



Challenges and Obstacles in the Standardization and Harmonization of Fatwa in Islamic Finance Industry and Way Forward

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The purpose of this paper is to explore the potential benefit, challenge and obstacles in the standardization and harmonization of fatwa in Islamic finance industry. This paper is also intended to formulate strategies to release the standardization and harmonization of fatwa. This study employs qualitative approach and reviews literatures that are relevant to the research objective. The finding indicates that the potential benefit of harmonization of fatwa are efficient and manageable regulation and control, IFIs will have a set of reporting and guideline standards, contribute to IFIs's growth, enhance public and IFI's confidence, and lead to greater transparency. Meanwhile, the challenges to harmonize the fatwa can be divided into four main problems, technical, governance, human resource, and regulation. Technical problems comprise difference of opinion in ijihad and fatwas, the absence of consensus (ijma'), and national cultural specificities. Governance consist of international fatwa bodies are only followed by selected member countries, difference in sharia compliance governance model among countries, and difference level of Islamic finance industry growth among countries. Human resource involves lack of inclusivity, lack of professionals, personal/group interest. Finally, regulation be made up of lack of support from regulators, enforcement problem, and lack of legal system. This study also purposes some important strategies to release the standardization of fatwa and some recommendations for future studies.

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INTRODUCTION

Global Islamic financial industry growth in 2022 shows one step ahead performance, particularly after the quick economic recovery after pandemic. [Moody's Investors Service \(2022\)](#) explains that global Islamic financial industry growth better than it peers, conventional, particularly during pandemic Covid-19. The persistent growth of Islamic financial industry

almost occurred in several Muslim countries. Figure 1 indicates that Turkey has the highest growth percentage of Islamic finance industry according to Islamic bank's CAGR (Compound Annual Growth Rate), and then followed by Kingdom of Saudi Arabia, Bangladesh, Oman, and Kuwait. And all designated countries have similar pattern of chart, where Islamic financial industry growth is higher compared to conventional industry.

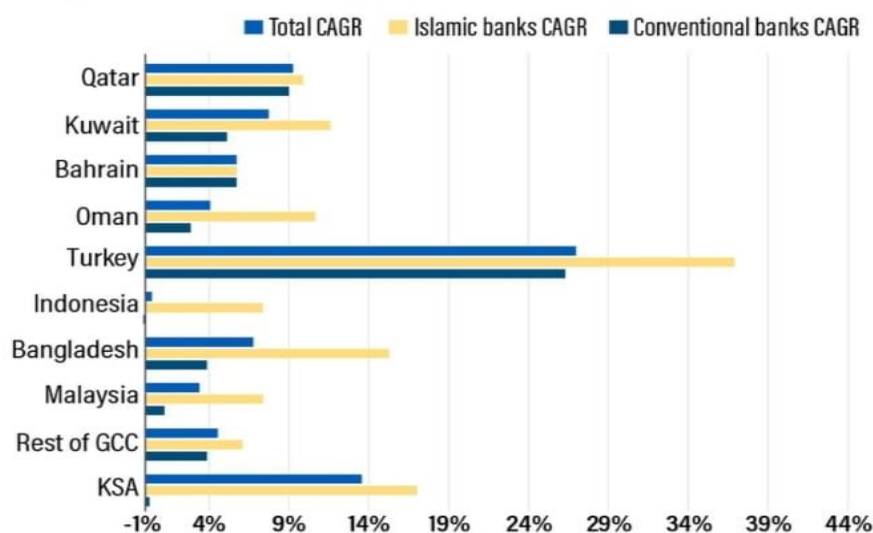


Figure 1. Islamic finance growth outperformed conventional peers during pandemic (% growth in financing between 2019 and Q3 2021)

Capturing the increasingly rapid growth of the Islamic financial industry, the biggest challenge of Islamic finance regulator all over the world is how to harmonize and synergize the sharia ruling into regulation framework consistently and efficiently ([Hakim, 2013](#)). [Haniffa & Hudaib \(2007\)](#) support the view that the rapid growth of global Islamic financial institutions has led to the need for reliable and standardized financial reporting, therefore, transparency and fairness in Islamic financial transactions can be attained. Although differences of opinion in sharia ruling are justified, in industrial practices, these differences contain more disadvantages rather than benefit ([Shaharuddin, 2016](#)). [Khan \(2007\)](#) argues that the multiplicity and flexibility of understanding sharia may become a restriction to the development of Islamic financial industry.

Several previous studies raised the issue of why standardization and harmonization of sharia rulings is required. [Antonio & Rusydiana \(2008\)](#) mentioned several reasons include sharia standard harmonization will make regulation and control procedure are more efficient and easier to be managed. To support this view, [Hakim \(2013\)](#) asserts the thought of market leaders and regulators, they argue that sharia standard

harmonization will reduce transaction cost and enhance the process of sharia compliance. Therefore, efficient process of Islamic financial transaction can be effectively achieved. By harmonizing the law and sharia, Islamic Financial Institutions (IFIs) will have a set of standards in term of reporting guidelines and system ([Antonio & Rusydiana, 2008](#); [Mukhlisin, Hudaib, & Azid, 2015](#)). [Ghoul \(2011\)](#); [Shaharuddin \(2016\)](#) are in the opinion that that standardization and harmonization between regulation and sharia would lead to IFIs expansion both in size and market, and boost IFIs's growth. [Shamsad Akhtar](#), the 14th Governor of the State Bank of Pakistan assert that, the existence of different ideas that lead to different sharia rulings will create confusion to the public. [Mukhlisin, Hudaib, & Azid \(2015\)](#) identifies some benefits from uniformed financial reporting standard, namely avoid misjudgment on Islamic bank's financial report, achieve quality assurance, and enhance investor confidence.

However, through harmonization, this diversity will be a great strength for the world's Islamic finance industry, and it can provide diverse products and services according to customer needs. In addition, International Organization of Securities Commissions

(IOSCO) suggested that the market of Islamic securities all over the world are continuously expanding both in market size and geographical area. Therefore, it is essential to have standardization in regulatory in term of documentation, practices, and product ratings. To this, harmonization in sharia law of Islamic finance can enhance the level of innovative in IFIs. Antonio & Rusydiana (2008) discussed the significant drawbacks from the previous banking strategies, where it was a rigid model and lead to slow down in the development and product innovation. Shehada (2009) asserts that the rigidity can became a bound to sharia law. Harmonization also contributes to the stakeholder and Islamic finance industries confidence to offer and society's confidence to adopt Islamic finance product (Mukhlisin, Hudaib, & Azid, 2015; Shaharuddin, 2016). Because different sharia law tends to hinder the sharia financial industry to compete globally or even among Muslim countries (Antonio & Rusydiana, 2008). And most importantly, Shaharuddin (2016) stated that the establishment of standardization and harmonization in sharia law will reduce the risk of non-compliance in Islamic financial institutions.

To reach an effective standardization and harmonization of fatwa, efforts must be put into removing barriers and obstacles. Literatures in standardization and harmonization, Islamic financial industry case study also identified some obstacles such as difference of opinion in *ijtihad* and fatwas to determine the sharia rulings of a contract, thus, it causes to the controversy not only among scholars but also among sharia law stipulation in Muslim countries (Hakim, 2013). Shaharuddin (2016) assert that the difference of opinion among scholars led to the acceptance of a contract in one country and unaccepted in another country. In addition, Rasul (2010) added some point that each *Mazhab* has its own set of scholars on Islamic finance issues. Therefore, conflicts and ambiguities in sharia interpretation may still occur. Even more, Hesse, Jobst, & Sole (2008) assert the point that in this Era, it is hard to find pure consensus (*ijma'*) on certain financial products and agreements. Shararuddin (2015) investigates some challenges related to sharia harmonization in Islamic finance, namely lack of inclusivity in participating to issue sharia standard, lack of support from regulators, difference practice of sharia government framework, difficulty to reach proper agreement among sharia scholars, and the difference level of Islamic finance industry growth among countries.

In addition to what has been discussed, investigating the obstacle of standardisation and harmonisation of fatwa in Islamic finance industry and way forward is significant to be studied. Further, it is found that there is still lack of studies that come up with harmonisation of fatwa's obstacle issue in a coherent framework model. This study is aimed to answer three research question: (1) what are the potential benefits of the harmonizing of fatwa?, (2) what are the challenge and obstacle in the standardisation and harmonisation of fatwa?; and (3) what are the way forward to realize fatwa harmonization and standardization?. The remaining of the sections will discuss about the literature review in the issue of harmonization of fatwa, methodology, finding and discussion of the need and obstacle of fatwa harmonization, and the last section will be conclusion and recommendation for further studies.

LITERATURE REVIEW

A plethora of academic paper studied on harmonization and standardization of sharia rulings in various case study of countries. Hakim (2013) discussed comprehensive discussion on the need of harmonization, problems, and strategies to establish harmonization of sharia rulings and law in contemporary times. Shaharuddin (2016) principally defines the meaning of harmonization of sharia in Islamic financial industry and sheds light on how standardization and harmonization can benefit to the financial industry. Further, Shaharuddin (2016) explains there two stand-positions regarding the idea to harmonize the fatwa, first, the view of regulator and market leaders, they believe that sharia standard will offer more certainty in sharia interpretation. The certainty of sharia standard is significant to formulate prudential regulatory framework to achieve sustainable growth in Islamic finance. It goes without saying that Islamic financial industry is susceptible to systemic instability risk, and if this happens, it will lead to the failure of industry. However, other contemporary sharia scholars are disagreeing to the idea of harmonization, because to derive the sharia rulings, disagreement among Muslim scholars cannot be inevitable, as in nature, Islamic law recognize the division of prove (*qat'i*/definite and *zanni*/speculative).

Shararuddin (2015) investigates the challenge and strategies of harmonization of sharia in Islamic finance. He comes up with five (5) main problems of sharia harmonization, namely lack of inclusivity in participating to issue sharia standard, lack of support from regulators, difference practice of sharia government framework, difficulty to reach proper agreement among sharia

scholars, and the difference level of Islamic finance industry growth among countries. Recent study by [Ercanbrack \(2020\)](#) analyzes the Islamic financial law standardization in modern financial markets. He concluded that the notion of sharia standardization is led by the market, but sharia scholars still more focus on reconciling classical law interpretation, thus confuses this fact. Some literatures also studied the harmonization of accounting standard in Islamic banking practices, such as [Mukhlisin, Hudaib, & Azid \(2015\)](#) analyze Islamic Financial Industry stakeholders' perception regarding sharia harmonization of financial report standard in Indonesia. [Karim \(2001\)](#) studied international accounting harmonization and came up with the fact that Islamic banks in the same country apply different accounting standard to perform their financial report. Hence, he casts light the need of Islamic bank to adopt accounting standard which is decreed by the AAOIFI.

METHOD

This study employs qualitative approach to construct a model decomposition of challenge and obstacle in the standardization and harmonization of fatwa from literatures. It has been noticed that the obstacle of fatwa standardization is considered as comprehensive and complex. Therefore, to construct a structured model of fatwa standardization problems, this study adopts AHP (Analytic Hierarchy Process) structure framework. AHP is a mathematic theory which allows one variable to deal systematically with dependence and feedback, which can capture and combine tangible and intangible factors by using ration scale. Principally, AHP method is part of mix method, where qualitative and quantitative study are applied. However, due to some restrictions and limitations of time and data, this study only covers the qualitative step through reviewing some relevant literatures. Nevertheless, to get better understanding of problems/obstacles/challenges, this study is provided with AHP model framework.

ANALYSIS AND DISCUSSION

Potential Benefits of the Harmonizing of Fatwa

As has been declared in the introduction section, some Sharia scholars opine that fatwa harmonizing in Islamic finance practices is crucial, which is eventually this idea is intended to increase Islamic finance share portion and potency globally, either in term of product,

contract, and fatwa. In this vein, we discover some reasons for the need of sharia harmonizing in Islamic financial practice. To begin with, sharia standard harmonization is intended to make regulation and control procedure are more efficient and easier to be managed ([Antonio & Rusydiana, 2008](#)). Central bank in countries as regulator has an authority to control and supervise the financial activity of Islamic financial industry over the countries. Therefore, if central bank regulates different sharia authorities, then it will not effective, costly, and burdensome, particularly when it comes to international transaction. From the financial sector point of view, firm must deal with different regulation and sharia compliance in different countries.

Furthermore, by harmonizing the law and sharia, Islamic Financial Institutions (IFIs) will have a set of standards in term of reporting guidelines and system ([Antonio & Rusydiana, 2008](#)). Therefore, IFIs may be able to focus more on business and not bothered by non-sharia compliance issue. Currently, the steps towards harmonization of shariah law are indicated by the establishment of International sharia fatwa-bodies which are authorized to issue fatwas related to sharia financial service products such as International Islamic Fiqh Academy – Organisation of the Islamic Conference (OIC), Accounting and Auditing Organization of Islamic Financial Institution (AAOIFI), Islamic International Rating Agency (IIRA), the General Council for Islamic Banking and Finance Institutions (GCIBFI), and Islamic Financial Services Board (IFSB). However, there are still many challenges and obstacles to be faced towards perfect harmonization, one challenge is all these organization is not yet centralized and only followed by some member countries. Therefore, according to [Hesse, Jobst, & Sole \(2008\)](#); [Rasul \(2010\)](#); [Hakim \(2013\)](#), harmonization can be achieved if these sharia rulings authorities are centralized, thus the consensus or ijihad collective among scholars can be obtained as what our classical scholars did in the past.

Harmonization contributes to the Islamic finance industry's growth. Islamic finance industry continuously grows not only in certain countries but all over the world. Moreover, the Islamic financial instrument product is not only devoured by Muslim but also non-Muslim, not only provides the need of national transaction, but also cross-countries financial transaction. The growth of global Islamic finance leads to the need for various product and services of Islamic finance, sophisticated regulatory framework as well as (as proposed) standardization of sharia rulings. In

addition, according to [Antonio & Rusydiana \(2008\)](#), different sharia law tends to hinder the sharia financial industry to compete globally or even among Muslim countries. Products based on the Bai 'Bithaman Ajil and Bai' Tawarruq agreements for example, are only popular in certain countries, and there are even some other markets that reject this product. Therefore, to engage sharia compliance among financial institutions in countries, harmonization and standardization sharia law in Islamic finance will help Islamic Financial Institutions (IFIs) to innovatively coherent and manufacture Islamic financial product comply to the need of divergent people.

[Ghoul \(2011\)](#) supports the view that standardization and harmonization between regulation and sharia would lead to IFIs expansion both in size and market, and boost IFIs's growth. To support this, Shamsad Akhtar, the 14th Governor of the State Bank of Pakistan assert that, the existence of different ideas that lead to different sharia rulings will create confusion to the public. However, through harmonization, this diversity will be a great strength for the world's Islamic finance industry, and it can provide diverse products and services according to customer needs. In addition, International Organization of Securities Commissions (IOSCO) suggested that the market of Islamic securities all over the world are continuously expanding both in market size and geographical area. Therefore, it is essential to have standardization in regulatory in term of documentation, practices, and product ratings. To this, harmonization in sharia law of Islamic finance can enhance the level of innovative in IFIs. [Antonio & Rusydiana \(2008\)](#) discussed the significant drawbacks from the previous banking strategies, where it was a rigid model and lead to slow down in the development and product innovation. [Shehada \(2009\)](#) asserts that the rigidity can became a bound to sharia law.

Harmonization also contributes to the Islamic finance industry's confidence ([Shaharuddin, 2016](#)). The growth of society to subscribe Islamic financial product in the market shows that society's confidence to use Islamic financial product is increasing. Issues on sharia aspect in financial product that arise among the public may cause lack of trust to the financial provider. Moreover, if the issue is about the sharia basic principle and it can create a perception in the community that Islamic banks are the same as conventional banks or in other words, Islamic banks are not Islamic. This perception that appears in the community as the result of the lack of society's confidence to IFIs. The characteristic of society in general is they requires

models or stereotypes from other countries as a form of acknowledgment/conformity that Islamic financial products are sharia compliance and halal. Therefore, harmonization and standardization of sharia law in Islamic finance will help Islamic Financial Institutions (IFIs) to ensure the society regarding product's sharia compliance.

Further, harmonization also helps society to level up their confidence to use Islamic financial product and services ([Shaharuddin, 2015](#); [Ercanbrack, 2020](#)). For example, in case of providing guarantee on capital for investment agreement product such as mudharabah and musyarakah, there are different opinion among fatwa bodies in one country over another country. Even though most scholars agree that demanding/providing a guarantee of principal is not allowed, but almost all agree that guarantee of principal can be conducted by 3rd party. However, the issue remains when the guarantee of principal is conducted by 3rd party under *kafalah* contract. The problem comes whether it is free fee-based guarantee or fee-based guarantee. Different fatwa comes to different opinion. Islamic Fiqh Academy, resolution No. 12 asserted that a fee in guarantee should not exceed the actual expenses. [Kuwait Finance House \(2011\)](#), resolution No. 286 identifies that the charge fee is allowed only if it reflects the actual expenses to avoid riba. Meanwhile, SAC-BNM allows charging fee even that might exceed the actual expenses. These different opinions on fee-based guarantee may lead confuse not only for banks but also for prospective customers. Prospective customer will consider whether their bank will provide them guarantee or not if they put their money into investment accounts. Because it has been noticed that, not all depositors ready to loss their money if they invest into the bank. Otherwise, depositors might doubt the compliance of sharia from this investment product if they are promised a guarantee for the capital that they have invested in the bank.

Similar to sukuk or Islamic bond which provides the guarantee on capital, Syaikh Muhammad Taqi Usmani believes that providing guarantees for capital invested in sukuk instruments can break sharia principles, because it is not in line with the basic concept of investment/profit sharing. Furthermore, Sheikh Taqi Usmani explained that in investing with the principle of profit sharing, the owner of the capital must be able to accept the consequences of any profit or loss received from the business activities/projects.

Harmonization in sharia law may lead to greater transparency in Islamic finance practices ([Mukhlisin, Hudaib, & Azid, 2015](#)). As have been mentioned earlier

that a set of standards in Sharia rulings guidance and financial report might the outcome of harmonization. IFIs will work more transparent, accountable, and sharia compliance. As the result, it is expected can improve the level of public confidence to subscribe Islamic financial product and services. Not surprisingly, there is lack of standardized accounting where different countries applied different accounting standard for Islamic bank. For example, Bahrain, Kuwait, & Qatar refer to AAOIFI and/or IFRS, while Indonesia refers to Indonesian GAAP, and such Saudi Arabia, UAE, and UK refer to IFRS (ACCA, 2010). The heterogeneity of accounting standard that is adopted by many countries lead to the lack of information that might be obtained by customers to make investment decision. Because the information that is provided to public is restricted due to utilizing different accounting standard. Therefore, the standardization in financial reporting is expected to take place through harmonization of regulation and shariah law. The difference of accounting standards usage as a reference may be influenced by differences of Islamic finance industry's governance model. For instance, France applies the conventional model, where sharia compliance regulations on financial transactions are not under the authority of the FMA (France Monetary Authority). However, sharia compliance becomes the authority and responsibility of each issuer, who is assisted by each of their advisors. Meanwhile, in Dubai, implementing sharia sharia system governance model. Where each firm is required to have its own sharia board. The governance, functions and operational activities of the sharia board are all regulated (See DFSA' Islamic Financial Business Module/ISF). In contrast to France and Dubai, Indonesia and Malaysia have similarities in the sharia compliance governance model, namely a centralized approach model. Despite of every company must have its own shariah supervisory board, the state also has a central shariah board, in Malaysia it is called Sharia Advisory Councils in both the Securities Commission of Malaysia and Bank Negara Malaysia, while in Indonesia it is called Dewan Sharia Nasional – Majelis Ulama Indonesia (DSN-MUI) (Hakim, 2013).

Above all these discussion on the need of harmonization and standardization of fatwa, however, there are still many challenges and obstacles to be overlooked to achieved perfect harmonization. This study not only discusses the reason to the need of harmonization and standardization of fatwa, but also discusses the challenge and obstacle in the standardisation and harmonisation of fatwa in Islamic finance industry and way forward.

Challenge and obstacle in the standardisation and harmonisation of fatwa

It widely believes that to establish the sharia standard especially in fatwa remains some obstacles and problems. This study explores some obstacles and problems to harmonize and standardize the fatwa in Islamic financial industry and way forward. To start with, the difference of opinion in ijtihad and fatwas to determine the sharia rulings of a contract causes to the controversy not only among scholars but also among sharia law stipulation in Muslim countries (Hakim, 2013). Shaharuddin (2016) assert that the difference of opinion among scholars led to the acceptance of a contract in one country and unaccepted in another country. In addition, Rasul (2010) added some point that each *Mazhab* has its own set of scholars on Islamic finance issues. Therefore, conflicts and ambiguities in sharia interpretation may still occur. Even more, Hesse, Jobst, & Sole (2008) assert the point that in this Era, it is hard to find pure consensus (*ijma*) on certain financial products and agreements. Shararuddin (2015) investigates some challenges related to sharia harmonization in Islamic finance, namely lack of inclusivity in participating to issue sharia standard, lack of support from regulators, difference practice of sharia government framework, difficulty to reach proper agreement among sharia scholars, and the difference level of Islamic finance industry growth among countries. In addition to this, every country has their own national cultural specificities which will become obstacle to the full acceptance of standardization. a country has uniqueness in business culture, environment in economy, accounting regulation, and professional audit (Fakhfakh, 2020).

Currently, the steps towards harmonization of shariah law are indicated by the establishment of International sharia fatwa-bodies which are authorized to issue fatwas related to sharia financial service products such as International Islamic Fiqh Academy – Organisation of the Islamic Conference (OIC), Accounting and Auditing Organization of Islamic Financial Instituion (AAOIFI), Islamic International Rating Agency (IIRA), the General Council for Islamic Banking and Finance Institutions (GCIBFI), and Islamic Financial Services Board (IFSB). However, all these organization is not yet centralized and only followed by some member countries. According to Hesse, Jobst, & Sole (2008); Rasul (2010); Hakim (2013) that harmonization can be achieved if these sharia rulings authorities are centralized, thus the consensus or ijtihad collective among scholars can be obtained as what our

classical scholars did in the past. In addition, [Khan \(2007\)](#) argues that there is no consensus in the AAOIFI, thus, there is no obligation for Islamic financial industry to go along with only one sharia standard.

[Naser, et al \(2005\)](#) had already revealed the case of harmonization of accounting in Gulf Co-operation Council (GCC) countries. There are some critical factors that obstruct accounting harmonization practices in GCC countries, namely the lack of professional, lack of legal requirement, and enforcement problems. Lack of professional refers to the difference quality and quantity of professional in sharia and finance among countries. Lack of legal requirement may be as the impact of difference governance model in Islamic financial industry. Afterwards, problem of enforcement becomes the obstacle in harmonizing sharia standard and practices by certain fatwa-body. Even though several international fatwa bodies were established (such as AAOIFI, IFSB, Academy Fiqh OIC, etc), yet the enforcement implication is still far from reality. The application and implementation of sharia standards issued by international fatwa bodies cannot be forcefully implemented toward countries. In support of [Naser, et al \(2005\)](#), [Hakim \(2013\)](#) analyses the problem of harmonization and standardization comes from the difference in sharia compliance governance model among countries. For instance, France applies the conventional model, where regulations regarding sharia compliance in financial transactions are not under the authority of the FMA (France Monetary Authority). However, sharia compliance is the authority and

responsibility of each issuer, who is assisted by each of their advisors. Meanwhile, in Dubai, implementing sharia compliance governance modelled on the sharia system approach. Where each company is required to have its own sharia board. The governance, functions and operational activities of the sharia board are all regulated. In contrast to France and Dubai, Indonesia and Malaysia have similarities in the sharia compliance governance model, namely a centralized approach model. Despite of every company must have its own sharia supervisory board, the state also has a central sharia board, in Malaysia called Sharia Advisory Councils (SAC) in both the Securities Commission of Malaysia and Bank Negara Malaysia, and Dewan Sharia National – Majelis Ulama Indonesia (DSN MUI), for Indonesia.

Another main issue explored in detail in the obstacle of fatwa harmonization and standardization comes from [Smith \(2005\)](#), he in the view that substantial obstacles for Islamic banks is the existence of interest from several parties. Starting with the desire of Islamic banks to maintain their commitment as sharia compliance banks, and develop business through global market integration, Islamic banks propose to integrate Islamic into the international financial system. Demanding the harmonization and standardization of international standard as the cost of doing business. However, this raises another issue that sharia standardization is required because of the particular interest of Islamic Financial Institutions and global businesses.

Table 1. Obstacles and Challenge in the standardisation and harmonisation of fatwa in Islamic finance industry

No	Element of Obstacles	Definition	Sources
Technical: <i>The obstacles that come from technical aspect, such as the difference opinion in ijihad and fatwas, the absence of ijma' and national cultural specificities.</i>			
1	Difference of opinion in ijihad and fatwas	Difference of opinion in ijihad and fatwas to determine the sharia rulings of a contract, thus, it causes to the controversy not only among scholars but also among sharia law stipulation in Muslim countries	Hakim (2013) ; Shaharuddin (2016) ; Rasul (2010) ; Shararuddin (2015)
2	The absence of consensus (ijma')	In this Era, it is hard to find pure consensus (<i>ijma'</i>) on certain financial products and agreements. The fatwa that produced by fatwa-bodies is considered as collective ijihad.	Hesse, Jobst, & Sole (2008) ; Shararuddin (2015)
3	National cultural specificities	Each country has their own national cultural specificities which will become obstacle to the full acceptance of standardization. Each country has uniqueness in business and economic culture, environment in economy, accounting regulation, and professional audit.	Fakhfakh (2020) ; Smith (2005)

Governance: <i>The obstacles that come from governance aspect, such as members of international fatwas bodies, difference sharia compliance governance, and difference level of Islamic finance growth.</i>			
1	International fatwa bodies are only followed by selected member countries	There are some international fatwa bodies which are authorized to issue fatwas related to sharia financial service products. Unfortunately, only some countries adopt the fatwa, and some others are not.	Hesse, Jobst, & Sole (2008); Rasul (2010); Hakim (2013)
2	Difference in sharia compliance governance model among countries	There are differences in sharia compliance governance model among countries. Some of them may apply one of these models, either conventional model, sharia system approach, centralized approach, or hybrid approach.	Hakim (2013)
3	Difference level of Islamic finance industry growth among countries	There are differences in the level of Islamic finance industry growth among countries which will lead to difference need of sharia product and fatwa.	Shararuddin (2015)
Human Resource: <i>The obstacles that come from human resource aspect, such as lack of inclusivity, lack of professionals, and personal/group interest.</i>			
1	Lack of inclusivity	Lack of inclusivity in participating to issue sharia standard	Shararuddin (2015)
2	Lack of professionals	Lack of professional refers to the difference quality and quantity of professional in sharia and finance among countries	Naser, et al (2005)
3	Personal/Group interest	Sharia standardization is required because of the particular interest of IFIs and global businesses	Smith (2005),
Regulation: <i>The obstacles that come from regulation aspect, such as lack of support from regulators, enforcement problem, and lack of legal system.</i>			
1	Lack of support from regulators	Lack of support from the local government in the implementation of sharia standards	Shararuddin (2015)
2	Enforcement Problem	Even though several international fatwa bodies were established (such as AAOIFI, IFSB, Academy Fiqh OIC, etc), yet the enforcement implication is still far from reality. The application and implementation of sharia standards issued by international fatwa bodies cannot be forcefully implemented toward countries in the world.	Naser, et al (2005)
3	Lack of legal system	Lack of legal requirement and legal system	Naser, et al (2005); Dahlan, 2017

In order to get simply model from above discussion, we attempt to develop AHP framework which explains the model of fatwa standardization's obstacles. Figure 2 illustrates the AHP element framework regarding the Obstacles and Challenge in the standardisation and harmonisation of fatwa in Islamic finance industry.

Figure 2 depicts the summary of the Obstacles and Challenge in the standardisation and harmonisation of fatwa in Islamic finance industry in the form of hierarchy framework. According to the hierarchy, there are three levels, first level is goal – obstacles of fatwa standardization. Second level is problems/obstacles, namely technical problem, governance problem, human resource problem, and regulation problem. Each

problem is further expanded to several sub-problems. There are three sub-problems under technical obstacle, namely difference of opinion in ijtihad and fatwas, the absence of consensus (ijma'), and national cultural specificities. Meanwhile, three sub-problems under governance are international fatwa bodies are only followed by selected member countries, difference in sharia compliance governance model among countries, Difference level of Islamic finance industry growth among countries. Human resource also has three sub-problems are lack of inclusivity, lack of professionals, and personal/group interest. Lastly, three sub-problems under regulation are lack of support from regulators, enforcement problem, and lack of legal system.

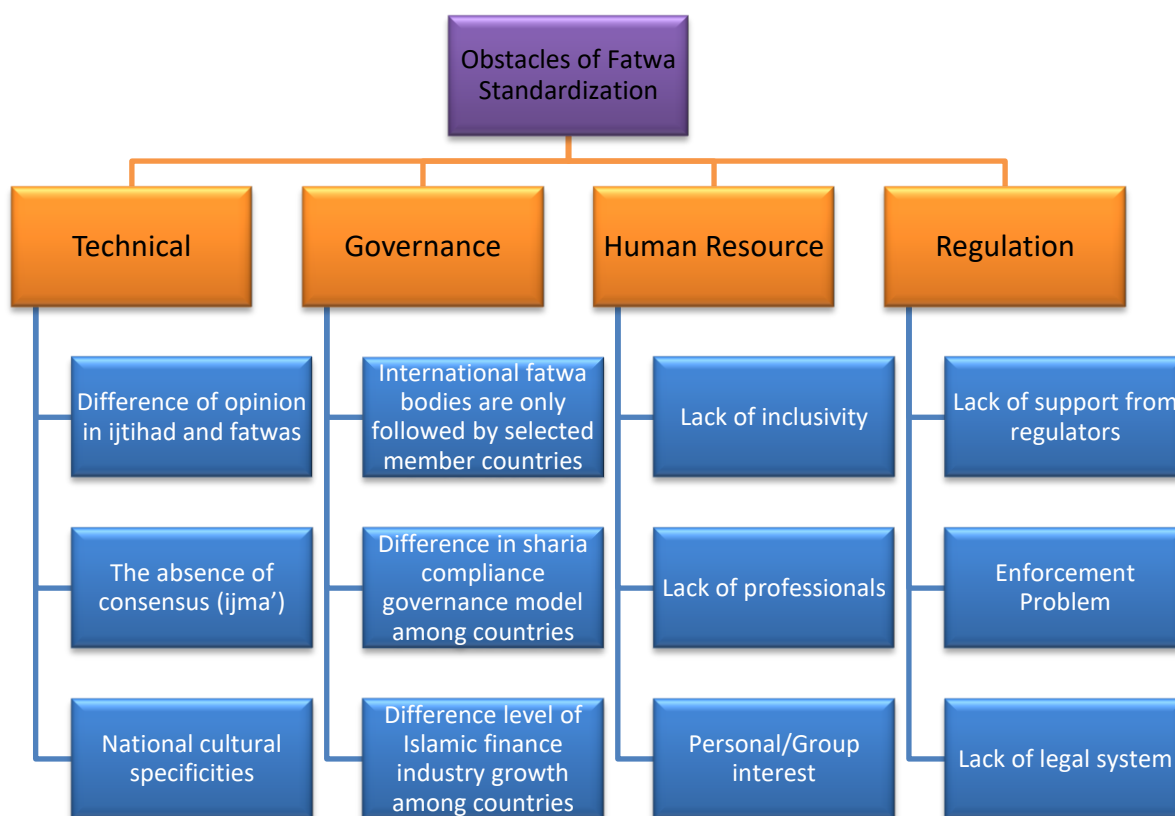


Figure 2. Hierarchy Framework of the Obstacles and Challenge in the standardisation and harmonisation of fatwa in Islamic finance industry

If we refer to figure 2, we can temporarily conclude that the challenge to reach standardization and harmonization of fatwa, the main challenge comes from technical, government, and professionals’ aspect. Which means that harmonization and standardization of fatwas can be perfectly realized if there is political commitment and political willingness from the top. Top here refer to government or sharia fatwa body in countries. However, since the 90s, or since the establishment of AAOIFI with the hope of a centralized sharia board, this is still far from being expected. Different countries have human resources with diverse backgrounds, have diverse cultural, political, and economic characteristics, therefore it is difficult to achieve the notion of fatwa harmonization and standardization. However, if the impetus comes from industry and society (or from bottom to top), the local or global governments possibly may begin to consider. That is thereby from the challenges as presented in the model above, there are no elements that are originating from the public, societies, consumers, and even practitioners from Islamic financial institutions. To support this, [Ercanbrack \(2020\)](#) considers that the sharia standardization in Islamic financial industry is driven by market forces. However, there are some factors that can be considered to the occurrence of different ruling/standard, first due to the

necessity, public interest, departure from strict ruling, juristic preference, and *sadd Al-Zara’i*.

Harmonization of Fatwa and Way Forward

To bring it all together, pluralism of fatwa may impact to harmonization and standardization of sharia ruling and law. Harmonization could probably be achieved but not easy and not all time possible, because some differences in sharia conclusion and opinion are inevitable considerably. Meanwhile, standardization may be acquired but limited to basic concepts and framework. On the other hand, it is hard to obtain sharia standardization particularly in specific practices, operation, and structures. Further, [Khan \(2007\)](#) contends that even though the harmonization of fatwa is achieved, it may not solve all the problems. Because there is still other big challenge instead of harmonizing fiqh opinion. He asserts that the most actual immediate challenge is standardization the entire process, such as advising, supervising, and monitoring sharia compliance application in an institution. In addition, another challenge for Islamic financial institution is how a verdict and certificate should be formulated to validate the sharia compliance of a financial transaction to ensure good governance and transparency is achieved. Therefore, there are some strategies to establish

harmonization of fatwa despite all challenge and problems evolve to the surface.

Further, next query is how to achieve harmonization and standardization of fatwas with the surrounded challenges. First, establish a centralized sharia board. [Hakim \(2013\)](#) asserts that harmonization can be achieved if these sharia rulings authorities are centralized, thus the consensus or collective *ijtihad* among scholars can be obtained as what our classical scholars did in the past. Indeed, realizing a global centralized sharia board is remained imperceptible, but some countries have started implementing a centralized sharia board system on a national scale, such as Malaysia, Indonesia, and Brunei Darussalam. The next strategy is to conduct in-depth research. Currently there is a huge number of studies in Islamic economics and finance. Some countries have also formed national research institutes in Islamic economics and finance and recruited experienced academics and researchers. The potential of these institutions and professionals can be utilized to examine the feasibility of harmonization and standardization of fatwas. In addition, *Istiqra'* of the available fatwa can also be carried out to increase Islamic finance product to meet customer needs, both locally and internationally. International forums also need to be conducted and held regularly in formulating fatwas and resolutions, moreover, it is found numbers of financial technology-based product are developed in current era.

Harmonization and standardization of fatwas also can be realized through the implementation of cross-border sharia advisory. Basically, this has been implemented by several Islamic financial institutions by opening more opportunities for sharia advisors from other countries. In addition, several countries have also adopted international standards, either partially or fully adoption as a guidance, such as Bahrain, Afghanistan, Pakistan, Jordan, Libya, Oman, Qatar, Sudan, Syria, UAE, Yemen, etc. Furthermore, Developing the contract that does not contain many *ikhtilaf* from the ulama can also help to realize the harmonization and standardization of shariah, such as a country can avoid the use of Bay' al-'Inah contract, etc. Otherwise, sharia contracts that are accepted globally can be developed. Finally, exchanging experiences between professionals and sharia advisors between countries can promote a fast and efficient exchange of information and Islamic finance knowledge. Thus, one country can learn from the experiences of other countries in managing the sharia advisory body, and on the other hand, it can increase the potential of Islamic finance product development.

CONCLUSION AND RECOMMENDATION

The study has deliberated the potential benefit, challenge, and way forward of harmonization and standardization of fatwa. This paper exhibits some significant findings, first several reasons due to the need of harmonization of fatwa includes make regulation and control procedure are more efficient and easier to be managed, Islamic Financial Institutions (IFIs) will have a set of standards in term of reporting guidelines and system, contributes to the Islamic finance industry's growth, Islamic finance industry and society's confidence, and lead to greater transparency in Islamic finance practices. Meanwhile, the challenges to harmonize the fatwa can be divided into four main problems, technical, governance, human resource, and regulation. Technical problems comprise difference of opinion in *ijtihad* and fatwas, the absence of consensus (*ijma'*), and national cultural specificities. Governance consist of international fatwa bodies are only followed by selected member countries, difference in sharia compliance governance model among countries, and difference level of Islamic finance industry growth among countries. Human resource involves lack of inclusivity, lack of professionals, personal/group interest. Finally, regulation be made up of lack of support from regulators, enforcement problem, and lack of legal system.

Policy recommendations are provided to Islamic financial institution's stakeholder consist of (1) the agenda to harmonize and standardize the fatwa should place emphasis to achieve centralized sharia board, (2) all stakeholders, especially academia, practitioners and regulators must have synergy to conduct in-depth research in term of the eligibility and sustainability of the harmonization of fatwa, (3) IFI should carry out the *Istiqra'* of the available fatwa to increase Islamic finance product to meet customer needs, both locally and internationally, (4) Regulators in collaborate with IFI regularly held International forums to overcome sharia problems in Islamic finance practices, (5) the government and IFI should implement of cross-border sharia advisory, (5) sharia advisor should and IFI should develop the contract that does not contain many *ikhtilaf* from the ulama and finally (6) exchange experiences between professionals and sharia advisors between countries to promote a fast and efficient exchange of information and Islamic finance knowledge.

The present study has attempted to provide a comprehensive discussion on the harmonization and

standardization of fatwa and way forward. Nevertheless, there are some areas and limitations in this study that provide more room for further research. Future research should complete this study by employing quantitative approach. Further study is suggested to conduct in-depth interview to some experts who has good knowledge in sharia and fatwa harmonization and standardization. The in-depth interview can be conducted to confirm the harmonization of fatwa's framework model. In addition, future research might empirically study on the sharia advisory, regulator, and practitioners of Islamic finance's perception regarding the harmonization and standardization of fatwa.

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