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The double cheeseburger approach to Islamic finance — Nazrul Hazizi Noordin



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JULY 14 — A single thick patty may contain just as much meat. Yet two distinct layers make a double cheeseburger appear fuller and more satisfying. One patty is the bare minimum needed for it to qualify as a burger rather than a toast. The second is what frees you from hunger.

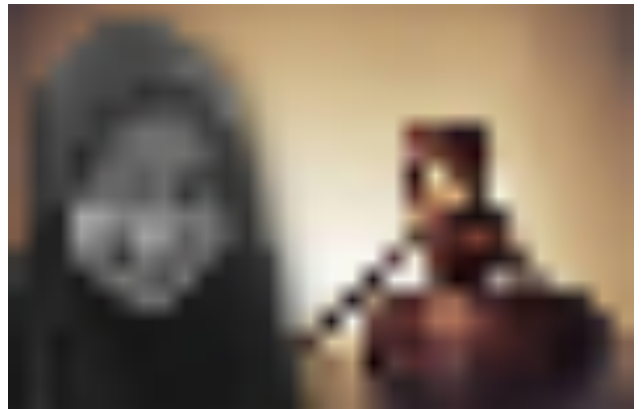
The same double-patty logic may help us understand the intensifying demand placed on Islamic finance. It is increasingly expected to offer beyond compliance, halal, and to be aligned with what the Islamic law, Shariah, intended to achieve, its *maqasid*. The first patty ensures that the structure is permissible. The second asks whether its outcome promotes welfare and produces something wholesome, or *tayyib*.

A cheeseburger may not be the best example of



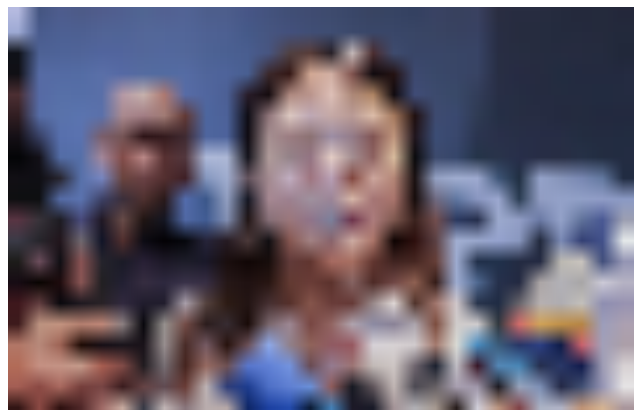
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something *tayyib*. Add too many patties and it may eventually become bad for your health. I apologise for the imperfect analogy. Perhaps I was simply that hungry when I wrote this essay. But then again, almost anything consumed excessively can become harmful anyway.

I write this short essay to reflect on a snippet of a roundtable discussion I recently listened to after someone shared it on LinkedIn. One of the participants, a banker, mentioned that being Shariah-compliant may no longer be sufficient to win people over to Islamic finance. Another participant added that it might be more appealing if it were called 'ethical' rather than 'Islamic' finance.

These remarks led me to ponder. Can something, after truly complying with what the religion and its law require, still fall short of delivering what the religion intends?

If we faithfully obey the divine law revealed by God in its entirety, is it not natural for us to expect to receive what He has promised in return: mercy, continued guidance, and a good life? (Quran 3:132; 6:155; 24:52; 72:16). After all,

all of these are the very purposes for which the Law was revealed.

Though this seems puzzling in principle, it is not difficult to explain in practice. Perhaps the double-patty phenomenon exists because Shariah compliance has come to be understood exhaustively as satisfying the requirement for a valid contract or transaction. It has become a checklist. Does the structure avoid interest? Is it free from gambling? Have all impermissible terms and words been removed from the contract? Do the different legs of transactions take place in the correct sequence?

A similar distinction can be found in Adam Smith's treatment of justice and beneficence.



One of the participants, a banker, mentioned that being Shariah-compliant may no longer be sufficient to win people over to Islamic finance. — AI-generated image

According to Smith, in the less celebrated of his two great books, *The Theory of Moral*

Sentiments, justice alone may not be enough to make society genuinely flourish. Justice protects people from being harmed by others. It is sustained by our proper resentment towards injury and wrongdoing, and may be enforced through law and punishment.

For Smith, justice is the foundation of society. Without it, society would collapse. Yet a society governed by justice alone may still be cold, divided and unpleasant. It may survive, but it will not necessarily thrive.

What is also needed alongside, Smith argued, is beneficence. The willingness to do good for others even when the law does not require it. Beneficence asks us to awaken our sympathy and look beyond narrow self-interest and consider the welfare of others, even when doing so may require sacrificing some of our own growth or returns.

Market law can restrain harm to others, but it cannot, by itself, persuade people to care for one another.

This distinction makes sense when we look at society today. We have spent fortunes building legal systems, empowering regulators and passing new laws. Yet the social dislocation that Karl Polanyi described in *The Great Transformation*, arising in the nineteenth century following the Industrial Revolution and the birth of the self-regulating market, has never disappeared. It persists today, even as inequality continues to widen.

Note that as wealth expands, so too does the capacity to reinvest it in building ever more

sophisticated laws and market regulations that fewer and fewer people understand. These laws can be designed in ways that allow the rich and affluent to do the least required to satisfy the letter of the law, while distancing themselves from the broader moral responsibilities that come with the greater wealth they have accumulated.

In such circumstances, justice becomes increasingly institutionalised, while doing good to others is left to personal discretion.

It is understandable why many of us are drawn to the double cheeseburger approach. Financial decisions inevitably involve trade-offs, and their wider and far-reaching consequences are rarely easy to measure.

Consider, for example, financing plantation and forestry-related businesses whose operations involve land clearing. The transaction can be structured in a Shariah-compliant and legally valid manner. The project may create jobs, raise local incomes and improve living standards. At the same time, it may damage ecosystems, increase carbon emissions, and increase human-elephant conflict. Which side of the ledger, then, outweighs the other?

We cannot be entirely sure, at least not when the financing decision must be made. Reaching a conclusion about the project's net impact on human welfare demands enormous data and years of observation. Capital owners, however, cannot wait for history to deliver its verdict. They must make decisions today.

Insisting too rigidly on a single thick patty risks

sidelining many economic activities from Islamic finance, potentially constraining the industry's growth.

But there is an opposite concern as well. The pursuit of *maqasid* could itself become another checklist, another label justifying existing practices to make them appear purposeful. Companies may tick a few additional boxes, publish an impact report, and continue doing exactly what they were doing before. That would add another layer, but not necessarily more 'meat'.

The *maqasid* should not become a new vocabulary for defending old practices.

Instead, it should compel Islamic finance to adopt a first-principles method. One that begins by asking what the Shariah intends finance to achieve, and then designs institutions and products from the ground up to serve those ends, rather than reasoning by analogy from existing practices.

In this way, the *maqasid* would open space for new ideas and innovation, enabling Islamic finance to contribute more meaningfully to human flourishing while remaining firmly grounded in the supremacy of Shariah compliance.

The first patty makes Islamic finance lawful. The second ought to make it humanely worthy of investment.

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**** This is the personal opinion of the writer or publication and does not necessarily represent the views of *Malay Mail*.**

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