

A STUDY OF QUR'ANIC VERSES ON THE CONCEPT OF *MUSYARAKAH*: STUDY OF THE CONTEXTUAL TAFSIR OF ABDULLAH SAEED

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Abstract: The paper wishes to present a study of verses of the Qur'an relating to cooperation in Abdullah Saeed's view of profit sharing, an issue in the debate on Islamic banking in Indonesia. Researchers try to examine how Abdullah Saeed's thoughts elaborate on profit sharing. Abdullah Saeed is an Australian scholar and scholar studying Islamic studies. He is an Omani Arabic and Islamic Studies Professor at the University of Melbourne. He is known for his progressive view on religious freedom in Islam.

Keywords: Abdullah Saeed, Maqasid, Al-Qur'an, Musyarakah

Introduction

In Indonesia's interpretation world, research related to the thought of Abdullah Saeed is very dominant. Andi Tri Saputra's research entitled "Intellectual Context and Contextual Interpretation of Q.S. Al-Hujarat verse 12". This study found that applying Abdullah Saeed's interpretation method in Q.S. Al-Hujarat verse 12 slightly alludes to intellectual activities. In the verse, there is a lesson about *tajassus*, where this term is defined as spy research or espionage. According to Abdullah Saeed, due to the hierarchy of this verse and its instructional nature, the universal and specific values of the verse can be taken into account in three ways: frequency of occurrence, values in the Qur'an, and the importance of da'wah.

Andi summarizes the universal meaning of the three stages and states that the lesson in this verse is particularized in the context of *tajassus*; on specific grounds, the law can change. If this verse is seen and understood through contextual studies, the *tajassus* referred to in this verse is the first time it was revealed. It is not and is very different from the idea of intelligence that utilizes spies to prevent damage that may result in the death of the victim. The first *tajassus* was a *tajassus* activity that depended solely on lust and was carried out based on lust; however, in the current intelligence context, carrying out *tajassus* activities with spies depends on evidence and indications.¹

The second study, written by Imron Musthofa, entitled Critique of Abdullah Saeed's Contextual Method of Qur'anic Interpretation, found that Abdullah Saeed's ideas could be improved. Progress in the modernization of thought does not mean that we must be free from the authority of the past or see the context in various contexts. The study of tafsir and methods of interpretation are different in this context. Imron Mushofa argues that glorifying contextualization will obscure the meaning and text. It will also encourage research on local interpretation and Islamic interpretation in Indonesia. Thus, some are fixed, and some are changing. Contextual interpretation remains

¹ Andi Tri Saputra, "Konsep Intelijen dan Penafsiran Kontekstualitas Terhadap QS Al-Hujarat Ayat 12 (Aplikasi Metode Penafsiran Kontekstualis Abdullah Saeed)," NUN: Jurnal Studi Alquran dan Tafsir di Nusantara 5, no. 2 (2019): 93–125.

relevant, and Abdullah Saeed researches such interpretations and methodologies.²

After looking at the two studies above, it can be seen that Abdullah Saeed has various dimensions of study, ranging from Islamic banks, human rights studies, and other studies. The two studies examine intelligence and the concept of renewal, and there are also studies in economics. For example, Edo Segara Gustanto conducted research on the concepts of *mudharabah* and *musyarakah* in Islamic banking. According to Abdullah Saeed, the results of this study, as explained in his research, show that Islamic bank products use the principles of *musyarakah* and *mudharabah*. Still, most of them have a minimal portfolio in the Islamic economic dimension. Abdullah Saeed explains that the more interesting study of Islamic economics in a better dimension is a more *maslahah*-oriented approach. On another occasion, Abdullah Saeed also stated that the principles of Islamic finance can still be understood as liberal and the principles of Islamic finance used.³ From this third research, the author intends to dig deeper into the context of *musyarakah*. Unlike the previous paper, which combines the concept of *mudharabah*, this research only uses the idea of *musyarakah*. This shows the author's distinction and provides an opportunity for the author to conduct a more specific analysis of the concept of *musyarakah* in Abdullah Saeed's view.

This research uses a qualitative method with an analytical approach.⁴ The focus of this research is on library research.⁵ In this context, the research uses the content analysis method to analyze the content of Abdullah Saeed's works related to tafsir and Islamic economics, especially in the field of *musyarakah*. This research focuses on the book records and thoughts of Abdullah Saeed in a broader

² Imron Mustofa, "Kritik Metode Kontekstualisasi Penafsiran al-Qur'ân n Abdullah Saeed," *Islamica: Jurnal Studi KeIslaman* 10, no. 2 (2016): 465–91.

³ Edo Segara Gustanto, "Konsep Mudharabah dan Musyarakah dalam Perbankan Syariah Menurut Abdullah Saeed," *Mutanaqishah: Journal of Islamic Banking* 1, no. 2 (2021): 83–102.

⁴ Lexy Moleong, *Metode Penelitian Kualitatif*, (Bandung: PT.Remaja Rosdakarya, 2016), 6.

⁵ Zed Mestika, *Metode Penelitian Kepustakaan* (Jakarta: Yayasan Bogor Indonesia, 2004), 3.

context. The content analysis method examines Abdullah Saeed's biographical history and the context of *maqasid* interpretation in *musyarakah*, *riba*, and *mudharabah*. However, this study emphasizes the study of *musyarakah*.

Abdullah Saeed's Biography and Concepts

In this research, understanding the biography of a figure is essential to gain a better insight into his thinking. Abdullah Saeed, also known as Saeed, is a scholar who has earned a professorship in Islamic and Arabic Studies at the University of Melbourne, Australia. In addition, he also serves as the director of the Center for Contemporary Islamic Studies at the same university.⁶ Abdullah Saeed was born in the Maldives on September 25, 1964. At that time, he was involved in Islamic education, which was characterized by many Arabic and Islamic studies at the University in Medina, from around 1971 to 1989. Later, Saeed traveled to Australia to pursue Islamic and Arabic studies. In addition to studying Arabic, Saeed also managed to master various languages such as English, Maldivian, Urdu, German, and even Indonesian. This success was supported by Saeed's many visits to conferences in these countries.⁷

Abdullah Saeed is known as a very productive writer. This is evident from his various works such as *Reading the Quran in the Twenty-First Century*, *A Contextual Approach to the Quran*, an

⁶ Gustanto, "Konsep Mudharabah dan Musyarakah dalam Perbankan Syariah Menurut Abdullah Saeed"; Saputra, "Konsep Intelijen dan Penafsiran Kontekstualitas Terhadap QS Al-Hujarat Ayat 12 (Aplikasi Metode Penafsiran Kontekstualis Abdullah Saeed)"; Achmad Zaini, "Model interpretasi Al Quran Abdullah Saeed," *ISLAMICA: Jurnal Studi Keislaman* 6, no. 1 (2011): 25–36; Abdullah Saeed, : : *A Contextualist Approach* (London: Routledge, 2013), <https://doi.org/10.4324/9781315870922>.

⁷ Mustofa, "Kritik Metode Kontekstualisasi Penafsiran al-Qur'ân Abdullah Saeed"; Saputra, "Konsep Intelijen dan Penafsiran Kontekstualitas Terhadap QS Al-Hujarat Ayat 12 (Aplikasi Metode Penafsiran Kontekstualis Abdullah Saeed)"; Abdullah Saeed, *Interpreting the Qur'an: Towards a Contemporary Approach* (Abingdon [England]; New York: Routledge, 2006); Hatib Rachmawan, "Hermeneutika Al-Qur'an Kontekstual: Metode Menafsirkan Al-Qur'an Abdullah Saeed," *Afkaruna: Indonesian Interdisciplinary Journal of Islamic Studies* 9, no. 2 (28 Juli 2013): 148–61, <https://doi.org/10.18196/aïjis.2013.0025.148-161>.

Introduction to Islam in Australia, Freedom of Religion Apostasy and Islam, Islamic Banking and Interest: a Study of the Prohibition of Riba in Islam, and Essential Dictionary of Islamic Thought: An Introduction. Abdullah Saeed has written several important articles, such as Islamic Reform: Salafiya, Modernism and Revival. Other articles of interest are Pre Modern Islamic Legal Restrictions on Freedom of Religion, Islamic Law, and International Human Rights Law: Searching for Common Ground? One of the other exciting articles is the History of Sukuk. In addition, there is an article entitled The Perceptetian and Origanility of the Quran and many other interesting books and articles that cannot be mentioned here.⁸

The *maqasid* interpretation method, according to Abdullah Saeed, involves a series of steps that are organized systematically. The first step is to consider the socio-historical context of the Qur'an when it was revealed to the Prophet in the 1/7th century AD so that we can understand the needs of society at that time and in the future, in line with the concept of double movement in Gazlur Rahman's thought. One of the reasons the author uses the *maqasid* approach is because the verse on *musyarakah* contains ethical-legal dimensions, or in other words, legal ethics, according to Abdullah Saeed's view. The second step is based on Surah An-Nisa verse 12:

وَلَكُمْ نِصْفُ مَا تَرَكَ أَزْوَاجُكُمْ إِنْ لَمْ يَكُنْ لَهُنَّ وُلْدٌ ۖ فَإِنْ كَانَ لَهُنَّ
وُلْدٌ فَلَكُمْ الرَّبْعُ مِمَّا تَرَكَنَّ ۖ مِنْ بَعْدِ وَصِيَّةٍ يُوصِيَنَّ بِهَا أَوْ دَيْنٍ ۗ وَلَهُنَّ
الرَّبْعُ مِمَّا تَرَكَتُمْ إِنْ لَمْ يَكُنْ لَكُمْ وُلْدٌ ۖ فَإِنْ كَانَ لَكُمْ وُلْدٌ فَلَهُنَّ الثُّمُنُ
مِمَّا تَرَكَتُمْ ۗ مِنْ بَعْدِ وَصِيَّةٍ تُوصُونَ بِهَا أَوْ دَيْنٍ ۗ وَإِنْ كَانَ رَجُلٌ يُورَثُ
كَلَّةً أَوْ أَمْرًا وَلَهُ وَآخٌ أَوْ أُخْتٌ فَلِكُلِّ وَّاحِدٍ مِّنْهُمَا السُّدُسُ ۗ فَإِنْ كَانُوا

⁸ Saeed, *Interpreting the Qur'an*; Saeed, : : *A Contextualist Approach*; Mustofa, "Kritik Metode Kontekstualisasi Penafsiran al-Qurâ€™ n Abdullah Saeed"; Zaini, "Model interpretasi Al Quran Abdullah Saeed"; Gustanto, "Konsep Mudharabah dan Musyarakah dalam Perbankan Syariah Menurut Abdullah Saeed."

أَكْثَرَ مِنْ ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلُثِ ۖ مِنْ بَعْدِ وَصِيَّةٍ يُوصَىٰ بِهَا أَوْ
 دَيْنٍ غَيْرِ مُضَارٍّ ۖ وَصِيَّةً مِنَ اللَّهِ ۗ وَاللَّهُ عَلِيمٌ حَلِيمٌ

And for you is half of what your wives leave if they have no child. But if they have a child, for you is one fourth of what they leave, after any bequest they (may have) made or debt. And for them (i.e., the wives) is one fourth if you leave no child. But if you leave a child, then for them is an eighth of what you leave, after any bequest you (may have) made or debt. And if a man or woman leaves neither ascendants nor descendants but has a brother or a sister, then for each one of them is a sixth. But if they are more than two, they share a third, after any bequest which was made or debt, as long as there is no detriment (caused). (This is) an ordinance from Allāh, and Allāh is Knowing and Forbearing.

According to Abdullah Saeed, this verse has ethical-legal properties that can provide the meaning of legal and ethical values that are relevant today.⁹ According to the author of this study, this verse needs to be reread so that the principle of *musyarakah* can be the basis of fair transactions in a variety of broader dimensions and full of grace. In an article, Anas states that the contextual interpretation referred to in Abdullah Saeed's study is an interpretation that must consider politics, culture, everything that existed when the revelation was revealed, and the current context.¹⁰ Abdullah Saeed does a deep exploration and involves various modern disciplines such as hermeneutics, literature, and social sciences, as well as other disciplines that can help the study and interpretation.¹¹ This is not new; before

⁹ Gustanto, "Konsep Mudharabah dan Musyarakah dalam Perbankan Syariah Menurut Abdullah Saeed."

¹⁰ Anas Rolli Muchlisin, "Penafsiran Kontekstual: Studi Atas Konsep Hierarki Nilai Abdullah Saeed," *MAGHZA: Jurnal Ilmu Al-Qur'an dan Tafsir* 1, no. 1 (2016): 19–30; Saeed, : : *A Contextualist Approach*; Mustofa, "Kritik Metode Kontekstualisasi Penafsiran al-QurānTM Aç n Abdullah Saeed."

¹¹ Muchlisin, "Penafsiran Kontekstual"; Saeed, : : *A Contextualist Approach*; Gustanto, "Konsep Mudharabah dan Musyarakah dalam Perbankan Syariah Menurut Abdullah Saeed"; Saputra, "Konsep Intelijen dan Penafsiran Kontekstualitas Terhadap QS Al-

Abdullah Saeed, he also respected Fazlur Rahman, who also participated in the ethical-legal movement with a concept better known as the double movement.¹² Although Abdullah Saeed greatly admired Fazlur Rahman's views, he developed these views more perfectly. Applicatively, here is the concept of Fazlur Rahman's view:

Hujarat Ayat 12 (Aplikasi Metode Penafsiran Kontekstualis Abdullah Saeed”); Lenni Lestari, “Refleksi Abdullah Saeed Tentang Pendekatan Kontekstual Terhadap Ayat-Ayat Ethico-Legal dalam Alquran,” *Jurnal At-Tibyan: Jurnal Ilmu Alqur’an dan Tafsir* 2, no. 1 (2017): 15–29.

¹² Muchlisin, “Penafsiran Kontekstual.”

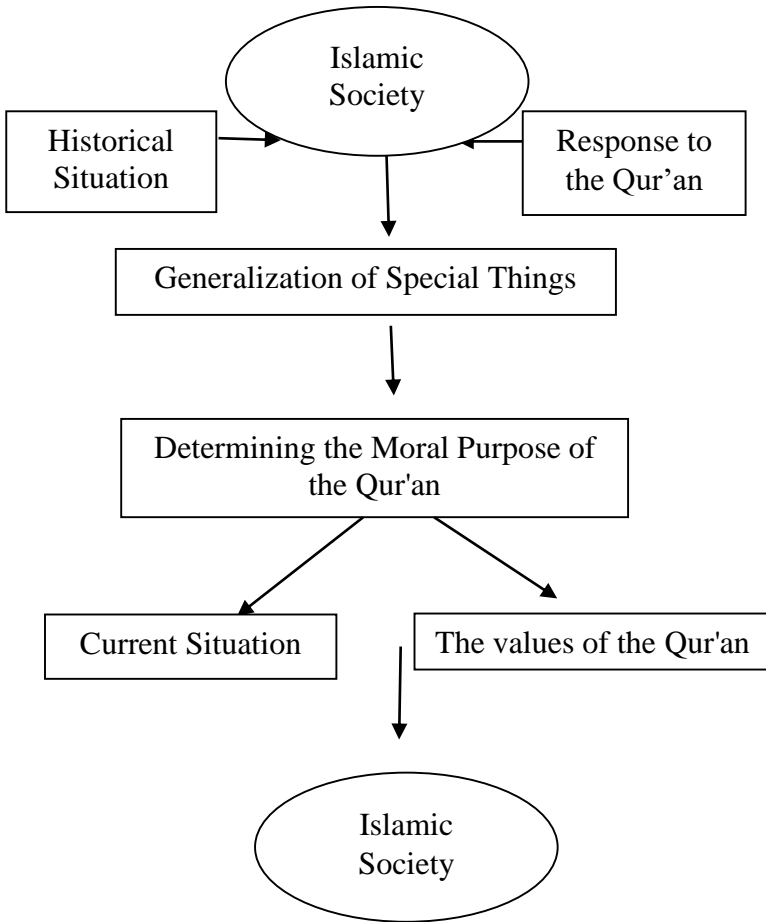


Figure 1 Concept of Fazlur Rahman's Thought
Sources: Annas Rolli Muchlisin¹³

In describing Fazlur Rahman's model, Saeed innovates by completing crucial aspects of Fazlur Rahman's theory. With a development approach, Saeed formulates the steps to be taken as quoted by the author Annas Rolli Muclisin in his writing as follows:

¹³ Muchlisin. Halaman 23.

Text Interpretation Model

Level I

Encounters with the world of texts

Level II

Critical Analysis

Linguistics

Literary Context

Literary Form

Parallel Texts

Precedent

Level III

Meaning for first receivers

Socio-historical context

Worldview

Nature of message: legal, theological, ethical

Message: Contextual versus universal

Relationship between the message and the message of the

Qur'an as a whole

Level IV

Meaning for now

Analysis of current context

Current context versus socio-historical context

Meaning from first recipient to present

Message: contextual versus universal

Application to the present

Figure 2: Abdullah Saeed's Map of Contextual Interpretation
Sources: Annas Rolli Muchlisin¹⁴

¹⁴ Muchlisin; Saeed, : : *A Contextualist Approach*. Halaman 25.

The first explanation is about the study of text in general and its scope.¹⁵ At the same time, the second explanation is about the study of readers or interpreters. In studying the text and the words in the text, several essential steps are taken to connect with society as the first community. These steps include linguistic analysis, literary context analysis, and literary form analysis. Finally, there is an analysis of related texts in other languages that are *munasabah* verses.

The third explanation is about the study of the reception of the Qur'an. The first step in this study is conducting contextual analysis by looking at the historical and social aspects of the text. Secondly, it determines the nature and basis of the norm of the text, whether it is in the corridor of legal texts, theology, ethics, and others. The third step is conducting a specific exploratory study of the text and identifying particulars and universals. Finally, the fourth step is to evaluate the text received by the first community by reinterpreting it and understanding its application.¹⁶

The final, fourth level, is very much related to the first community, with only a step difference from the third. The first step is to determine current problems and needs; the second is to thoroughly explore the values, social norms, politics, economics, and culture relevant to the text. The third is to compare the current context with the socio-historical context when the text was revealed to find the similarities and differences between the two. Fifth, the first and second understanding of the text within the context and *maqasid* is linked. Finally, the universality and specificity of the message are evaluated by examining whether or not the text relates to the broader purpose of the Qur'an.

There are five values in ethical-legal verses. First, the obligatory value contains values related to things obligatory for every Islamic individual or Muslim, wherever they are. The values contained in this

¹⁵ Muchlisin, "Penafsiran Kontekstual"; Saeed, : : *A Contextualist Approach*; Zaini, "Model interpretasi Al Quran Abdullah Saeed"; Saeed, *Interpreting the Qur'an*.

¹⁶ Muchlisin, "Penafsiran Kontekstual"; Rachmawan, "Hermeneutika Al-Qur'an Kontekstual"; Saeed, *Interpreting the Qur'an*; Gustanto, "Konsep Mudharabah dan Musyarakah dalam Perbankan Syariah Menurut Abdullah Saeed"; Saeed, : : *A Contextualist Approach*.

verse are universal. Examples are verses about belief systems, values related to mahdah worship, and things Allah has determined: halal and haram. Second, fundamental values, such as humanity, justice, and *maqasid* sharia. For example, a verse in this category is the verse of justice. Third, protection values are legal provisions to maintain the above fundamental functions, such as the prohibition of doing wrong, the prohibition of usury, and the prohibition of reducing the scales. Fourth, implementation values are concrete actions that must be taken to maintain the fundamental and protective values in the Qur'an and society. Finally, the action taken by the Qur'an with a specific problem at the time of revelation is referred to as instructional value. Verses in this category are numerous. This section will give an overview of which dimension the *musyarakah* verse falls into.¹⁷

Result and Discussion

Concept of *Musyarakah* in Qur'an

In this analysis, the first focus is on the Qur'an. The Qur'an etymologically comes from the word qa-ra-a (reading). Terminologically, the Qur'an is the revelation of Allah's words conveyed through the Prophet SAW to mankind (Muslims) to provide guidance for life in the world. The Qur'an consists of 30 juz, 114 surahs, and 6,236/6666 verses. The revelation of the Qur'an in Mecca, called "Makiyyah," generally discusses matters of faith, verses related to belief, and human relationships with their creator (Allah).¹⁸ On the other hand, the revelation of the Quran in Medina called "Madaniyyah," generally addresses humanitarian issues (*akhlaq, muamalah, and muasyarah*). The Quran has two main functions. First, it is a mercy and gift of Allah SWT for mankind who accept and practice its contents to have happiness in the world and the hereafter; second, as a guide for humans to recognize the Prophet SAW, a miracle which did not come

¹⁷ Muchlisin, "Penafsiran Kontekstual"; Saeed, *Interpreting the Qur'an*; Gustanto, "Konsep Mudharabah dan Musyarakah dalam Perbankan Syariah Menurut Abdullah Saeed"; Zaini, "Model interpretasi Al Quran Abdullah Saeed"; Saeed, *Interpreting the Qur'an*; Saeed, : : *A Contextualist Approach*.

¹⁸ Rosihon Anwar, *Pengantar Ulumul Qur'an* (Bandung: Pustaka Setia, 2009), 114.

from the Prophet SAW but from Allah SWT, and the Prophet as the messenger of the word. The Quran is the main source of law.¹⁹

In Q.S. Shaad verse 24, Allah said:

قَالَ لَقَدْ ظَلَمَكَ بِسُؤَالِ نِعْمَتِكَ إِلَىٰ نِعْمَتِهِ ۖ وَإِنَّ كَثِيرًا مِّنَ الْخُلَطَاءِ
 لَيَبْغِي بَعْضُهُمْ عَلَىٰ بَعْضٍ إِلَّا الَّذِينَ آمَنُوا وَعَمِلُوا الصَّالِحَاتِ وَقَلِيلٌ مَّا
 هُمْ وَظَنَّ دَاوُدُ أَنَّمَا فَتَنَّهٗ فَاسْتَغْفَرَ رَبَّهُ ۖ وَخَرَّ رَاكِعًا وَأَنَابَ

(Daud) said, "He has certainly wronged you in demanding your ewe (in addition) to his ewes. And indeed, many associates oppress one another, except for those who believe and do righteous deeds - and few are they." And Daud became certain that we had tried him, and he asked forgiveness of his Lord and fell down bowing (in prostration) and turned in repentance (to Allāh).²⁰

The verse contains, among other things, the *musyarakah* contract, which is a form of cooperation or partnership in the context of a business venture between two or more parties. The people who truly consider the rights of others in alliances and friendships and do not do the slightest injustice to their friends are few in number. Only those with sufficient faith and righteous deeds are generally concerned with the rights of their friends and those they know in a perfect and just manner. Allah SWT's approval and recognition of the existence of partnerships in property ownership occurs based on contracts that are carried out voluntarily. The relevance of the verse to other verses is found in Q.S. Al-Maidah verse 2, where Allah also says:

وَتَعَاوَنُوا عَلَىٰ الْبِرِّ وَالتَّقْوَىٰ وَلَا تَعَاوَنُوا عَلَىٰ الْإِثْمِ وَالْعُدْوَانِ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ
 شَدِيدُ الْعِقَابِ ۖ

¹⁹ Abuddin Nata, *Al-Qur'an dan Hadits* (Jakarta : RajaGrafindo Persada, 1996), 57.

²⁰ Al-Qur'an, 38: 24. Lihat Kementerian Agama (Kemenag) Republik Indonesia, *Al-Qur'an Terjemah dan Tafsir Wanita* (Bandung: Jabal, 2009), 454.

And do not let the hatred of a people for having obstructed you from al-Masjid al-Ḥarām lead you to transgress. And cooperate in righteousness and piety, but do not cooperate in sin and aggression. And fear Allāh; indeed, Allāh is severe in penalty.²¹

The verse reinforces the content of surah Shaad verse 24 above. The verse states that all actions and attitudes of life that bring goodness to individuals or groups of people are categorized as good deeds and taqwa, provided that these actions are based on sincere intentions. Mutual help (*syirkah al-ta'awun*) is a form of cooperation, and every individual Muslim hopes to be a helpful figure or partner for fellow Muslims. Allah SWT has said that humans should help each other and work together to achieve reasonable goals; in other words, *musyarakah* is a form of business based on mutual help between fellow humans to get profit or profit. Therefore, this *musyarakah* principle is highly recommended in Islam.

In addition, according to Abdullah Saed's research, the two verses above have a fundamental value of protection (protection value), whose legal dimensions apply to society. Therefore, these foundations should be consistent with higher values, namely fundamental values of justice, etc., which are the *maqasid* of sharia. Thus, any form of *musyarakah* must be consistent with the *maqasid* sharia and the basic values required by the Qur'an to guide life.²² In this case, Abdullah Saed states the importance of contextual reading in understanding *maqasid* sharia.

Musyarakah is a cooperation contract between two or more parties for a specific business in which each party contributes funds (charity/expertise) with the agreement that the profits and risks will be borne together according to the agreement.²³ *Musyarakah* is a contract of cooperation or joint venture between two or more owners of capital

²¹ Al-Qur'an, 5: 2. Lihat Kementerian Agama (Kemenag) Republik Indonesia, *Musbaf Madinah al-Qur'an Terjemah dan Tafsir* (Bandung: Jabal, 2010),106

²² Saed, *Interpreting the Qur'an*; Muchlisin, "Penafsiran Kontekstual"; Saed, : : *A Contextualist Approach*.

²³ Zainul Arifin, *Dasar-dasar Manajemen Bank Syariah* (Jakarta : Pustaka Alvabet, 2006),18.

or *abliab* to carry out a halal and productive business.²⁴ As for the language, *musyarakah* comes from the word *al-syirkah*, which means *al-ikhtilath* (mixing) and fellowship. What is meant by mixing here is that a person mixes his property with other people's property, making it challenging to distinguish a partnership of property rights or a business partnership.²⁵ Etymologically, *musyarakah* means amalgamation, mixing, or union. *Musyarakah* means collaboration or partnership in English.²⁶

Scholars have put several definitions forward of the term. First, the Hanafiah Ulama states, "Akad between two people who are partners in the principal price (capital) and profit." Second, the Malikis states, "Permission to act legally for two people who cooperate with their property." Third, the Shafi'iyah states, "Determination of rights on something owned by two or more people in a way that is *masyhur* (known)."

So, it is evident that *musyarakah* is a collaboration between two or more people in a business where they put capital into the business. Then, the profits are shared according to the agreement. The losses are borne together as well. If you look at the existing definitions, the differences are only editorial. Still, the principle is the same: a form of cooperation between two or more people in a business, and the consequences of profits and losses are borne together. Islam allows Muslims to trade and do business individually or link capital through various business partnerships. How many projects and enterprises can be handled by others? He needs a lot of capital, labor, and skills for that. By linking these various forces, the business can run smoothly.

Musyarakah Amlak

Musyarakah amlak is where two or more people own goods without a contract, either *ikhtiyari* or *jabari*, meaning that two or more people own goods without a contract. There are two types of *shirkah*

²⁴ Muhammad Syafii Antonio, *Bank Syariah dari Teori dan ke Praktik* (Jakarta: Gema Insani, 2001), 90.

²⁵ Ghufron A. Mas'adi, *Fiqh Muamalah Kontekstual* (Jakarta: PT RajaGrafindo Persada, 2002), 191.

²⁶ Mardani, *Hukum Bisnis Syariah* (Jakarta: Prenadamedia Group, 2014), 142.

amlak: First, *ikhtiari* (*musyarakah amlak ikhtiari*), which is a partnership that arises as a result of the legal actions of the partners, such as two people agreeing to buy an item or both receiving a grant, will, or waqf from another person, then these objects become joint property for both of them. Secondly, *jabari* (*musyarakah amlak jabari*) is a partnership assigned to two or more people that is not based on their actions, such as the inheritance they receive from their parents.²⁷

Musyarakah Uqud

Musyarakah uhud is where two or more people enter into a contract to share capital and profits. It means a capital investment transaction and a profit-sharing agreement precede the partnership. First, *musyarakah inan* is an alliance between two people in property to trade and share profits or losses. One party may have more capital in this partnership than the other party. In this case, one party may be fully responsible for the burden of responsibility and work while the other is not. Profits are shared according to the agreed percentage. If there is a loss, it is borne jointly based on the rate of capital.²⁸ Secondly, *musyarakah mufawadah* is a partnership in which the capital of the parties and the form of cooperation they carry out in terms of quality and quantity must be the same, and profits are shared equally. In *musyarakah mufawadah*, each party must work together. The critical thing in this *musyarakah* is that working capital and profits are equal rights and obligations. Third, *musyarakah al-Abdan* is a partnership in the form of work whose results are shared according to the agreement. It means the union of two or more people to accept an ironworker's job, porters, tailors, etc. The purpose of this *musyarakah* is to seek profit with the capital of joint work. Fourth, *musyarakah wujub* is a partnership without capital, meaning that two or more people buy an item without capital, which is only the trader against them.²⁹

²⁷ M.Noor Harisudi, *Fiqh Muamalah* (Surabaya: Pena Salsabila, 2014),60-61.

²⁸ Qomarul Huda, *Fiqh Muamalah* (Yogyakarta : Penerbit Teras, 2011),107.

²⁹ Muhammad Ridwan, *Konstruksi Bank Syariah Indonesia* (Yogyakarta: Pustaka SM, 2007), 39.

First, partners jointly provide funds to finance a specific business in *musyarakah*, whether an existing or new one. The partners can then return the funds and the agreed profit sharing gradually or all at once to the entity (other partners). Second, *musyarakah* investments can be provided in cash, cash equivalents, or non-cash assets, including intangible assets, such as licenses and patents. Third, since each partner cannot guarantee the funds of the other partners, each partner may require the other partners to provide security for negligence or willful misconduct. Some things that indicate willful misconduct are contract violations, such as misuse of investment funds and manipulation of operating costs and revenues, where the implementation does not follow Sharia principles.

Fourth, in the absence of agreement between the disputing parties, willful misconduct must be proven based on the decision of the authorized institution. Fifth, *musyarakah* business income is shared among the partners in proportion to the funds deposited (whether in the form of cash or other non-cash assets) or according to the ratio agreed upon by the partners. At the same time, losses are borne proportionately to the funds deposited (whether in cash or other non-cash assets). Sixth, if one partner contributes more than the other partners in a *musyarakah* contract, that partner can get more profit for himself. Excess profit can be in the form of giving a portion of the profit that is more significant than the portion of the fund or other forms of additional profit. Seventh, the portion of profit sharing for the partners is determined based on the agreed ratio of business income earned during the contract period, not on the amount of investment disbursed. Eighth, *musyarakah* administers business transactions related to *musyarakah* investments that are managed in a separate bookkeeping.

Meanwhile, according to Abdullah Saeed's view, it mentions several essential things, for example, related to *musyarakah*, and focuses on *musyarakah al-inan*, namely the principles of capital and management, long-term and guarantee, and the principle of profit sharing. First, *musyarakah* capital must be natural and clear, not a debt, while the portion of capital does not have to be the same; the second is the management, where the parties must have sufficient competence

associated with the terms of *musyarakah*, and equality of position between partners and even though in the contribution of one partner has a more significant contribution. The third is the long-term of the *musyarakah* contract using the first two short-term and long-term models, and the fourth is the guarantee; in this case, Abdullah Saeed must emphasize that the basis of *musyarakah* is the trust of all existing partners.³⁰

Conclusion

This article has two critical points: biogafri Abdullah Saeed and a hierarchy of verse contextual interpretation method of *musyarakah* verses. Second, the *musyarakah* verse is a verse that has a dimension of protection value. Thus, the study of *musyarakah* should be distinct from the fundamental verse or hierarchy verse above it. For example, it should not conflict with the verse of justice, equality, mutual trust, and *maqasid sharia*, so it is clear that in the implementation of *musyarakah* Abdullah Saeed is more inclined to *musyarakah al-inan* because it is very contextual in the dimension of equality and implementable with the justice of *musyarakah* in this modern century.

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³⁰ Mila Fursiana Salma Musfiroh, “Musyarakah Dalam Ekonomi Islam (Aplikasi Musyarakah Dalam Fiqih Dan Perbankan Syariah),” *Syariat: Jurnal Studi Al-Qur'an dan Hukum* 2, no. 01 (2016): 173–86.

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