



A SHARI'AH ANALYSIS OF THE NATIONAL HIGHER EDUCATION LOAN SCHEME IN THE MALDIVES

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ABSTRACT

This study conducts a thorough Shari'ah analysis of the National Higher Education Loan Scheme (NSLS) in the Maldives, aiming to assess its adherence to Islamic financial principles. Employing a qualitative desk review research method, it systematically collects and analyzes existing literature, documents, reports, and academic publications related to the NSLS, offering insights into its financing structure, service charges, and contractual obligations. The research reveals critical findings, including concerns about the 1% service charge, the absence of formal Shari'ah oversight, and varying scholarly opinions regarding its Islamic compliance. Importantly, it provides recommendations to enhance the NSLS's alignment with Shari'ah principles, potentially serving as a blueprint for ethically sound higher education funding. This study's originality lies in its pioneering exploration of a relatively uncharted area and its potential to inspire future research and innovative Shari'ah-compliant financing models in higher education, not only in the Maldives but also in broader Islamic contexts.

Keywords: Education Loan, Qard, Ujrah, Education Loans, Service bond

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INTRODUCTION

In its pursuit of human development, the government of the Republic of Maldives has directed its attention towards advancing the education sector, as highlighted in the UNESCO Regional Synthesis Report 2021 (UNESCO and UNICEF, 2021). This commitment is reflected in the country's impressive Human Development Index (HDI) value of 0.74 for the year 2019, positioning the Maldives at the 95th spot among 189 nations and categorizing it within the realm of high human development, according to the United Nations Development Programme (UNDP) Human Development Index of 2020 (UNDP, 2020). A notable cornerstone of this progress is the comprehensive educational support offered to all Maldivian citizens,





encompassing primary to undergraduate levels, with complete funding provided. Moreover, the country extends its dedication to education through a national student loan scheme (NSLS) designed to facilitate postgraduate pursuits.

However, the Maldives, a nation rooted entirely in the Islamic faith, confronts a unique challenge in adhering to Islamic law (Shari'ah), which proscribes transactions involving interest (riba) and undue advantages to lenders (Qur'an, Surah 2: Verse 275). Notably, the NSLS introduces a nominal 1% service charge and entails a compulsory service bond, potentially conflicting with the principles of Shari'ah. The absence of formal viewpoints from Maldivian Islamic scholars further amplifies this dilemma, casting uncertainty on the feasibility of the scheme within these religious boundaries.

The educational framework in the Maldives operates under the purview of two distinct ministries: the Ministry of Education and the Ministry of Higher Education (MOHE). Each ministry has well-defined responsibilities; the former oversees the provision of foundational education, while the latter is dedicated to establishing and facilitating opportunities for advanced education at both undergraduate and postgraduate levels.

Notably, the budget allocated to the Ministry of Higher Education experienced a substantial boost in 2020, doubling from MVR 372.7 million in 2019 to MVR 843.8 million (Ministry of Finance, 2020). Within this augmented budget, approximately 21% is designated for annual student loan schemes and scholarships, encompassing both partial and full-funding avenues for studies abroad.

The importance of financial instruments adhering to Sharia principles, particularly in the pursuit of higher education, is accentuated by Islam's emphasis on the acquisition and dissemination of knowledge. A pertinent tradition (hadith) recounts the Messenger of Allah's proclamation:

“Whoever embarks on a journey in search of knowledge, Allah will be in his service until he returns”.

Jami' at-Tirmidhi, 2647

Similarly, the Prophet's words resonate:

“Whoever treads a path in quest of knowledge, Allah will pave the way for them to Paradise.”

Jami' at-Tirmidhi 2646

Consequently, it is imperative that the means employed to attain knowledge align with ethical standards, mirroring the nobility of its objective while ensuring both benefit and adherence to Shari'ah principles.

Islamic finance practices took root in the Maldives in 2003 with the inception of takaful under the auspices of a local agent granted a temporary license (Muneeza, 2018). Subsequent years saw the gradual advancement of the Islamic finance sector, ultimately resulting in the establishment of the fully-fledged Maldives Islamic Bank (MIB) in 2011. Coinciding with this milestone, 2011 witnessed the introduction of Islamic banking regulations, amplifying the role of the Maldives Monetary Authority (MMA) in its capacity as the Central Bank of Maldives (Maldives Centre for Islamic Finance, 2019). Responding to this evolution, the Bank of Maldives (BML), the nation's largest financial institution, inaugurated an Islamic window named BML Islamic in 2013, offering an array of Islamic banking products and services. However, despite these significant strides, the array of available Islamic financial products





remains limited, rendering students reliant on the National Student Loan Scheme (NSLS) as a means of financing their overseas postgraduate studies.

Given the constitutional proclamation of the Maldives as an exclusively Islamic country, this study undertakes a meticulous examination of the Shari'ah compliance of NSLS. This scrutiny is conducted through a qualitative analysis of primary and secondary sources of Islamic law, contemporaneous viewpoints from influential Islamic juristic bodies, and engagements with authoritative local Islamic scholars specialized in finance.

This research paper is structured into six sections. Following this introduction, Section Two presents the literature review, followed by Section Three, which discusses the research methodology. Section Four presents the discussion and findings of the paper, followed by the final sections, which are recommendations and conclusion. The envisaged policy recommendations endeavour to propose a more Shari'ah compliant framework for NSLS, potentially refining its applicability and bolstering the cultivation of advanced skills at the postgraduate level within the nation.

LITERATURE REVIEW

Education is highly valued in Islam. The first verse of the Quran that was revealed to the Prophet Muhammad (peace be upon him) emphasizes the importance of education. The verse begins with the word "Iqra", which means "read" in Arabic. This implies the concepts of learning, exploring, and seeking knowledge. This shows that knowledge is the way to approach the Creator of all that exists. In the Holy Quran, Allah SWT says: states:

“Read! In the name of your Lord who created (all that exists). He created man from a clot (a piece of thick coagulated blood). Read! And your Lord is the Most Generous. Who has taught (the writing) by the pen. He has taught man that which he did not know.”

Quran, (Surah 96, Verse 1-5)

This thematic literature review covers the national student loan mechanism in the Maldives, the national student loan schemes in other countries and education-related financing facilities by Islamic banks.

National Student Loan Mechanism in the Maldives

The inception of the National Student Loan Scheme (NSLS) in the 1990s marked a pivotal step towards providing comprehensive financial assistance, encompassing both full and partial funding, to students embarking on higher education endeavours within the nation and abroad (Shakeela, 2010). The selection process for international study hinges upon the unavailability of specific courses within the country, harmonizing with educational reforms designed to nurture equitable opportunities in accordance with the overarching vision of “Holistic and equitable quality education and lifelong learning for all” as articulated by the Ministry of Education and Ministry of Higher Education Republic of Maldives (2019). As of the conclusion of 2021, the NSLS comprises three distinct loan schemes tailored to cater to the needs of existing students, new entrants, and individuals under supplementary loan scheme coverage.

While the loan scheme designated for existing students extends support for remaining course expenses until program completion, the supplementary loan scheme assists students already benefiting from partial scholarships provided by the Ministry of Higher Education. In





contrast, the loan scheme for new students encompasses a broader spectrum, encompassing university fees, living costs, allowances for books, as well as ancillary expenditures like airfare, visa charges, insurance, and departure allowances (Shakeela, 2010).

A notable aspect is that the allocation of these loan schemes predominantly hinges upon an academic merit point system, with limited consideration for students' socio-economic backgrounds. In 2022, a revision to the loan scheme saw the service charge reduced from 3% to 1%, a modification that applies uniformly to both incoming and continuing students (Ministry of Higher Education, 2022a). To facilitate the repayment process, a generous grace period of seven months is granted to students, enabling them to meet their financial commitments as stipulated in the contractual agreement. Nevertheless, recipients of these loan schemes are also bound by an obligation to serve the nation for a specified duration, contingent upon factors such as the loan amount and the agreed-upon payback period (Ministry of Higher Education, 2019b). A review of statistics from the Ministry of Higher Education (MOHE) reveals that between 2013 and 2018, more than 4,000 students availed of loans out of a total of 7,126 available slots (Shakeela, 2010).

In contrast, the availability of Shari'ah-compliant education financing alternatives beyond the borders of the Maldives remains limited. This study thus embarks on an exploration to assess student loan schemes in Malaysia, the United Kingdom, and Pakistan, contemplating their potential viability for emulation within the Maldivian context. Through meticulous comparative analysis, this research strives to pinpoint a suitable and adaptable model that resonates with the principles and goals of the NSLS while thoughtfully accounting for the distinct nuances and characteristics of the Maldivian educational landscape.

National Student Loan Mechanism in Selected Countries

Malaysia

In Malaysia, the administration of education loans for higher education primarily falls under the purview of Perbadanan Tabung Pendidikan Tinggi Nasional (PTPTN). Established under the National Higher Education Fund Board Act of 1997, PTPTN's objective is to manage deposits and provide savings schemes for higher education (PTPTN, n.d.). Initially reliant on government funding, the scheme underwent a shift in 2003 when government grants were halted. By 2020, substantial funding contributions came from Kumpulan Wang Amanah Pencen (KWAP) and the Employees Provident Fund (EPF) in Malaysia. The financing structure operates on conventional principles, where students are obligated to pay an annual 3% charge using the reducing balance method (Aziz, 2014).

To align with Islamic principles, PTPTN subsequently revamped the scheme using the *ujrah* concept, making it Shari'ah compliant in Malaysia. Under this *ujrah* framework, PTPTN enforces a fixed 1% administrative charge annually (PTPTN, 2016). This adaptable model could hold relevance for the Maldives' NSLS, warranting examination to ensure Shari'ah compliance. However, it is crucial that the model undergoes rigorous assessment and scrutiny by local and international scholars to ascertain its credibility as a replicable and compliant Shari'ah mechanism in the Maldives.

United Kingdom (UK)

In the United Kingdom, the prevailing student loan scheme, overseen nationally, involves interest charges linked to the consumer price index, compounded at a rate of 3% (Bolton, 2019). Repayment occurs automatically through the tax system based on graduates' earnings, with





repayment amounts tied to earnings surpassing a predetermined threshold. This framework follows the Income-Contingent Repayment scheme model (Gayardon, Callender, and Green, 2019).

The notion of loans indexed to the consumer price index in the UK, involving interest rates that reflect inflation, remains a subject of debate among contemporary Muslim scholars (Ainin et al., 2012). This hinges on the assessment of international Shari'ah resolutions concerning the permissibility of utilizing the time value of money as a benchmark for increasing loans.

To address the need for Shari'ah-compliant financing options, the UK government proposed a takaful-based university fee funding structure in 2014 (Department for Business Innovation & Skills, 2014). However, as of mid-2021, this model remains unimplemented due to the government's ongoing comprehensive review of education funding from 2019. Consequently, numerous young Muslims have grappled with the predicament of deferring studies or compromising faith for financial support. Given this backdrop, the takaful-based financing model stands as a potential option for the Maldives, necessitating deeper exploration in this study.

Pakistan

The student loan program in Pakistan emerged through collaboration between the government and five major commercial banks, namely NBP, HBL, UBL, ABL, and MCB Bank (National Bank of Pakistan, 2019a). This initiative strives to extend financial aid to economically disadvantaged students pursuing higher education. Through this program, interest-free loans are extended to eligible students, covering tuition fees and accommodation costs, with disbursements directly made to the respective universities. Additionally, funds for acquiring textbooks are transferred to the student's bank accounts. The repayment period spans up to a decade from the initial disbursement (National Bank of Pakistan, 2019b).

Significantly, this program refrains from imposing any administrative charges, aligning its structure with the principles of the Shariah-compliant interest-free loan known as Qard-Hassan. However, concerns emerge regarding the program's sustainability due to potential default risks and the speed of fund circulation within the existing mechanism. Hence, the feasibility and long-term viability of such initiatives warrants meticulous examination.

Financing Facilities Offered for Education by Islamic Banks

Islamic banks do offer financing facilities for education, and the underlying Shariah concept or the contracts used for this purpose differ from institution to institution. Among the contracts frequently employed for education financing, Tawarruq (monetization) and Ijarah Al-Ash Khass (hiring of services) stand out.

Tawarruq involves a sequence wherein a Mutawarriq (cash seeker) acquires a commodity on credit and subsequently sells it to a third party at a lower spot price. Islamic banks that adopt Tawarruq for education financing extend funds to students for their educational expenses while avoiding direct engagement with universities. Under this framework, banks engage in two distinct transactions: first, as commodity buyers and then as students' agents once the initial contract concludes. The core objective of this agency role is to facilitate the efficient liquidation of the commodity, thereby mitigating potential challenges for students. Some banks provide education finance via personal financing, integrating it within their portfolio rather than presenting it as a separate product.





Conversely, Ijarah relates to a contract that transfers ownership of permissible usufruct or services for a specified duration in exchange for predetermined compensation (Dalimunthe et al., 2019). In Malaysia, Islamic banks adopt Ijarah Al-Ash Khas as a contract for offering education financing schemes. This mechanism enables Islamic banks to establish a service agreement with universities, where they cover seats in academic programs and subsequently offer this service to accepted students based on a cost-plus profit model (Bank Negara Malaysia, 2009). In comparison to fee payment structures instituted by universities, this approach extends payback periods and lowers instalments, rendering it a more viable option for students to manage. Table 1 (below) shows the different Shariah contracts used for education financing products offered by Islamic banks from different parts of the world.

Table 1: Shari'ah Contracts Used for Education Financing Products by Islamic Banks in Different Parts of the World

Bank Name	Country	<i>Ijarah</i>	<i>Tawarruq</i>	<i>Qard</i>
Affin Islamic Bank	Malaysia	✓		
Maybank Islamic	Malaysia		✓	
Bank Rakyat	Malaysia		✓	
HSBC Amanah	Malaysia		✓	
Bank Muamalat	Malaysia		✓	
Abu Dhabi Islamic Bank	UAE	✓		
Dubai Islamic Bank	UAE	✓		
Sharjah Islamic Bank	UAE	✓		
Emirates Islamic Bank	UAE	✓		
Warba Bank	Kuwait			✓
Boubyan Bank	Kuwait			✓
Al-Barakah	Bahrain	✓		
Islamic Development Bank	Saudi Arabia			✓

Source: Author's own

RESEARCH METHODOLOGY

The research methodology employed in this study is primarily a qualitative desk review research method using document analysis. This qualitative approach was chosen due to its appropriateness for delving into the Shari'ah compliance aspects of the National Higher Education Loan Scheme in the Maldives. The desk review research method of document analysis involves the systematic collection and analysis of existing literature, documents, reports, and academic publications related to the research topic (Bowen, 2009). It provides a cost-effective and time-efficient means of gathering data, particularly relevant for this study, focusing on a specific financial scheme. The collected materials were carefully organized and categorized, allowing for a structured analysis. Thematic analysis was then applied to extract key themes, patterns, and insights from the assembled data, providing a rich and nuanced understanding of the research subject.

DISCUSSION AND FINDINGS

The Structure of the National Student Loan Scheme Offered in the Maldives





The primary objective of this analysis is to assess whether the National Higher Education Loan Scheme (NSLS) loan agreement complies with the contractual norms typically utilized in the Islamic finance industry and whether its overall structure aligns with the principles of Shari'ah law. Upon careful examination, it becomes evident that the NSLS agreement does not explicitly specify the use of any particular Shari'ah-compliant financial contracts.

The operational process of the NSLS places a strong emphasis on financial mechanisms that exclusively rely on monetary instruments to facilitate funding. Once agreements are finalized between students and the Ministry of Higher Education (MOHE), the Maldives Monetary Authority (MMA) oversees the transfer of funds to the bank accounts designated by the students, as outlined in the agreement. Remarkably, there is no indication that the government utilizes tangible assets as a foundational means to generate funds for sustaining the budget allocated to national student loans. This initiative represents a crucial component of the government's policy agenda aimed at enhancing the human capital of the Maldivian population. This is achieved by providing financial assistance to students through allocations from the annual national budget, which is approved by the parliamentary body. Figure 1 (below) provides an illustrative overview of the NSLS operational process for new students.

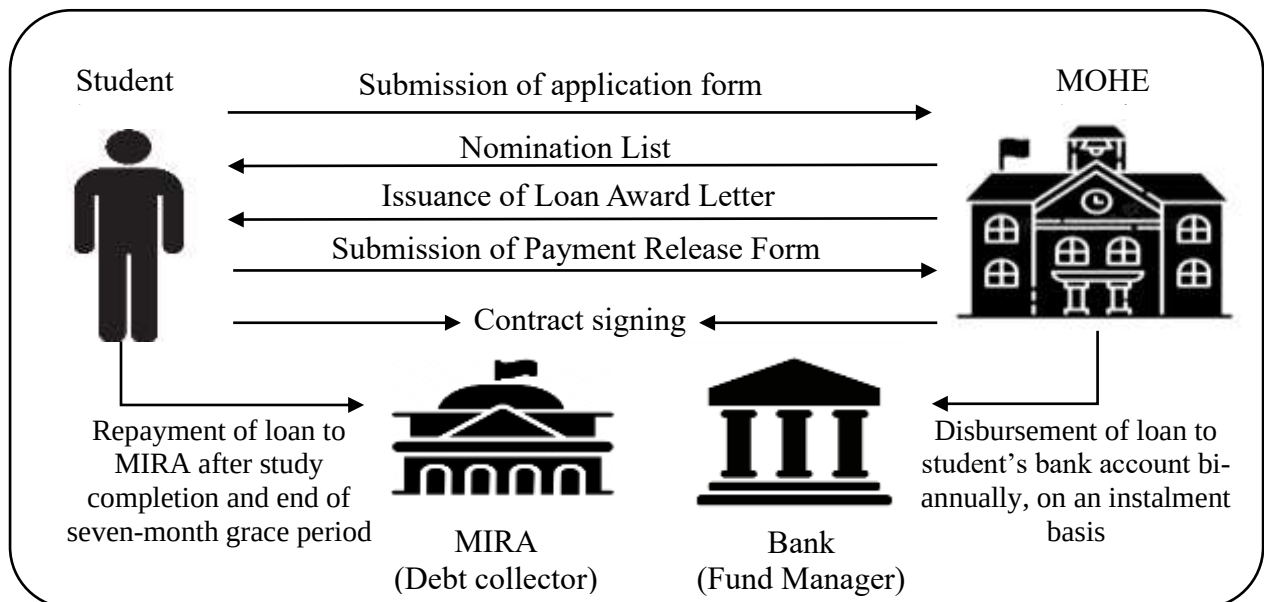


Figure 1: NSLS Modus Operandi for the New Student Category

Source: Author's own

The NSLS policy has been formally published in the National Gazette, outlining its primary objective of providing financial assistance to eligible individuals to support their educational progress and create opportunities for higher learning. Throughout the document, the term 'loan' consistently refers to the financial support extended to students.

Defining “Loan” from Shariah Perspective

When defining a loan in accordance with Shari'ah principles, the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) characterizes it as the transfer of fungible wealth to an individual, who is then obligated to return an equivalent amount. A fundamental condition for finalizing a loan is that the borrower must repay it irrespective of





personal or business losses, aligning with Islamic principles. While Islamic principles promote leniency when borrowers face financial difficulties, this leniency does not nullify the debt unless the creditor chooses to do so, as outlined in the Qur'an, Surah 2, Verse 280, and Muslim, Hadith No. 1886.

Additionally, Shari'ah prohibits any increase on a loan, adhering to the guiding principle that "every loan that brings benefit is considered *riba*" (Abozaid, 2018). Since money is not deemed a commodity in Shari'ah (Al-Sabhani, 1999), prevalent contracts in Islamic finance often involve tangible assets when anticipating profits. *Tawarruq* is a commonly used contract for generating liquidity for profit, which also involves a sale with underlying assets. Consequently, a pertinent question arises: does the NSLS (National Student Loan Scheme) qualify as a permissible loan under Shari'ah? An analysis of the NSLS in the context of the Maldives reveals its alignment with AAOIFI's definition of a loan. Firstly, the disbursed funds are deposited into students' bank accounts, granting them autonomy over fund utilization while remaining subject to policy compliance. Section 5 of the agreement specifies that the loan sums are distributed to students' bank accounts in two annual instalments. Subsequently, students bear the responsibility of promptly remitting university fees, with the allocated funds also covering a stipend for managing personal expenditures throughout the academic year.

Secondly, there are no stipulations absolving students (borrowers) from their contractual debt obligations. NSLS Policy No. 17 mandates that students commence repayment no later than seven months after completing their studies. Similarly, Policy No. 18 underscores the necessity of coordinating and communicating the repayment mechanism with the Ministry of Higher Education, even for students residing outside the country. Furthermore, Policy No. 20 outlines that students failing to complete their studies, irrespective of the reasons, are still obligated to reimburse the disbursed funds, with the exception of any remaining balance that has not been dispensed.

Additionally, NSLS Policy No. 21 specifies that in cases where a student encounters difficulty meeting repayment obligations, the responsibility for repayment falls upon the guarantor. If both parties default on repayment, the government retains the authority to employ enforcement measures as stipulated by relevant laws, regulations, and agreements. Based on this analysis, it can be inferred that the structure of the Maldivian NSLS aligns with a loan framework similar to AAOIFI's elucidation of *Qard*. However, it is worth noting that *qard*-based financial constructs are not extensively prevalent within the Islamic finance domain, primarily due to the constraint prohibiting the lender from deriving any form of benefit from the loan.

Repayment Structure and Service Charge imposed in NSLS from Shariah Perspective

Section 6 of the loan agreement elucidates the NSLS's repayment framework, which varies among students based on their loan size. Nevertheless, the primary obligation stipulated in this section mandates students to remit a 1% service charge on the principal loan amount. The total loan sum is computed by adding this service charge to the principal. Students are compelled to make consistent monthly payments, determined by dividing the total loan amount by the loan tenure. The contract precisely outlines the initiation date for commencing repayments and the final payment's termination date. Figure 2 (below) offers a depiction of the financing structure of the National Student Loan Scheme.



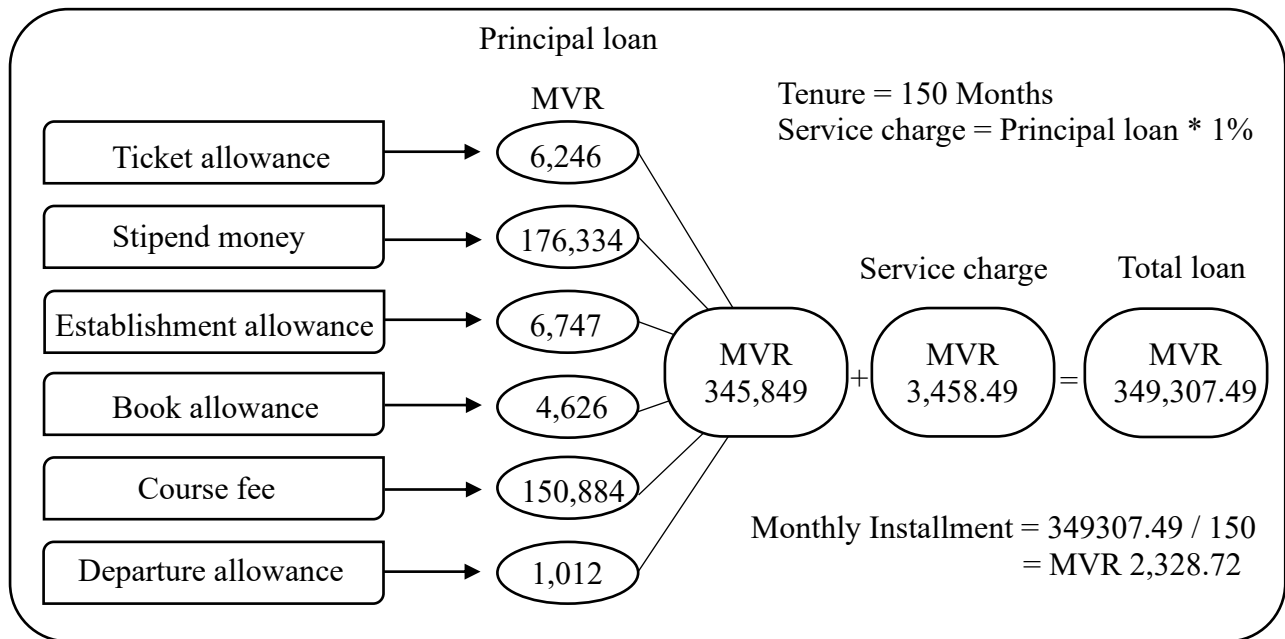


Figure 2: Example of Financing Structure of National Student Loan Scheme.

Source: Author's own

The fundamental principle of qard in Islamic finance strictly prohibits the inclusion of any surplus amount in the loan terms. However, the concept of ujrah introduces the possibility of a service charge, provided it adheres to specific Sharia law conditions. Contemporary scholars advocate for service fees associated with financial transactions only if they accurately represent the actual costs incurred in facilitating the loan (Noor and Haron, 2016).

In light of the AAOIFI definition and scholarly perspectives, an analysis reveals that the National Student Loan Scheme (NSLS) aligns with the qard classification. It is noteworthy that international precedents have witnessed service fees alongside qard provisions. For example, the Islamic Development Bank's qard offering includes a service charge ranging from 0.75% to 2.00% annually based on the principal amount. This integration of a service charge with qard has received approval from the Islamic Fiqh Academy (IFA). IFA Resolution No 12: 1/3, concerning service charges by the Islamic Development Bank, asserts that such fees are permissible if they genuinely reflect incurred costs. Any surplus beyond actual services rendered is prohibited, as it constitutes riba according to the Majallah Majma' al-Fiqh al-Islami (Noor and Haron, 2016).

Similarly, Malaysia adopts a similar approach by offering NSLS based on the ujrah concept. For instance, the PTPTN education loan imposes a fixed annual rate of 1% on the diminishing balance intended to cover management and administrative expenses on the lender's part. Importantly, this financing structure received Shari'ah-compliant status from the Malaysian National Fatwa Committee for Islamic Religious Affairs in July 2008.

However, it is worth noting that the Shari'ah Advisory Council (SAC) of Bank Negara Malaysia holds a different stance on this matter. The SAC expresses concerns regarding ujrah based on a specific percentage of the credit amount, citing potential issues related to conditional benefits within the loan framework. This viewpoint was formalized during the SAC's 78th session in July 2008, resolving that determining ujrah based on a percentage of the credit limit contradicts Shari'ah principles and should be a fixed amount to avoid elements of riba (Bank Negara Malaysia, 2010). While this resolution initially pertained to credit cards, its applicability extends to the present context due to the similarities in contractual arrangements.



The AAOIFI resolution on qard based on ujrah emphasizes the permissibility of charging only actual costs arising from facilitating the loan (AAOIFI Shari'ah Standard 19, 2015). It states that applying a percentage service charge is allowed if it is proportionate to the actual cost incurred by the lender.

Regarding determining a service charge based on a specific percentage of the credit amount, both AAOIFI and OIC Fiqh Academy do not explicitly address this issue. Their rulings generally permit service charges on loans, but only AAOIFI explicitly allows proportional allocation of actual costs to individual loans in cases where it is challenging to determine individually. This may be interpreted as permitting a percentage-based service charge. For example, an institution can issue a qard-based loan of MVR 100,000 to five customers with a service charge allocated proportionally to the total loan cost based on the size of the loan. This approach allows the lender to allocate the service charge independently of the borrower's credit amount. Table 2 (below) illustrates a numerical example of how a percentage-based service charge can be determined from the total cost, in line with AAOIFI guidelines:

Table 2: Numerical Example of Loan and Service Charge based on AAOIFI

No. of Borrowers	Loan Size	Service Cost	% Allocated	Service Charge
1	5,000	10,000	5%	500
2	40,000		40%	4,000
3	15,000		15%	1,500
4	10,000		10%	1,000
5	30,000		30%	3,000

Source: Author's own

The difference in opinions primarily revolves around the methodology for determining service charges, especially in the context of assessing the actual cost of individual loan schemes, which can be a complex undertaking. The standard mandates lenders to identify loan costs and distribute them proportionally among borrowers. Additionally, it requires an authorized Shari'ah committee or board to validate service charges. Determining the service charge for qard in the financing structures of institutions like the Islamic Development Bank (IsDB) and education loan schemes such as PTPTN can be challenging, as it may not straightforwardly align with the actual incurred costs. In such cases, reliance on the approval of their respective Shari'ah boards becomes necessary.

Another area of difference relates to the approach for aggregating costs to derive a service charge for lending facilities. AAOIFI standards do not permit the inclusion of indirect costs in determining the service charge. However, Ghafoor's (2004) lending model argues that individual qard-based lending cannot be equated with institutional lending practices. The model suggests that both direct and indirect costs should be borne by borrowers. Cost calculation remains independent of the loan size and repayment period, similar to the fatwa of the Shari'ah Advisory Council (SAC) of Bank Negara Malaysia (BNM) and AAOIFI. However, in practice, it seems that indirect costs are factored into both the loan and tenure by using an average rate. AAOIFI Shari'ah standards do not distinguish between lending practices at the individual or institutional level and consider indirect costs as *riba*.

Despite these differences, it remains uncertain whether the National Student Loan Scheme (NSLS) includes any indirect expenses in determining the service charge. If indirect costs are indeed included, this raises questions, as the loans granted to the Ministry of Higher Education (MOHE) are separated from overhead expenses, and the government allocates





separate funds to cover the ministry's recurrent expenditure annually. The NSLS in the Maldives imposes a single fixed 1% ujrah rate on the loan amount, indicating that larger loans incur higher charges. However, the Shari'ah issues associated with NSLS extend beyond the service charge alone.

Service Bond Requirement Stipulated in NSLS from Shariah Perspective

Section 8 of the loan agreement outlines the mandatory period during which students must contribute their services to the nation after completing their academic studies. The duration of this service period varies depending on the amount of the loan acquired and differs for each student. It can be argued that this provision aligns with the principle of "maslaha" (public benefit) and promotes virtuous behaviour. By dedicating their service to the country after benefiting from an educational loan, students express gratitude and contribute to the public good. It is reasonable to assume that, even without a specified condition, students would naturally seek employment opportunities and, in doing so, begin repaying their loans. However, the inclusion of a service bond as a prominent requirement can be seen as an additional advantage for the lender. Table 3 below illustrates the tenure length and service bond associated with the qard.

Table 3: The Length of Tenure and Service Bond Attached to The Qard.

Size of the loan (MVR)	Tenure (Months)	Service bond (Years)
0 – 25,000	30	1
25,000 – 49,999	38	1.5
50,000 – 99,000	53	2
100,000 – 199,000	66	3
200,000 – 299,000	105	4
300,000 – 399,000	150	5
400,000 – 499,000	180	6
500,000 – 599,000	230	7
1,000,000 – 1,499,999	235	8
1,500,000 – 2,500,000	240	10

Source: Author's own

The presence of a service bond, which is a precondition for the loan, appears to provide the lender with a benefit that exceeds the principal amount. A similar structure involving service bond commitments can be observed in the qard-based scholarship program initiated by the IsDB. In this program, students are contractually obligated to repay only half of the loan amount. In the context of NSLS, a question arises as to whether the accrued advantage granted to the lender could potentially be seen as a form of inequity.

Analysis of NSLS from a Maslahah Perspective

Within the framework of Islamic jurisprudence, certain transactions are deemed permissible when they serve the public interest (Maslahah). The acceptance of contractual agreements is contingent on fair and just outcomes that alleviate hardships. The legitimacy of Maslahah is supported by both Quranic teachings and legal maxims. The Quran provides evidence for this principle, as exemplified by the following verse:





“Allah does not wish to place any burden upon you; He only wishes to cleanse you and perfect His favor upon you so that you may be grateful”
Quran, (Surah 5, Verse 6)

NSLS was established to preserve and enhance intellectual capital, aligning with one of the fundamental principles of Maqasid al-Shari’ah (objectives of Islamic law). This scheme aims to strengthen the nation's human resources for the collective benefit of the country. In contrast, alternative educational loan structures, such as the conventional loan scheme called BML “Kiyavaa Loan” in the Maldives, may exacerbate borrower hardships due to its 5% interest rate and collateral requirement of 150% of the loan amount. Therefore, legal maxims like "Hardship begets facility," "Harm must be eliminated," and "Necessity renders prohibited things permissible" can be invoked to justify the continued operation of NSLS in the Maldives, grounded in the concept of Maşlahah (public interest).

However, the extent to which education attains the status of necessity is subject to interpretation, with variations among societies due to differences in the categorization of Maşlahah. In the Maldives context, diverse opinions exist regarding the application of Maşlahah to validate NSLS. Firstly, the Maldivian education system offers tuition-free education from primary through undergraduate levels. NSLS primarily targets those pursuing postgraduate studies or courses not locally available. It could be argued that the imperative for NSLS does not rise to the level of necessity and mainly benefits a select few. Secondly, the Ministry of Higher Education (MOHE) provides comprehensive scholarships from international universities. Thirdly, zakat funds are allocated for scholarships to financially challenged students.

The application of Maşlahah should depend on the prevailing conditions of necessity within a community. However, the Shari’ah-related dilemma with the existing NSLS pertains to its association with interest, a practice prohibited by Islamic law. Therefore, the legitimacy of invoking Maşlahah to validate the contractual arrangement can be contested based on its potential inconsistency with Shari’ah principles.

RECOMMENDATIONS

The research underscores the contentious legal status of the National Student Loan Scheme (NSLS) within the local Shari’ah scholarship community. To establish Shari’ah compliance for the 1% service charge, two key recommendations are proposed for the Ministry of Higher Education (MOHE) to consider for resolving this issue.

Council of Islamic Fatwa of Maldives Ruling

MOHE could delegate the Supreme responsibility of issuing an official ruling on NSLS to the Supreme Council of Islamic Fatwa of Maldives. This formal verdict should be made publicly available on the council's official website, accompanied by a clear explanation of the Shari’ah principles that underpin the scheme's permissibility.

Transparency and Disclosure

MOHE should adopt a more transparent approach by providing comprehensive information to the public about the financial intricacies of the loan scheme. This includes disclosing details regarding the allocation of funds, repayments, and service charges.





Additionally, an alternative approach to legitimize NSLS involves a fundamental restructuring of its financing model to ensure greater equity and ethical alignment, making it more accessible to those who question the current arrangement. Scholarly consensus suggests that the service charge should accurately reflect the genuine expenses incurred by the lender.

To achieve this, the following pragmatic steps can be taken as follows:

Step 1. Calculate Aggregate Expenses:

Compute the aggregate expenses associated with facilitating student loan schemes for each cohort.

Step 2. Determine Variable Service Charge:

Establish a variable rate as the service charge, based on the total cost and proportional to each student's loan size.

Step 3. Deduct Service Charge:

Deduct the applicable portion of the service charge from the disbursed loan amount provided to students.

Furthermore, MOHE has the opportunity to make the service bond's conditions more flexible and adaptable. While there have not been any identified Shari'ah-related concerns with the service bond, MOHE can enhance its effectiveness through the following measures:

Measure 1. Discretionary Service Bond:

Introduce a discretionary service bond, allowing students to choose whether they wish to commit to providing services to the Maldives upon completing their education. This approach provides students with greater flexibility in deciding whether to fulfil the service bond obligation.

Measure 2. Partial Loan Forgiveness:

Consider offering partial loan forgiveness to students who voluntarily contribute their services to the Maldives after completing their educational pursuits. This incentive not only encourages more professionals to engage in service within the country but also aligns with principles of equity and justice.

These measures have the potential to make the service bond more attractive to students while maintaining its objectives of promoting national service and benefiting the Maldivian community.

CONCLUSION

This research offers a comprehensive Shari'ah analysis of the National Higher Education Loan Scheme (NSLS) in the Maldives, addressing critical aspects such as the 1% service charge, the absence of formal Shari'ah oversight, and diverse scholarly opinions regarding its compliance with Islamic financial principles. The study provides insightful recommendations to enhance the NSLS's Shari'ah compliance, including seeking official rulings, transparency in disclosing





financial intricacies, and restructuring the financing model for equity and ethical alignment. Additionally, suggestions are made to make the service bond more attractive to students. This research serves as a foundation for future investigations, encouraging studies on student perspectives, government engagement, comparative analyses with other Islamic countries, evolving Shari'ah standards, social impact assessments, and innovative financing models. Its originality lies in its in-depth examination of the NSLS from a Shari'ah perspective, contributing valuable insights to policymakers and scholars while paving the way for further research to shape the development of higher education funding schemes in line with Islamic financial principles and societal needs.

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