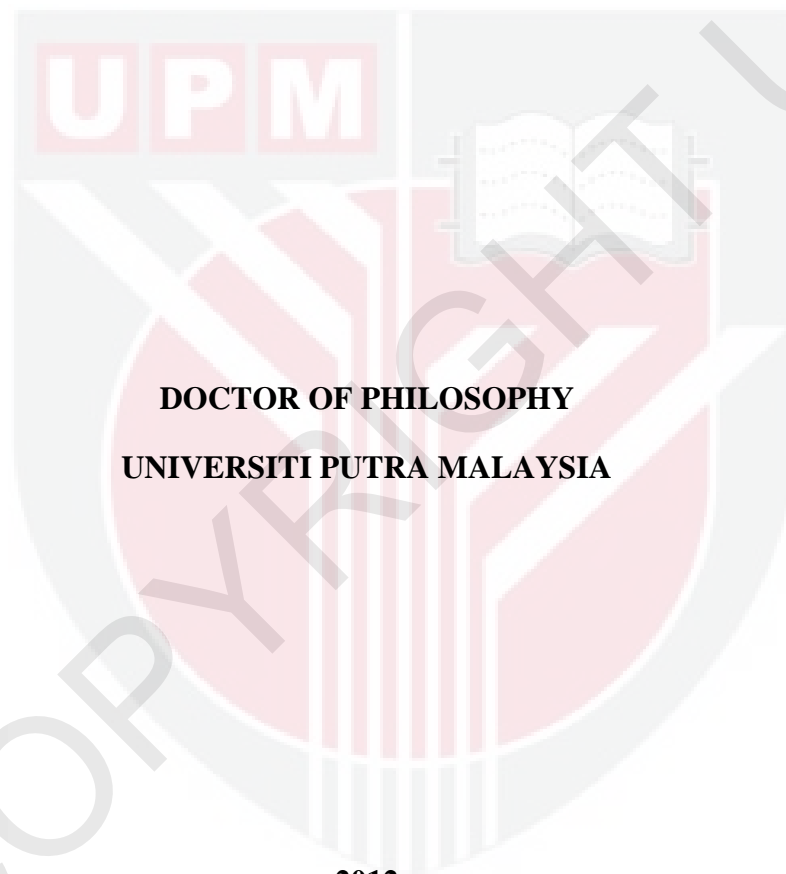
***CONCEPTUAL MODEL FOR FUNDING OF BUSINESSES
BASED ON ISLAMIC PRINCIPLES IN MALAYSIA***

SANI MUSA DANGULBI

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**DOCTOR OF PHILOSOPHY
UNIVERSITI PUTRA MALAYSIA**

2012

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ON ISLAMIC PRINCIPLES IN MALAYSIA**

By

SANI MUSA DANGULBI

**A Thesis submitted to the Graduate School of Management, Universiti
Putra Malaysia, in Fulfilment of the Requirements for the Degree of
Doctor of Philosophy**

October 2012

DEDICATION

This thesis is especially dedicated to my children; Mohammad Khalifa, Imrana, Salam & Nana Khadijah for their patience and understanding for me being away to Malaysia for several years for this study.



Abstract of thesis submitted to the Senate of University Putra Malaysia in fulfilment of the requirements for the degree of Doctor of Philosophy

CONCEPTUAL MODEL FOR FUNDING OF BUSINESSES BASED ON ISLAMIC PRINCIPLES IN MALAYSIA

By

SANI MUSA DANGULBI

October 2012

Chair: Professor Arfah Salleh, PhD, FCPA (Aust),

Faculty: Graduate School of Management

Islamic Banking Financial Institutions (IBFIs) were established in the 1970s in order to remedy the failure of the conventional financial institutions in providing a system of financing that is deemed equitable and just to society while meeting profit motives through risk sharing principle based on principles of Islam. The size and extent of Islamic banking and finance globally in the last three decades of existence is impressive and is a sign of its acceptability worldwide among the billions of world Muslim population as well as non-Muslim.

However, arguments abound that the practices of Islamic banking and finance have deviated from being *Shariah* compliant especially regarding funding of projects and products like *bay bithaman 'ajil*, *BBA*; the circumventing of interest through a backdoor charging of *Riba*. More fundamentally the Islamic Banking and Financial system uses fiat currency and operate the Fractional Reserve Banking system where money is created

out of nothing through project financing and loan extension which result in illegitimate transfer of wealth from the poor to the rich which violates *shariah* principle. More so, Islamic financial institutions are said to be financing not funding thereby not meeting the *maqasid al-shariah* (Objectives of Islamic Law) and now leaning heavily on and rapidly converging with the conventional system.

Against this backdrop, I embarked on this thesis as the platform to document my journey as a Muslim entrepreneur to search for funding that observes the principles of Islam, in particular meeting the objectives of Islamic law (*maqasid al-shariah, MaS*). I investigate why IBFIs are more inclined on financing than funding as well as exploring the circumstances leading to the claims that Islamic financial institutions are not meeting the objectives of the *Shariah (maqasid al-shariah, MaS)*. In this research too, a conceptual model of funding of business that observes the fundamentals of *maqasid al-shariah, (MaS)* for the benefits of general society is proposed.

The study employs qualitative and idiographic research approaches using interviews in addition to othersources from secondary data such as books, journals, documentaries and audio-visual materials as the means of data collection. The research also adopts the philosophical methodology of jurisprudence of analogy in Islam (*mustasfa*) of Imam Al-Ghazali which he used to simply the understanding of Islamic philosophy during his time and I believe such analogy is appropriate my thesis because it is about Islam, therefore I adopted the analogy to investigate the funding of business in Islam. The target respondents for the interview are the *Shariah* Advisory Councils, some experienced *Shariah* scholars, and academics teaching

Islamic finance, the Islamic Bank Customers and the Islamic banks Officials in Malaysia.

The study analyses and interprets the data collected through the principles of Grounded Theory where themes and concepts are classified into various thematic categories and further referenced against the fundamentals of *Shariah* from Quran, *Sunnah* and *Ijmah*. This approach of addressing the fundamental issue of funding of business in Islam in line with *maqasid al-shariah* (MaS) is not common in most Islamic Financial research.

The findings of this search journey from the documented works in the literature and the interview revealed several results. From the documented works in the literature, this search journey research found that IBFIs are more of debt financing than equity funding which raised different opinion among researchers; those that argue that such financing is in line with *shariah* because it does not involve *Riba* and those who argue that such financing is not in line with *shariah* because debt based financing meets only the 'form' and not the 'substance' of *shariah*. For the latter group of researchers, current financing is based on the principles of banking not fully on the principles of Islam because there is no risk sharing but rather risk shifting. Findings from the interview on the other hand revealed that in theory Islamic banking services are different from conventional banking services, however in practice both operate fractional reserve banking and use fiat currency to finance projects which makes no difference between the former and the latter. The journey also found that it is possible to get funding of business based on the principles of Islam without going through the banks since banking is about lending and lending is about debt creation

which is usurious in nature. The journey confirm that the best alternative for funding of business based on principles of Islam apply Asset based trading (CAPEX); *murabahah* and Liquidity based trading (OPEX); Venture capital and fund management (*mudharabah* and *musharakah*) because there is equity and risk sharing based on partnership not based on customer banker relationship. Finally, the journey develops a conceptual framework for funding of business based on principles of Islam.

The findings of this study contribute in various ways as they contribute to the current body of knowledge and stimulate future research. It has some practical implications as the findings help the policy makers and practitioners to revise current IBFIs policy and programmes in line with principles of Islam and *maqasid al-shariah*. The study helps the Muslim *ummah* to shape their thinking framework in arriving at judgments regarding the level of *shariah* compliance (*Islamicity*) of products offered by Islamic financial institutions. In conclusion, Muslims should remember that Allah says; ‘And if Allah were to impose blame on the people for their wrongdoing, He would not have left upon the earth any creature, but He defers them for a specified term. And when their term has come, they will not remain behind an hour, nor will they precede [it]’ (Q16:61).

Abstrak tesis yang dikemukakan kepada Senat Universiti Putra
Malaysia sebagai memenuhi keperluan untuk ijazah Doktor
Falsafah

**MODEL KONSEP UNTUK PEMBIAYAAN PERNIAGAAN
BERDASARKAN PRINSIP ISLAM DI MALAYSIA**

Oleh

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Institusi Perbankan Kewangan Islam (IBFIs) telah ditubuhkan pada tahun 1970-an untuk membetulkan kegagalan institusi kewangan konvensional dalam menyediakan sistem pembiayaan yang dianggap adil dan hanya kepada masyarakat di samping memenuhi motif keuntungan melalui prinsip perkongsian risiko yang berdasarkan prinsip-prinsip Islam . Saiz dan takat perbankan dan kewangan Islam di peringkat global dalam tiga dekad yang lalu kewujudan adalah amat menarik dan merupakan satu petanda penerimaan di seluruh antara berbillion-billion penduduk dunia Islam serta bukan Islam. Walau bagaimanapun, hujah-hujah tercetus bahawa amalan perbankan dan kewangan Islam telah menyimpang daripada menjadi patuh

Syariah terutama mengenai pembiayaan projek dan produk-produk seperti bay bithaman ajil, BBA; memintasi kepentingan melalui pintu belakang yang mengecas Riba. Lebih asas Perbankan Islam dan Kewangan sistem menggunakan mata wang fiat dan mengendalikan Perbankan Rizab sistem pecahan di mana wang diciptakan dari tiada melalui pembiayaan projek dan perlanjutan pinjaman yang mengakibatkan pemindahan kekayaan yang tidak sah dari miskin kepada kaya yang melanggar syariah. Lebih-lebih lagi, institusi kewangan Islam berkata kepada pembiayaan tidak dana dan dengan itu tidak memenuhi maqasid al-syariah (Objektif Undang-Undang Islam) dan kini bersandar sepenuhnya kepada dan cepat bertumpu dengan sistem konvensional.

Berlatarbelakangkan keadaan ini, saya telah memulakan tesis ini sebagai platform untuk mendokumenkan perjalanan saya sebagai seorang usahawan Muslim untuk mencari pembiayaan yang mengamalkan prinsip-prinsip Islam, dalam mesyuarat tertentu objektif undang-undang Islam (maqasid al-syariah, MAS). Saya menyiasat mengapa IBFIs lebih cenderung kepada pembiayaan daripada dana serta meneroka keadaan yang membawa kepada tuntutan bahawa institusi kewangan Islam tidak memenuhi objektif Syariah (maqasid al-syariah, MAS). Dalam kajian ini juga, satu model konsep pembiayaan perniagaan yang memerhati asas maqasid al-syariah (MAS) untuk faedah masyarakat umum ditawarkan. Kajian ini menggunakan pendekatan penyelidikan kualitatif dan idiographic menggunakan temubual sebagai tambahan kepada sumber data sekunder daripada buku, jurnal, dokumentari dan bahan-bahan audio-visual sebagai cara-cara pengumpulan data. Kajian ini juga menggunakan kaedah falsafah perundangan analogi

dalam Islam (mustasfa) Imam Al-Ghazali yang beliau digunakan untuk sekadar pemahaman falsafah Islam pada zamannya dan saya percaya analogi itu adalah sesuai tesis saya kerana ia adalah mengenai Islam, maka Saya menerima pakai analogi untuk menyiasat pembiayaan perniagaan dalam Islam. Responden sasaran untuk temuduga Majlis Penasihat Syariah, beberapa cendekiawan Syariah yang berpengalaman, ahli akademik yang mengajar kewangan Islam, Pelanggan Bank Islam dan Pegawai bank-bank Islam di Malaysia. Kajian analisis dan mentafsir data yang dikumpul melalui prinsip-prinsip teori asas di mana tema dan konsep yang dikelaskan kepada kategori pelbagai tema dan terus dirujuk terhadap asas-asas Syariah dari Quran, Sunnah dan Ijmah. Ini pendekatan menangani isu asas pembiayaan perniagaan dalam Islam selaras dengan maqasid al-syariah (MAS) tidak biasa dalam penyelidikan Kewangan yang paling Islam. Penemuan perjalanan carian ini daripada kerja-kerja yang didokumenkan dalam kesusasteraan dan temuduga mendedahkan dipaparkan beberapa keputusan. Dari kerja-kerja yang didokumenkan dalam kesusasteraan, penyelidikan carian perjalanan ini mendapati bahawa IBFIs pembiayaan hutang daripada pembiayaan ekuiti yang menimbulkan berbeza pendapat di kalangan penyelidik yang berpendapat bahawa pembiayaan sedemikian adalah selaras dengan syariah kerana ia tidak melibatkan riba dan mereka yang berhujah bahawa pembiayaan itu tidak berada dalam selaras dengan syariah kerana pembiayaan hutang berasaskan bermesyuarat hanya 'bentuk' dan bukan 'bahan' syariah. Bagi kumpulan penghujung penyelidik, pembiayaan semasa berdasarkan prinsip perbankan tidak sepenuhnya pada prinsip-prinsip Islam kerana tidak ada perkongsian risiko tetapi risiko

beralih. Hasil dari temubual pada sebaliknya mendedahkan bahawa dalam teori perkhidmatan perbankan Islam adalah berbeza daripada perkhidmatan perbankan konvensional, tetapi dalam amalan kedua-duanya beroperasi perbankan rizab pecahan dan menggunakan mata wang fiat untuk membiayai projek-projek yang tidak membuat sebarang perbezaan di antara bekas dan kedua. Perjalanan ini juga mendapati bahawa ia adalah mungkin untuk mendapatkan pembiayaan perniagaan yang berdasarkan prinsip-prinsip Islam tanpa melalui bank sejak perbankan adalah mengenai pinjaman iklan pinjaman tentang penciptaan hutang yang luar biasa tinggi dalam alam. Perjalanan ini mengesahkan bahawa alternatif terbaik bagi pembiayaan perniagaan berdasarkan prinsip-prinsip Islam adalah Aset perdagangan berasaskan penggunaan (CAPEX); murabahah dan kecairan dagangan berasaskan (OPEX); modal teroka dan pengurusan dana (mudharabah dan musyarakah) kerana terdapat ekuiti dan risiko berkongsi berasaskan kepada perkongsian bukan berdasarkan hubungan jurubank pelanggan. Akhirnya, perjalanan membangunkan satu rangka kerja konsep bagi pembiayaan perniagaan berdasarkan prinsip-prinsip Islam. Hasil kajian ini menyumbang dalam pelbagai cara kerana ia menyumbang kepada badan semasa pengetahuan dan merangsang kajian pada masa hadapan. Ia mempunyai beberapa implikasi yang praktikal sebagai penemuan membantu penggubal dasar dan pengamal untuk menyemak semula dasar IBFIs semasa dan program selaras dengan prinsip-prinsip Islam dan maqasid al-syariah. Kajian ini dapat membantu umat Islam untuk membentuk rangka kerja pemikiran mereka dalam mendapatkan penghakiman mengenai tahap pematuhan syariah (Islamicity) produk yang

ditawarkan oleh institusi kewangan Islam. Dan jika Allah mengenakan menyalahkan orang sebab kezaliman yang mereka, Dia tidak akan meninggalkan di atas bumi makhluk apa-apa, tetapi Dia Menanggung mereka selama tempoh yang dinyatakan. Dan apabila tempoh mereka telah datang, mereka tidak akan kekal di sebalik sejam, dan mereka tidak akan mendahului [ia] '(Q16: 61).



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I, sincerely appreciate the contributions, guidance and assistance of my supervisory committee members; upon all their very tight schedules; the chairperson Professor Dr Arfah Bt Mohd Salleh (FCPA, Aust), President Putra Business School (formerly GSM), Universiti Putra Malaysia, Professor Dr Dato Aziuddin Ahmad (DSS), Rector Kolej Universiti Islam Selangor (KUIS) Malaysia, Professor Dr Ahmed Kameel Mydin Meera Head, Department of Finance, International Islamic University Malaysia and Dr Ahmed Razman Abdul Latiff, Head, Non-Thesis Unit, Putra Business School (formerly GSM), Universiti Putra Malaysia. May Allah pay them with *Jannah Firdausi*. I also thank all the academics and non-academic staff of Putra Business School (formerly GSM), Universiti Putra Malaysia, for their immense contributions throughout my study.

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CERTIFICATION

I certify that a Thesis Examination Committee has met on, 18th October, 2012 to conduct the final examination of **Sani Musa Dangulbi** on his thesis entitled “**Conceptual Model for Funding of Business Based on Islamic Principles in Malaysia**” in accordance with the Universities and University Colleges Act 1971 and the Constitution of the Universiti Putra Malaysia [P.U. (A) 106] 15 March 1998. The Committee recommends that the student be awarded with the Doctor of Philosophy Degree in Finance.

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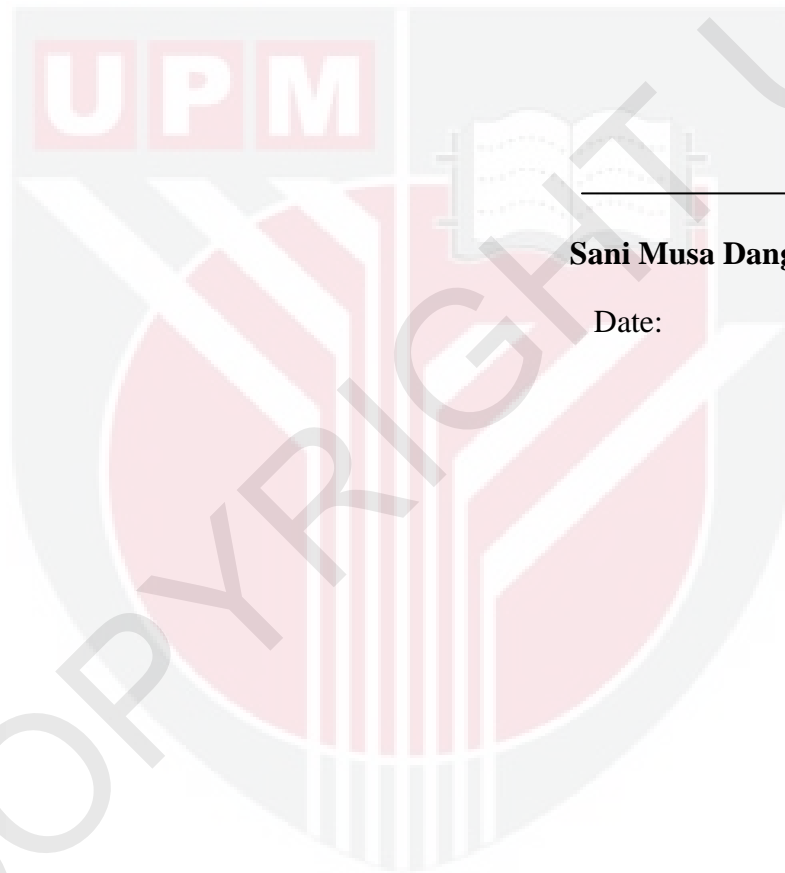
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DECLARATION

I declare that the thesis is my original work except for quotations and citations, which I have duly acknowledged. I also declare that, it has not been previously and is not concurrently, submitted for any other degree at Universiti Putra Malaysia or at other institutions.



Sani Musa Dangulbi

Date:

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