

# The Regulatory Reconstruction Of Baitul Maal Wa Tamwil (BMT) Towards Efforts To Protect The Community

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## ABSTRACT

This research examines and answers the problem of the unalignment of the Baitul Maal wa Tamwil (BMT) regulations with the sharia principles towards providing community protection and how the reconstruction model fixes this. The results concluded that the BMT regulation was unharmonized with these principles and the causative factors were a shift in function and meaning, the existence of a legal vacuum, as well as the absence of specific regulatory rules. Subsequently, the ideal governance model is based on shariah principles. BMT consists of Baitul Maal which functions to collect and distribute social funds, along with Baitul Tamwil which is a profit-motivated business institution. Furthermore, BMTs are entitled to perform economic activities such as trade, industry, and agriculture, and as a result, have become sharia-based institutions intending to alleviate poverty and provide protection to the community.

## Keywords

Reconstruction, BMT, Poverty Alleviation

Article Received: 10 August 2020, Revised: 25 October 2020, Accepted: 18 November 2020

## Background

The development of Baitul Maal Wat Tamwil (BMT) in Indonesia began from a mosque-based economy where places of worship also provided empowerment for people. BMT was first pioneered by the Institute for Teknosa Cooperative, founded by the Salman mosque activist, in the Bandung Institute of Technology (ITB) in 1980. The Teknosa Expertise Services Cooperative conducted in-depth discussions with the theme "Islamic Economics and Financial Institutions" in 1983. This was pursued by establishing the Baitul Maal Wa Tamwil or Property and Business Center which was a financial institution that began operations on July 4, 1984. With a capital of approximately Rp. 34 million and a total of 18 customers, Baitul Tamwil Teknosa reached Rp. 1.4 billion in assets and about 300 customers. However, due to the poor and problematic customer financing, it closed in 1989.

Indonesia as a secondary cooperative gathered 326 BMTs that served primary cooperatives to unite the vision and mission of being a sharia institution that provides financing services to micro and small business members. The existence is believed to be capable of realizing welfare equality in the country.

According to data from the Ministry of Cooperatives and MSMEs in 2018, there were 5000 Islamic financial sharia institutions in Indonesia, including 34 banks, 58 Takaful or insurance operators, 7 venture capital companies, 163 BPRs, 4500 BMTs, and 1 pawnshop. Conversely, the share of the financial sharia market in Indonesia is still relatively small, at a proportion of 5.7% of the total national banking industry, in contrast to the United Arab Emirates which has reached 19.6%.

Three factors are responsible for the rapid growth and development of BMTs. These include a high demand from the public to get financing due to the inaccessibility of loans from the banking sector, coupled with the strict procedures and rules set by the bank. Another reason is the high desire

of the Muslim community to perform transactions through sharia principles, an expectation which this microfinance institution fulfills. Lastly, the success of several BMTs in Indonesia has motivated the community to establish similar institutions, along with the relative ease of creation and minimal capital requirements.

Although BMTs and Islamic banking activities are in line with each other, the implementation of cooperative and microfinance institutional laws for BMTs are yet to fulfill the aspects of legal certainty and usefulness. Indonesia has a rule of law based on *rechtsstaat* and so, the legislation regulations for BMTs must be formed immediately, considering the current increase in growth and development. Therefore, similar to Islamic banking which possesses rules different from the conventional counterpart, all activities performed by BMT have legal certainty.

A positive legal reform in Indonesia developed from two adopted perspectives which are law as a service called *dienende function*, and also oriented towards the future known as *ius constituendum*. These two perspectives greatly influence the technique of formulating laws and regulations, as well as the methodological aspects of analyzing legal cases.

Furthermore, the three foundations that create values in an effective legal societal rule are philosophical, sociological, and juridical, all of which yield justice, benefit, and legal certainty. The philosophical foundation is the major reason for the rule of law formation and will create beneficial societal justice.

To achieve societal justice, the law and concerned purposes must be compiled and clearly contained in a book of statutes for people to clearly know the legal rules, understand, and obey them. The formulation of these goals is desired by the whole society as a sociological basis in the creation of law.

The issue of the BMT legal uncertainty requires proper penetration and policies because as a small business group, on the one hand, it needs a climatic boost by providing business flexibility that allows it grow to rapidly from

below. On the other hand, the growth of economic institutions that are not solidly based on regulations will weaken the legal position and guarantee protection.

The problem of the legal vacuum regarding BMT as stated above has caused Islamic financial institutions to be faced with uncertainties that are still present in several aspects of BMTs. These uncertainties are regarding the the BMT name and business entity, license procedures, capital requirements, and the legality of sharia-principled business activities. Other concerns are the legality of community savings fundraising activities, coaching and supervision, and the dispute resolution system.

Uncertainty regarding these aspects causes weaknesses in the legal standing and operationality of BMTs. Consequently, this results in blurred boundaries of operational differences between BMTs and BPRS or rural banks, ensuing in the potential of this problem to create tension and conflict between financial institutions.

The unclear status of the Baitul Maal Wat Tamwil (BMT) institution causes a lack of public trust which raises the suspicion that it follows the flow of other savings and loan cooperatives using an interest basis during operations. In the case of BMT Amanah Ray Medan, the Director took 30 billion of customer funds, and a loss of IDR 20 to 30 million was experienced. Consequently, seven branches of BMT Ray, including Jalan Pinang Baris, Jalan Sutrisno, Pakam Deli Tua, Setia Budi, Marelan, and Binjai are currently closed and inoperative.

BMT Global Insani is a company under the Surabaja Company in Cirebon Regency where cases from 2011 to 2017 have cost a total of 4,300 victims at least IDR. 77,987,045,000. This BMT offers investments in the form of ginger and Jabon through a profit-sharing system, provides Hajj and Umrah departure services, and also works by offering qiradh products to the public, of which the packages are sold for IDR 8,000,000.00. Subsequently, the collected funds were channeled through the Surabaja Mandiri Company in collaboration with other parties to manage a 116-hectare Jabon and ginger plantation in Sukabumi. In 2017, turmoil ensued because Global Insani investors did not get the promised results for three years or receive the yields and principals promised due to the harvest failure that was experienced. Conversely, some had organized the profit-sharing and principal funds to pay off the Umrah and Hajj costs

The third case is BMT Amanah Sentosa Abadi, based in Pasir Sakti Sub-District, East Lampung, which had embezzled customer deposits funds of Rp. 3 million and went bankrupt. During this time, the practices of BMT did not follow the principles of sharia due to fraudulent practices, poor human resource management and capital, minimal levels of sharia knowledge, and a low legal vacuum, resulting in losses to the society. Based on the above background, this study aims to reconstruct the sharia principles in protecting the community.

## Research methods

Legal research is a scientific activity based on methods, systematics, and certain thoughts that aim to study a particular phenomenon or a set of laws through analysis, hence, this study is an empirical one. Generally, the work of law in a society is accessible from the effectiveness level and compliance, as well as the role of legal or law enforcement institutions, implementation of rules, and the influence on certain social problems or vice versa. Empirical legal research consists of identification and effectiveness, and the aim is to link law with efforts to achieve goals and fulfill concrete societal needs. This research is intended to formulate BMTs based on sharia principles to provide optimal protection and services to the community.

Meanwhile, statutory, case and comparative or comparison approaches were used. The statutory approach was used to analyze the positive law governing the Baitul Maal Wat Tamwil (BMT) financial institution which is based on sharia principles. Through it, a critical evaluation of the substance of legislation, institutional structure, and organizational culture was performed. Furthermore, the case approach was implemented to observe the legal operative processes of the BMT management that misuse authority by embezzling members' money, along with how the system was being handled. Conversely, the comparative approach was used to conduct a study on the management model of the BMT to obtain similarities and differences between the Islamic financial institutions amongst Indonesia and Malaysia, Pakistan, and Brunei Darussalam. A qualitative and interactive data analysis technique was used and this consisted of three main components, namely data reduction and presentation, along with concluding by verification.

To maintain the validity of primary data, a triangulation was performed by comparing the data obtained from one source to others which was then followed by an analysis. Meanwhile, secondary data was assessed by the source criticism.

## Research Results and Discussion

### 1. Regulations Regarding BMT Are Not in Accordance with Sharia Principles

#### a. Role and Position of BMT Shifts in Function, Value, and Meaning

Philosophically, there has been a shift in the function, value, and meaning of Baitul Maal Wat Tamwil.

**The shift in function** can be observed in the present change in the function of establishing BMTs both in terms of poverty alleviation and also in the running of a profit-oriented business. Formerly, in the time of the Prophet to Umar bin Abdul Aziz, there existed the Baitul Maal institution which only served to store state assets from zakat, donations, alms, taxes, and war spoils. The beginning of the BMT establishment was based on the idea of the Salman Mosque ITB Bandung activists who founded the Teknosa Services Cooperative in 1980 which then became the forerunner of BMT that was created in 1984. Meanwhile, the BMT Pinbuk Guide Book or small business incubation center is a financial institution with activities that act as

intermediaries for depositing funds. These monies originate from *zakat*, *infaq*, *sadaqah*, *waqf*, and other social funds that do not conflict with shari'ah values and must be allocated according to this mandate. From this context, Baitul Maal, which has a shari'ah mission, is a non-profit social fund management institution with a main function as a media or to assemble funders, grants, *muzaki*, or *muwakif* to those in need.

**The shift in value** is the loss of values such as *sidiq*, *amanah*, *tabligh*, and *fatolah* that were built to create clean and pure Islamic financial institutions. In fact, some BMTs have drowned and dissolved due to bad management, unsecured and professional managers, public distrust, as well as difficulty in obtaining capital. Therefore, their images are identified as untrustworthy financial institutions, with poor professional management, and an absence of Islamic values.

**The shift in meaning** is the definition of BMT as a sharia-operating non-bank financial institution with the principle of profit-sharing, established by and for the community in a place or region. However, the current situation is shifting as the institutions are established for the benefit of the owners but a greater share of profits is used for personal wealth. Furthermore, managers make investments in gold by offering fundraisers to make members owners and then hijacking the real sector for themselves. The reality is that some BMTs violate investment regulations, and engage in fraudulent practices that end up harming the community.

## b. Legal Vacuum

Until now, BMTs have not had a clear legal umbrella and exist as sharia microfinance institutions engaged in collecting and channeling funds from the public. Although these activities are on a small scale, this business is legally contrary to the prevailing laws and regulations in the banking sector.

According to Article 16 paragraph (1) of Law Number 10 of 1998 concerning Banking, the collection of funds from the public in the form of deposits can only be performed by commercial or rural banks unless such activities are regulated by a separate law. The provisions in this article state that "Any party that carries out activities to collect funds from the public in the form of savings must first obtain a business license as a Commercial or Rural Bank from Bank Indonesia unless the activity to collect funds from the public is regulated by a separate law". This prohibition referred to in Article 16 is accompanied by the threat of criminal sanctions, which are stated in Article 46 paragraph (1) of Law Number 10 of 1998. This declares that "Anyone who collects funds in the form of deposits without a business license from the Management of Bank Indonesia as referred to in Article 16 is threatened with imprisonment of at least 5 (five) years or a maximum of 15 (fifteen) years and a fine of at least 10 billion rupiahs or a maximum of IDR. 2 hundred billion rupiahs".

Based on the provisions of the laws above, there are legal problems in BMT which include prohibition and sanction threats by the Banking Laws, and the absence of a legal basis apart from political support from the government. To overcome this crisis, in practice, some BMTs take the form

of cooperative business entities while others do not have clear entities or have remained pre-cooperative.

According to the Cooperative Law, fund-raising activities to be used for savings are limited to the members only. Article 44 paragraph (1) of Law No. 25 of 1992 is regarding this and regulates that "Cooperatives can collect funds and channel them through savings and business loan activities from and for the relevant cooperative members, as well as other cooperatives and/or their members.

Therefore, BMTs inevitably have to require memberships for customers to be served or make them prospective members for a certain period of time and this displeased some potential customers which caused internal problems, as each member had the same voting rights. Meanwhile, to raise funds directly from the public, the legal status of the BMT must be changed to a bank or non-bank financial institution, such as venture capital, resulting in the loss of their main advantages of serving micro-scale businesses.

Although the BMT is considered as a cooperative because most of the funds come from public savings based on sharia principles, it is not fully so owing to the business activities. The boundaries and differences between BMT operations as cooperatives and as banks are confused by their problematic pre-cooperative and cooperative positions which are caused by the system of collecting funds from the community. Despite the "freedom of movement" accorded BMTs by the absence of regulations which then allows them to grow rapidly, the legal and operational positions are in a dilemma because this has created problems regarding legal certainty.

Consequently, the Cooperative Law Number 17 of 2012 has accommodated the existence of the BMT institutions and discusses the existence of cooperative management using sharia principles, as regulated in Article 87 paragraph (3). This law states that "cooperatives can run businesses based on Islamic principles", and paragraph (4) declares that "provisions regarding cooperatives based on sharia economic principles as referred to in paragraph (3) shall be regulated by the Government". However, because of the corporate spirit, this new law eliminates the principles of kinship and mutual collaboration that characterize cooperatives. Therefore, Law Number 17 of 2012 is contrary to the 1945 Constitution and has no binding legal force after the verdict.

BMT is an integrated independent business center with *bayt al-mal wa al-tamwil* as the core content with activities to develop productive businesses and investments. This is to improve the quality of the economic activities of small and low-income entrepreneurs by encouraging savings and supporting their financing. Thus, it is an example of the sharia microfinance institutions which also include BPRS or Sharia Rural Bank, Islamic cooperatives, and Takmin or Takaful Micro Finance. The interest of this financial institution is to collect funds and provide financing, and it does not require one to be a member, which usually burdens the small community.

The procedure for establishing a cooperative is easier than that of a microfinance institution. Article 6 paragraph (1) of Law Number 25 of 1992 states that cooperatives are formed by at least 20 (twenty) people. Then, Article 7 was explained in Number 11 of the 2017 Regulation of the Ministry of Cooperatives, Micro, Small, and Medium Enterprises concerning Cooperatives for Savings, Loans,

and Sharia Financing. It stated that the requirements for such businesses include an application letter and a photocopy of the ratification of the deed of establishment or amendment of the association's cooperative articles, along with the decree.

Also required are a photocopy of the capital deposit proof in the sharia bank on behalf of cooperatives and/or one of the management, and the Curriculum vitae of the sharia managers, supervisors, and supervisory boards. Finally, a photocopy of ID cards and the supervisory board list, as well as a 3-year work plan are also needed.

Apart from the Banking and Cooperative Laws, No. 1 of 2013 concerning Microfinance Institutions further strengthens their existence to legitimize activities that have been considered problematic and without legal certainty. There have been cases such as BMT Lampung and Kendal where the police arrested and examined several administrators on the accusation of performing illegal banking practices, particularly of collecting funds from the public as prospective members. This is clearly very unsettling for the community, especially BMT actors, and will set a bad precedent for the desperately needed development of microfinance institutions. Also, Article 29 paragraph (1) of the Financial Services Authority Regulation Number 12 / PJOK.05 / 2014 concerns Business Licensing and Institutional Microfinance Institutions. It is regarding Village Banks and Barns, Market and Employee Banks, Village (BKD) and Sub-District Credit Agencies (BKK), Small People's Business Credit (KURK), and Sub-district Credit Institutions (LPK). It also concerns Village Production Work Banks (BKPD), Rural Credit Business Entities (BUKP), Baitul Maal Wa Tamwil (BMT) Baitul Tamwil Muhammadiyah (BTM), and/or other equivalent institutions. This article demands that any of the above which were established and operated before the enactment of Law No. 1 of 2013 concerning Microfinance Institutions, and are yet to obtain a business license based on the applicable laws and regulations, must acquire it through confirmation as microfinance institutions to the Financial Services Authority no later than January 8, 2016.

Therefore, microfinance institutions that began operating before the enactment of Law No.1 of 2013 such as Baitul Maal wa Tamwil (BMT) and Baitul Tamwil Muhammadiyah (BTM) are to obtain business licenses and be confirmed by the Financial Services Authority. Such institutions with cooperative entities have the legal consequence of choosing between two different regulations which are the cooperative and the microfinance institution laws. In reality, Baitul Maal Wa Tamwil preferably operates with cooperative and not microfinance laws as these narrow the area of scope.

This is regulated in Article 16 paragraph (1) of Law No. 1 of 2013 concerning Microfinance Institutions which states that "The scope of the business area of a Microfinance Institution is within a village, sub-district, regency, or city." Consequently, the provisions above undermine the position of microfinance institutions which are meant to be large, as well as serve a growing number of low-income communities, small, and micro-entrepreneurs according to their functions. However, the most important factor is not the limitation of the business area scope, but on the loans

and/or financing, as a microfinance institution ceases to be such if it serves medium or large businesses.

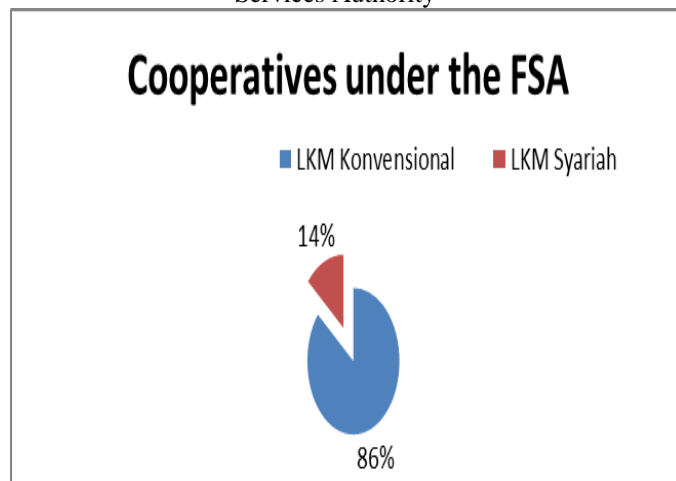
According to Article 9 of Law No. 1 of 2013 regarding Licensing requirements for microfinance institutions, MFIs must have obtained business licenses from the Financial Services Authority before performing business activities. For the acquisition of this as referred to in paragraph 1, certain requirements are to be met and these include organizational structure and management, capital, ownership, and the feasibility of the work plan.

The business requirements contained in the Cooperative Law are easier to fulfill because a 3-year work plan, and not feasibility is needed. As a result, the process is uncomplicated, simple, and causes BMTs to prefer cooperatives. Apart from the Indonesian Islamic laws that govern or designate principles, others apply to societal needs and although this is legislatively unregulated, these needs often influence the application of a rule of Islamic law.

Furthermore, the enactment of a statutory regulation can be seen from three aspects which are the consideration, the objectives explicitly formulated as an integral part of the statutory provisions, and the general explanations. The political lawyer Mahfud MD viewed law from a juridical and socio-political perspective where certain processes and regime configurations will have significant effects on a legal product. In a democratic country, a product of law is responsive or populist, while in authoritarian states, it is characterized as orthodoxy, conservative, or elitist. In reality, however, the law is neither value-free nor neutral and the progression from the manufacturing process to the enforcement always contains partiality.

When associated with the politics of the sharia economy, the non-existence of special BMT laws is indicated. The regulations governing BMT cooperatives are solely from the Ministry of Cooperatives and the negative side of this is inferiority to the law as it can be dissolved anytime. Similarly, the new cooperative law was dissolved because it was considered to violate the cooperative philosophy. Conversely, BMT microfinance institutions are regulated by related laws but the scope is limited to covering only one regency. Therefore, BMTs are unable to expand across regencies and this can be seen in the figure below:

**Figure 1** Central Java Cooperative under the Financial Services Authority





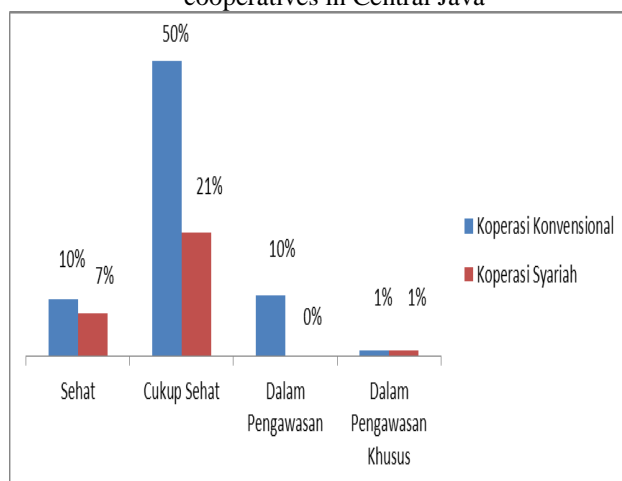
Cooperative under FSA	Conventional Cooperatives	Islamic Cooperatives
Total	98	16
Percentage	86 %	14 %

Data Source: Financial Services Authority

The conventional and Islamic cooperatives in Central Java under the Financial Services Authority were estimated to be 98 and 16 and these accounted for proportions of 86% and 14% respectively. Therefore, this data proves that the number of Islamic cooperatives is still low, at less than 20%, due to the coverage area which is limited to one sub-district or regency.

Although this number is lower than the conventional counterparts, it has an important role in advancing the economy of the people. This is shown in the comparison chart of both institutions which are categorized as healthy, fairly healthy, under supervision, and special supervision below:

**Figure 2** Comparison of Conventional and Islamic cooperatives in Central Java



Cooperative Category	Conventional Cooperatives	Islamic cooperative
Healthy	29	22
Fairly Healthy	150	63
Under supervision	31	0
Under Special Supervision	3	3

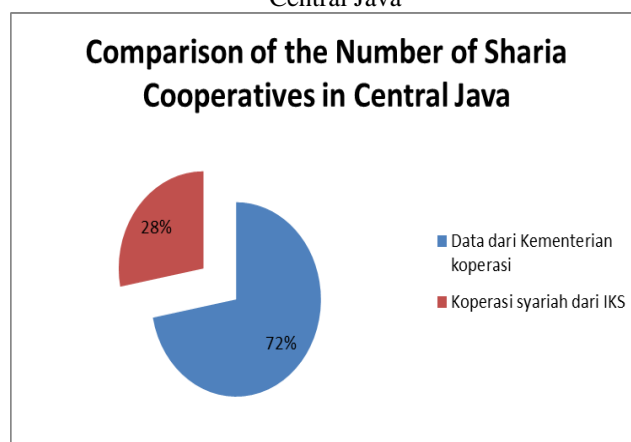
Data source: Ministry of Cooperatives, Micro, Small, and Medium Enterprises

Based on the data above, the number of conventional cooperatives in the healthy and quite healthy categories was 29 and 150 with proportions of 10% and 50% respectively. Those under supervision were 31 with a value of 10%, while 3 were under special supervision and accounted for 1%. Conversely, the Islamic cooperatives included in the healthy and quite healthy categories were 22 and 63, and they accounted for 7% and 21% respectively. No institution was under supervision, while 3 were under special supervision and comprised a proportion of 1%. Consequently, three comparisons of conventional and Islamic cooperatives were included in the category that requires special attention,

displaying the need for regulations that strengthen BMT institutions and protect the community.

Also, Law No. 25 of 1992 concerning cooperatives still requires renewal as the provisions are not regulated according to sharia principles. The number of these institutions in Central Java under the Ministry of Cooperatives, Micro, Small, and Medium Enterprises is more than that under the Financial Services Authority and this is shown in the comparison chart below:

**Figure 3** Comparison of the Number of Cooperatives in Central Java



Comparison of the Number of Islamic cooperatives in Central Java	Total	Percentage
Data from the Ministry of Cooperatives	301	72%
Islamic cooperatives from small and simple industries (IKS)	116	28%
Total	417	100%

Data Source: Ministry of Micro, Small, and Medium Enterprises, Center for Islamic cooperatives

The institutions within the scope of Central Java under the Ministry of Cooperatives, Micro, Small, and Medium Enterprises amount to 301 at a proportion of 72%, while those included in the Center association of Islamic cooperatives were 116 and constituted a value of 28%. Consequently, the Islamic cooperatives aim to prosper members and expand the scope to cover several regencies.

Furthermore, law No. 25 of 1992 concerning Cooperatives, along with No. 1 of 2013 which governs the management of micro-community funds contain various legal substances from societal needs which are manifested in the form of implementation practices. Although supported by the sanctions implemented in an organized manner by several state officials, the community has several legal loopholes that violate existing regulations.

## 2. Reconstruction Model of Baitul Maal Wat Tamwil (BMT) Arrangement in Indonesia

To determine the appropriate regulatory reconstruction model for BMT, it must be returned to the boundaries, principles, elements, and scopes. A definition of Islamic economics aims to examine human welfare or *al-Falah* which is achieved through organizing natural resources based on cooperatives and participation

The definition of Islamic economics has three conceptual keys which are *Al-Faalah* or

Islam emphasizes cooperation among human beings as the universe created by God is a model of life and a harmonious balance. These are described in the Qur'an by the Surat Al-A'raf verse 151 which says that nature cooperates between day and night, and the moon, stars, alongside the sun run on their axes and do not collide with each other. A similar message according to *sunnatullah* is also present in Al-Qur'an Surat Yasin verse 40. Furthermore, social plating and stratification were created by God for humans to help each other and work together to meet each other's needs (Al-Qur'an Surat Az-Zukhruf verse 32). Finally, Al-Quran Surat Al-Hujurat verse 10 states that indeed, believers are brothers, while Al-Qur'an Surah Fussilat verse 10 declares that mountains were created and their inhabitants were given life.

Muslims constitute the majority of Indonesia's population where most of the inhabitants earn their living in slow-growing sectors and have become an increasingly overlooked group as per economic prosperity. Therefore, without neglecting their activities through other means, these individuals have developed interests in promoting cooperatives and the creation in various places as forums for economic activities are to be encouraged by initiatives.

Based on the above analysis, the appropriate reconstruction model for BMT is the sharia governance with the separation of Baitul Maal and Baitul Tamwil. From the time of Rasulullah SAW and the comparison of financial institutions in Malaysia, Brunei Darussalam, and Pakistan, they were separated to provide legal certainty of the scope and governing laws.

The term "Shariah Governance for Islamic financial institutions" was adapted from the name given by the Islamic Financial Services Board (IFSB) in Guideline No. 10 of 2009 which issued Good Corporate Governance standards for related institutions. Meanwhile, the IFSB is an international standard-setting body for the regulation of Islamic financial institutions based in Kuala Lumpur. Guideline No. 10 of 2009 contains rules for implementing corporate governance of these institutions in all countries and the system is intended to ensure an effective organizational structure to oversee the process before and after transactions occur.

This definition divided shari'ah governance into four main aspects which are regulations, organizational structure, processes, and functions of the supervisory board. The first aspect is concerned with how the legal framework regulates the shari'ah baitul tamwil governance system which is controlled by a separate law. Apparently, the peak of the Baitul Tamwil was under the Financial Services Authority which had the function of regulating and licensing the governance system. The supervisory function at Baitul Maal was performed by BAZASNAS and the Indonesian Waqf Board, while the human resource competence is the task of the National Sharia Council to select BMT Managers and Administrators truly understanding of the principles.

The basic principle of Baitul Tamwil is performed by avoiding prohibited business activities including usury, *maysir*, *gharar*, *tabzir*, and sin. Meanwhile, *tayib* has a meaning that includes all the values of goodness which are all lawful things in the context of *maqasid* sharia goals,

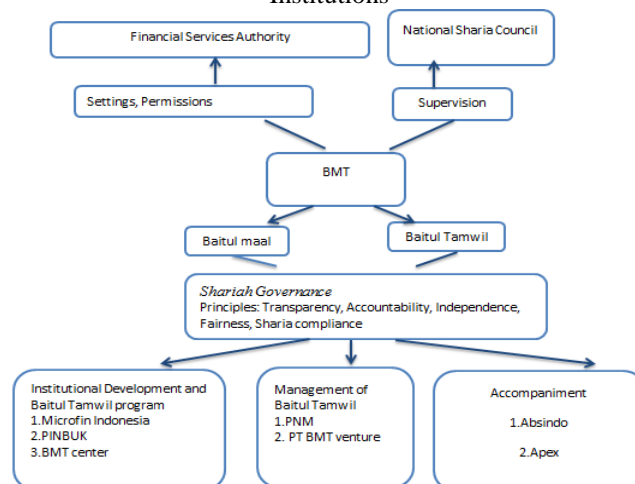
particularly security and welfare for the broader community. It includes two aspects, namely, *ahwal* which cooperatives and parties perform at your best and avoid destructive behavior, and *tawazun* which is a balance in all things.

Shariah compliance is defined as the fulfillment of values in financial institutions which makes the fatwa of the Indonesian Ulema Council and other related regulations a measuring tool for the principles in products, transactions, and operations of BMT. The compliance function is to perform preventive supervision and is an important element in the management, operation, and governance of Islamic financial institutions. The Supervisory Board also has an important role in supervising, monitoring, auditing, and issuing legal decisions and as a result, has become a major part of the financial governance system in providing consulting services.

Baitul Maal and Baitul Tamwil form an organizational structure for achieving good corporate governance, which is a system that aims to protect investors from the opportunistic behaviors of the cooperative managers.

Baitul Maal and Baitul Tamwil are based on the principles of transparency, accountability, responsibility, independence, fairness, and sharia compliance. Cooperative legal entities, as well as Islamic institutions, are regulated in laws regarding the capital, procedures for establishment and ownership, organs, duties, responsibilities, and authorities, as well as guidance and supervision. The Baitul Tamwil Trustee Agency, which acts as a companion and consultant, provides development program services and assists in channeling aid funds from donor agencies. These institutions include the Small Business Incubation Center (PINBUK) established by ICMI on March 13, 1995, the Center of Islamic cooperative (INKOPSYAH) initiated by PINBUK on July 7, 1998, and MICROFIN Indonesia founded on 30 November 2001. Also, the BMT Center was established on June 14, 2005, and was initiated by Dompot Duaafa, while the Indonesian BMT Association (ABSINDO) was founded on December 4, 2005, by the National BMT Congress. Finally, the Islamic cooperative Center (PUSKOPSYAH) which is an association of BMTs in the regions, APEX institutions which provide liquidity facilities for BMTs, alongside the PT Permodalan Nasional Madani (PNM) Persero and Capital BMT Ventura are also examples.

**Chart 1** Shariah Governance Model of BMT Financial Institutions



BMT regulation is not under sharia principles because the role and position have shifted in function, value, and meaning. The shift in functions is from the smaller social function to the business counterpart which constitutes a larger percentage, as some BMTs do not perform their social functions. Also, the shift in value refers to the loss of Islamic values to create clean and pure financial institutions which have been unable to protect the community. Furthermore, the meaning has shifted and is currently being used for personal wealth by pocketing a greater share of profits than the BMT owner.

The second cause is the legal vacuum as the existence of BMT has no clear regulations up until now. BMT as a sharia microfinance institution is still subject to cooperative or overlapping microfinance institution laws. Therefore, this lack of clarity creates legal loopholes for irregularities that harm society.

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