

Education Financing Scheme in Islamic Banks In Malaysia: From the Perspective of *Maqasid al-Shariah*

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ABSTRACT

The ultimate goal of education in Islam is to produce a Muslim personality equipped with knowledge, faith (Tawhid), dedication and virtuous attitudes (Mahmudah) based on the divine revelation of al-Qur'an and al-Sunnah. Full access to proper education that suits everyone's ability is crucial in order to produce human capital that is well mastered with specific knowledge and skills. Thus, this paper tries to explore the different types of education scheme or facility provided by Islamic banks in this country. In addition, this paper also attempts to ascertain that the scheme provided by the Islamic banks meets the objective of Shariah (Maqasid al-Shariah). This paper is as a result of document analysis and observation from pamphlets and websites on the education facility offered by the Islamic banks as well as through the telephone inquiry with the relevant officers of the banks.

Keywords: *Maqasid al-Shariah, Daruriyyah, Hajiyyah, Tahsiniyyah, Bank Rakyat.*

INTRODUCTION

In Islam, knowledge is considered as an important prerequisite for human development. Knowledge gives the possessor higher rank in the hierarchy from the eyes of Allah S.W.T. *Al-Qur'an* confirms that it is the man with knowledge who fears Allah S.W.T the most. Yet, Islam is a religion based upon knowledge and encouraged his follower to master all kinds of knowledge for the benefit of oneself and *ummah* as a whole as a mean to achieve Allah S.W.T consciousness (*Taqwa*)¹.

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¹ A.O.Shuriye. 2003. "Islamic Education: Issues in Approach and Methodology". *IKIM Journal*. Vol.11, No.2, July/December 2003, Kuala Lumpur: Institute of Islamic Understanding Malaysia, p.100; Afzalur Rahman. 1995. *Islam: Ideology and The Way of Life*. Kuala Lumpur: A.S. Noordeen, p.216. *Taqwa* and the verbs and nouns connected with the root, signify: (1) the fear of Allah; (2) restraint, or guarding one's tongue, hand, and heart from evil; (3) righteousness, piety and good conduct. See *The Holy Qur-an: English Translation of the Meanings and Commentary*.1410H. Madinah: King Fahd Holy Qur-an Printing Complex, p.7.

Indeed, the text of *al-Qur'an* is replete with verses inviting man to use his intellect, to ponder, to think and to know, for the goal of human life is to discover the truth, which is none other than worshipping Allah S.W.T in His Oneness. It may be said that Islam is the path of "knowledge." No other religion or ideology has so much emphasized the importance of 'Ilm. In the *Qur'an*, the word 'Alim has occurred in 140 places, while *al-'Ilm* in 27 times. In all, the total number of verses in which 'Ilm or its derivatives and associated words are used is 704 times².

In other words Islam rates knowledge highly. The quest for knowledge would include studying for higher education i.e. courses offered by institute of higher learning , locally or internationally. The levels of courses offered are certificate, foundation, matriculation, diploma, degree, master degree and doctorate level.

Nowadays, higher education is expensive and paying for the cost of higher education is the major headache for every parents and students. Under the presents set up, majority of the students are forced to take a financing from the government through Perbadanan Tabung Pendidikan Tinggi Nasional (PTPTN). Selected students who meet stringent criteria can apply for financial aid from Majlis Amanat Rakyat (MARA), government through Public Services Department, corporates, well established foundations, State Religion Council for every states and also banks.

This paper will focus on education financing schemes made available by Islamic Banks in the country. There are number of questions need to be answered such as what

² Afzalur Rahman. *op.cit.*, p.218. For instance, Allah (s.w.t.) says in the *al-Qur'an*: "And He taught Adam the names of all things; then He placed them before the angels, and said: Tell me the name of these if ye are right" (Surah al-Baqarah:31); "But no one knows its true meanings except Allah and those who are firmly grounded in knowledge" (Surah Ali Imran:7); "Allah will raise up, to (suitable) ranks and degrees, those of you who believe and who have been granted knowledge, and Allah is well-acquainted with all ye do", (Surah al-Mujadalah:11).

are the education schemes or facility provided by Islamic banks for students in this country to further their studies at higher institutions and are these schemes meet the objective of *Shariah (Maqasid al-Shariah)*?

MAQASID AL-SHARIAH

Definition of *Maqasid al-Shariah*

The term *Maqasid*, which is plural from root word *Maqsid* can be defined as objective, principle, purpose or goal³. *Shariah* is a word that refers to the road to the watering place⁴. When combining these two words, *Maqasid al-Shariah* can be defined as the objective of *Shariah* for the realization of benefit to the people, with regard to their affairs in this world and the day after⁵. In other words, the aim of *Maqasid al-Shariah* is the attainment of good, welfare, advantage or benefits and warding off evil, injury and loss for the creatures⁶.

The majority of scholars agree that most of the injunctions of *Shariah* were revealed with certain objectives and reasons. Certainly, these objectives are rational and easy to be identified except in certain injunctions related to the worship (*'Ibadah*). The *Qur'an* describes the main purpose of *Shariah* is to secure benefit for the people and prevent them against evil or harm by using the word mercy or compassion (*Rahmatan*)⁷. Allah (*s.w.t.*) says in the *Qur'an*:

³ See for instance Ibn Manzur. n.d. *Lisan al-'Arab*. Beirut: Dar Beirut, Vol.3, pp.353-355.

⁴ Yusuf Hamid al-Alim. 1997. *al-Maqasid al-'Ammah li Shari'ah al-Islamiyyah*. Misr: Dar al-Hadith, p.19.

⁵ Dr. Mohamad Akram Laldin. 2008. *Introduction to Shari'ah & Islamic Jurisprudence*. Kuala Lumpur: CERT Publications Sdn. Bhd., p.14.

⁶ 'Abd al-Karim Zaydan. 1986. *Majmu'ah Buhuth Fiqhiyyah*. Baghdad: Maktabah al-Quds, p.141.

⁷ Dr. Mohamad Akram Laldin, *op.cit.*, p.14. There are many verses in the *Qur'an* indicates that the originality or aim of the *Shariah* is to ease burden of mankind such as in Surah al-Haj verse 78, Surah al-

“And We have sent you (O Muhammad) not but as a mercy for the whole world”

Surah al-Anbiya’ (21):107.

Meanwhile, the aims and objectives of *Shariah* are everlasting and unchangeable. They are set by Allah S.W.T and their application or interpretation is not left to the sweet will of any person or class. These aims relate to both the worldly life and the life hereafter and to take them only for the worldly benefits at the cost of the hereafter life's benefits is prohibited and condemned. However, *Shariah* is considerate in case of *Darurah* (necessity) and hardships⁸.

Shariah has set priority order for the worldly and religious affairs and the people have been enjoined upon to follow this priority order, and they are not allowed to apply their whims while following either of the two. *Shariah* has prohibited the use of some goods as well as the indulgence in certain economic activities, though sometimes or even always their use or practice may yield economic fruits or progress⁹.

Similarly, *Shariah* has permitted and sometimes required the use of certain things or the initiative of certain economic activities, though apparently they do not yield such fruits as the prohibited things do. The philosophy behind the permission or prohibition of certain goods or economic activities is known to Allah (*s.w.t.*). However, some of its parts have been revealed by Him and explained by The Prophet (*s.a.w.*). In all such commandments, *Shariah* ensures ease and it has permitted the ease of unlawful and

Baqarah verse 185 and Surah al-Maidah verse 6. See for instance Muhammad Tahir Bin ‘Ashur. 2007. *Maqasid al-Shari’ah al-Islamiyyah*. Qahirah: Dar al-Salam, p.12; ‘Abd al-Karim Zaydan, *op.cit.*, p.141.

⁸ Yusuf Hamid al-Alim. *op.cit.*, pp.82-83.

⁹ Dr. Mohamad Akram Laldin. *op.cit.*, pp.36-40.

prohibited goods and activities in case of necessity (*Darurah*)¹⁰. In this connection, in addition to the verses quoted earlier, the following references are note-worthy:

"Allah desireth for you ease; He does not desireth hardship for you".

Surah al-Baqarah (2):158.

Classification of *Maqasid al-Shariah*.

The objective of *Shariah* or *Maqasid al-Shari'ah* can be classified as *Daruriyyah*, *Hajiyyah* and *Tahsiniyyah* as follows¹¹:

1. *Daruriyyah* (Essential/Necessities)

These are the objectives which are must and basic for the establishment of welfare in this world and the world hereafter in the sense that if they are ignored, then the coherence and order cannot be established and *Fasad* (chaos and disorder) will prevail in this world and the hereafter. The essentials are the matters on which the religion and worldly affairs of mankind depend on and any negligence will lead to total disruption and bring to evil ending. All these matters must be safeguarded individually or by government in order to protect these basic requirements of the people.

The essential (*Daruriyyah*) can be further divided into the protection of five fundamental values (*al-Daruriyyah al-Khamsah*) namely¹²:

a. Protection of Faith (*Din*).

Al-Din (Faith/religion) is the most important value that must be protected by Muslim. The protection of religion is achieved through the observance of the different

¹⁰ 'Abd al-Karim Zaydan. *op.cit.*, pp.142-143..

¹¹ Muhammad Kamal al-Din Imam. 2005. *Usul al-Ahkam al-Shar'iyyah al-Fiqh al-Islami*. Iskandariyyah: Jami'ah al-Iskandariyyah, pp.200-201; Dr. Mohamad Akram Laldin. *op.cit.*, pp.18-30; Imran Ahsan Khan Nyazee. 2006. *Islamic Jurisprudence*, New Delhi: Adam Publishers & Distributors, p.203.

¹² Muhammad Kamal al-Din Imam. *op.cit.*, pp.200-201; Imran Ahsan Khan Nyazee. *op.cit.*, p.202; Dr. Mohamad Akram Laldin. *op.cit.*, pp.18-30.

kind of worships for example, performing prayers, fasting, paying tithe and etc. Executing all these rituals will increase faith of a particular person and he is safeguarded from committing any sin or evil. In this regards, Allah (s.w.t.) says in *al-Qur'an*:

“And perform the Solat (prayer), verily the prayer can prevent from al-Fahsha (great sin) and al-Munkar (disobedient)”

Surah al-Ankabut (29):45.

b. Protection of Life (*Nafs*).

As life is very valuable to everyone, then protection for the life in all circumstances is essential to be upheld. In this regards, there is no different between the life of the rich and poor, between leader or folk, whereby safeguarding everyone's life is equally important to each individual. Allah (s.w.t.) says in the *al-Qur'an*:

“And do not kill anyone which Allah has forbidden, except for a just cause”

Surah al-Isra'(17):33.

Indeed, *Shariah* has enacted serious punishment for those who kill other especially to innocent human being. Allah (s.w.t.) orders in the *al-Qur'an*:

“O you who believe! Qisas is prescribed for you in case of murder: the free for the free, the slave for the slave, and the female for the female, but if the killer is forgiven by the relatives of the killed against blood money, then adhering to it with fairness and payment of the blood money, to the heir should be made in faurness”.

Surah al-Baqarah (2):178.

c. Protection of Posterity (*Nasl*).

Islam is very concerned about the posterity or dignity of a person. Protection of posterity includes the safeguarding of individual rights to privacy and not accusing others

of misdeed. In fact, Islam has mandated many guidelines in order to protect the dignity of man and women and all mankind. Clearly, Islam disallows the manipulation of women and prohibits adultery between man and women. In order to prevent mankind from committing adultery, Islam has imposed severe penalty for those who commit the deed.

Allah (s.w.t.) says:

“The women and the man guilty of illegal sexual intercourse, flog each of them with a hundred stripes, let not pity withhold you in their cases, in a punishment prescribed by Allah, if you believe in Allah and the Last Day”

Surah al-Nur (24):2.

d. Protection of Property (*Mal*).

Islam encourages its followers to accumulate property and wealth for their benefits, but must be done in proper and lawful ways. Islam prohibits anyone to transgress and acquire the property of others in illegitimate and improper ways. Allah (s.w.t.) emphasizes this point in the *al-Qur’an*:

“And eat up not one another’s property unjustly nor give bribery to the judges that you may knowingly eat up a part of the property of others sinfully”

Surah al-Baqarah (2):188.

Islam has imposed severe punishment for those who steal the properties of other, practicing usury (*riba*) and taking the property of orphan unlawfully by the following injunctions:

“Cut off the hand of the thief, male or female, as a recompense for that which they committed, a punishment by way of example from Allah”

Surah al-Maidah (5):38.

“Those who take riba will not stand but as stands whom the demon has driven crazy by his touch. That is because they have said that trading is but like riba. And Allah has permitted trading and prohibited riba”

Surah al-Baqarah (2):275.

“Verily, those who unjustly eat up the property of orphans, they eat up only a fire into their bellies, and they will be burnt in the blazing Fire!”

Surah al-Nisa’ (4):10.

e. Protection of Reason (*‘Aql*).

Allah (*s.w.t.*) has ordered that everyone should protect his mind or intellect by using the mind for the benefit of all and not for any kind of evil or anything that might bring to the destruction. Protection of the mind requires safeguarding it from anything that might harm the ability and function of the mind. This includes the consumption of liquor that will disturb the proper function of brain. Allah (*s.w.t.*) says:

“O you who believe! Intoxicants, gambling, al-Ansab and al-Azlam (arrows for seeking luck) are an abomination of Satan handiwork, so avoid that abomination in order that you may be successful”

Surah al-Maidah (5):90.

In addition, Islam has given freedom for its followers to express their views and has tolerated the differences of views and opinions. However, the expression of views and differences of opinion must conform to the moral and ethical values that are provided by *al-Qur’an* and *al-Sunnah*.

According to al-Shatibi, these five protections are *Daruriyyah* for the establishment of welfare in this world as well as in the world hereafter. The protection of the above mentioned elements can be made possible through two types of essential elements¹³.

- i. Necessities required for bringing into and maintaining the very existence of the above mentioned elements, that is: *din, nafs, nasi, mal* and *'aql*.
- ii. Necessities required for protecting these elements from their destruction. The worships (*'Ibadah*) for example, aim at maintaining the very existence of faith.

Iman (attestations in words and intention), *Salah, Zakah, fasting* and *hajj* are the elements that are required for the maintenance of the very existence of faith (*din*). All such provisions of *Shariah* are said to have the aims that can be labeled as *Daruriyyah*¹⁴.

Similarly, the permission to benefit from drinkables, clothing and housing is meant to maintain life and hence fulfill the objective of necessities. Such matters and dealings that are required to maintain and protect the existence of property, reason and posterity also promote necessities from the point of view of bringing these into existence. On the other hand, such dealings or legal provisions (*Jinayat*), which are required to stop destruction of the above mentioned elements will also be said to aim at *daruriyyah* from the point of view of the objectives of *Shariah*¹⁵.

2. *Hajiyyah* (Complementary)

Shariah aims at facilitating life or removing hardships. All such provisions of *Shariah* which aim at facilitating life, removing hardship are said to fulfill the *Hajiyyah*

¹³ Al-Shatibi. 1996. *al-Muwafaqat fi Usul al-Shariah*. Beirut: Dar al-Ma'rifah, Vol., pp.324-325.

¹⁴ Muhammad Tahir Bin Ashur. *op.cit.*, pp.302-305.

¹⁵ *Ibid.*

(requirements). The complementary interests are referred to those kind of interests whose neglect leads to hardship of the individual or community although it does not lead to the total disruption of normal life¹⁶.

A great number of the *rukhsah* (concessions) such as the shortening of the *Salah* and the forgoing of the fast by the sick and the traveler, may be classified as *Hajiyyah*. In almost all areas of obligatory worship, the *Shariah* has granted such concessions. These concessions are aimed at preventing hardship, but they are not essential, whereby people could live without them if they were obliged to¹⁷.

For example, a sick person is allowed to pray in sitting position and break his fast in Ramadan and also permission of hunting and validity of some *Muamalah* contracts such as *Ijarah* (leasing), *Musaqat* (profit sharing) and *Bay' al-Salam* (forward buying of a commodity which does not yet exist) are the examples of *Shariah* provisions that aim at facilitating life or removing hardships in the life in this world.

3. *Tahsiniyyah* (Desirable/Beautification)

Shariah beautifies life and puts comforts into it. There are several provisions of *Shariah* which are meant to ensure better utilization, beautification and simplification of *Daruriyyah* and *Hajiyyah*. *Tahsiniyyah* refer to interests whose realization lead to improvement and the attainment of that which is desirable. These interests seek to attain refinement and perfection in the customs and conduct of the people at all levels¹⁸.

Thus, the *Shariah* encourages cleanliness of the body and attire for the purpose of '*Ibadah* and recommends the wearing of perfume when attending the Friday

¹⁶ Mohammad Hashim Kamali. 1998. *Principles of Islamic Jurisprudence*. Kuala Lumpur: Ilmiah Publishers Sdn. Bhd., pp.398-399.

¹⁷ *Ibid.*

¹⁸ Dr. Mohamad Akram Laldin. *op.cit.*, p.30.

congregational prayer. In addition, permission to use beautiful, comfortable things, to eat delicious food, to have cold drinks and juices and to wear fine clothing are examples of *Tahsiniyyah*¹⁹.

The category of *Tahsiniyyah* comprises what leads to the perfection of the community's condition and social order so that it leads a peaceful life and acquires the splendour and beauty of human society in the sight of other nations. In this way, the Muslim community will become an attractive model for others to belong to it or seek friendship with it²⁰.

EDUCATION SCHEMES PROVIDED BY ISLAMIC BANK

In Malaysia, out of 17 Islamic banks and 9 Islamic banking schemes²¹ offering Islamic banking products and services, only one bank namely Bank Rakyat that offers financing for education purpose. The scheme is called Education Financing-i Falah and developed for individuals who plan to continue their education locally or abroad. This financing covers tuition fees, cost of living as well as the purchase of text books and other educational aids²².

This financing facility uses the concept of *Bay' al-Innah*, which is widely accepted among the Malaysian. The eligibility for applying this facility is the applicant must be a Malaysia citizens aged 18 and above and must not exceeding 65 years of age at the end of the financing period. The applicant should also be a working student with fixed

¹⁹ *Ibid.*

²⁰ Muhammad al-Tahir Ibn Ashur. *op.cit.*, p.120.

²¹ Suhaimi Mohd. Yusof. 2010. "Isu-isu Perundangan Dalam Kewangan Islam". Convention of Islamic Banking & Finance 2010. Masjid Sultan Salahuddin Abdul Aziz Shah, Shah Alam, 13th March 2010.

²² Bank Rakyat, <http://www.bankrakyat.com.my/pendidikanifalah>, 1st April 2010.

income or full time students without income, but must apply through parents, spouses, siblings or legal guardians²³.

The maximum amount of financing is up to RM200,000 for applicant with guarantor and unlimited financing amount for applicant with specific collateral (subject to collateral value). For this type of financing, the student is required to be a guarantor and an additional guarantor is required if payment not made through Biro Perkhidmatan Angkasa (BPA). The type of collateral can be either landed property or Bank Rakyat's Investment Certificates. The maximum period of repayment for this scheme is limited to 15 years²⁴.

Table 1.1 below shows the rate of Bank Financing Rate (BFR) per annum based on the period of payment.

Table 1.1

Period of Payment (year)	Rate (per annum)
1 to 5	6.45%
5 to 10	6.95%
10 to 15	7%

Source: Telephone Inquiry with Bank Rakyat's officer on 1st April 2010 at 2.30 p.m. The telephone number is 03-21179000.

²³ *Ibid.*

²⁴ *Ibid.*

ANALYSIS FROM THE PERSPECTIVE OF *MAQASID AL-SHARIAH*

As far as the objective of *Shariah* is concerned, the introduction and application of Islamic financing for education by Bank Rakyat is within the purpose of *Shariah*. As been explained in the earlier section, the essential (*Daruriyyah*) in the objective of *Shariah* can be divided into five fundamental values and indeed, the application of financing products for education in Islamic bank is regarded to fulfill these five values altogether.

The intention and attempt to acquire knowledge are considered not only a way to protect mind (*'aql*), but also to preserve those five fundamental values of *Daruriyyah*. Education is a way to protect one's mind and intellect. Person who has proper education and skill is able to use his mind for the benefit of others. Take for instance, a professor in university can use his ability to do research in his field of expertise and produce a new findings for the benefits of all human be it in the field of economics, science, technology, medicine and etc.

Education is also a step to preserve one's life since with the relevant knowledge and certificates may secure a better job and salary for the person. For this reason, a person who is equipped with knowledge will try to his best to protect his life for example, by participating in activities that are less riskier and taking healthy foods for the benefit of his body. Activities that are riskier and taking harmful products such as smoking and taking drug will be avoided.

In terms of protection of property, education is the best method in guiding a person to be more rational in spending and not wasting his property for unhealthy means. Indeed, there are a lot of differences between person who has knowledge and at the same

time has a lot of property with a person who has no knowledge and has a lot of property. Person who has knowledge and property are able to manage his property not only for the benefit of himself, but also for the benefits of his children.

Education is also a proper way to preserve dignity of particular person. Person who has knowledge will not involve in sinful actions such as gambling and adultery intimacy (*Zina*). Adultery is prohibited in Islam and one of the bad impacts of *Zina* is producing illegal child, which usually will bring a lot other bad consequences to the person and society as a whole. Thus, the dignity of the person will be vanished. Person who has knowledge and understand the effects of *Zina* certainly will avoid it, although there are a lot of encouraging factors to do it in current time.

Lastly, education is the best mechanism to protect one's religion (*Din*). If all the above four values able to be protected by acquiring knowledge and education then, the religion of the person is actually will be safeguarded. A person who is equipped with accurate knowledge knows how to be a good Muslim and able to practice all the compulsory and recommended acts in Islam accordingly. Doing all the good deeds in Islam certainly will increase one's religion from the eyes of Allah S.W.T.

On the other hand, a person who has no education will commit a lot of sinful activities, which will decreased his religion or in more harmful case will bring a person to deny Islam when the subject of theology (*Aqidah*) is not well understood by him.

Indeed, the introduction of education scheme by Bank Rakyat is regarded an essential approach in order to achieve those five fundamental values of *Daruriyyah* in *Maqasid al-Shariah*. Nonetheless, through the observation and telephone inquiry with the bank officer of the bank, the student and parents who are interested to apply this type of

scheme are encountered with a lot of requirements that can be waived accordingly and in a case to case basis if and only if the introduction of the facility is intended to help those in dire need to finance the applicant's higher education cost and so meeting the *Maqasid al-Shariah*. The rigidity imposed by the bank will burden those who for instance, unable to find suitable guarantor to guarantee the financing. This actually will hinder the achievement of essential elements in the objective of *Shariah*.

Therefore, for the benefits of all parties, including the Islamic bank, we would like to propose some suggestions for the considerations of all parties. For the Islamic banks, hopefully a lot more Islamic banks will introduce education facility and not only for Bank Rakyat. The government, through Bank Negara Malaysia (BNM), can extend its regulatory role by regulating such financing schemes in the same way that BNM regulates certain government's initiative scheme via Credit Guarantee Corporation Malaysia Berhad (CGC). For example, Credit Enhancer Islamic Scheme offered by all commercial banks offering Islamic banking products. The main objective of CGC is to assist small and medium-sized enterprises (SMEs), especially those with inadequate collateral or without collateral, gain access to financing from financial institutions at a reasonable cost.

Islamic bank such as Bank Islam Malaysia Berhad that previously did offer education facility should reintroduce their products in the market to help those in need for financing their education. Although, the scheme will not give good return to the bank, but the reintroduction of the scheme will give a lot of advantages to the Islamic banking industry as a whole. This is also will ensure students that have minimum requirements to further their study will be able to do so.

All Islamic banks should simplify the requirements for the facility. They should also be flexible in processing the applications and waive certain requirements where appropriate to accommodate the applicants case by case. For example, students who obtain good results, but unable to provide guarantor for their application should be given the opportunity to further their studies. Another way to help the students is through the extension of payment period to 20 years and the first repayment should be given one year after the completion of the study. Such arrangements can be structured not at the expense of banks' interest.

Islamic banks also should introduce other type of contracts in *fiqh muamalah* such as *Ijarah* (leasing) or *Musharakah* (partnership) as a basis principle underlying the education financing facility. The partnership concept seems to be a good idea for financing education and a comprehensive mechanism should be carefully reviewed by the bank for the benefit of all parties.

CONCLUSION

This article has touched on the aspect of education and financing opportunity given by Islamic bank for the education purpose from the perspective of *Maqasid al-Shariah*. Islam through the objective of *Shariah* has made a clear understanding that acquiring knowledge is very pivotal for achieving the *Maqasid al-Shariah*. The introduction of Islamic facility for education is within the purpose of *Maqasid al-Shariah*. The finding shows that there are only one Islamic bank in this country provides facility for education financing and a lot more Islamic banks are called to be part of this novel endeavor.

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