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by 61 UMY

JURNAL MEDIA HUKUM

Volume … No ... Issue …
P-ISSN: 0854-8919, E-ISSN: 2503-1023
Nationally Accredited Journal, Decree No. 30/E/KPT/2018.

Musharakah Mutanaqisah: Strengthening Islamic Financing in Indonesia and Addressing Murabahah Vulnerabilities

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ARTICLE INFO

Keywords:
Murabahah,
Musharakah mutanaqisah
Islamic Banking
Islamic Finance
Sharia Compliance

How to cite:
-

Article History:
Received:
Revised:
Accepted:

ABSTRACT

The research analyses to examine the practice of Murabahah and Musharakah mutanaqisah (MMQ) financing in sharia banking in Indonesia. Islamic finance plays an important role in the Indonesian economy, contributing to financial inclusion and encouraging ethical practices and sharia compliance. Among the various Islamic financing models, MMQ has become famous as an alternative to conventional financing methods. The research method used is qualitative research with a secondary data and doctrinal legal study methods. This study uses sustainable product innovation, modernization, and compliance with sharia principles. The results of the study found that the implementation of murabahah has several weaknesses, including: it is considered not in accordance with sharia, the nature of the contract is fixed, the down payment for sharia housing loans by murabahah is high, it is based on sharia , and cannot be used for refinancing, takeovers, and securing assets. The advantages of MMQ can be a solution to Murabahah's weaknesses, because MMQ is safe according to sharia, suitable for long-term financing, down payments for sharia mortgages by MMQ are low, and according to sharia, MMQ can also be used for refinancing, takeovers and securing assets.

***DOI: https://doi.org/**10.18196/jmh.xxxx.xxxx*

1. Introduction

The development of Islamic banking in Indonesia, based on data from the Financial Services Authority or *Otoritas Jasa Keuangan* (OJK), experienced an increase in the percentage of sharia banking growth in 2023, recorded as growing 7.63%.[1] This phenomenon shows that the

[1] Fredi Wijaya Kusuma, 'The Effect of Financial Services Authority Regulatory Implementation Concerning Financial Consumer Protection on Banking Financial Performance', *Journal Eduvest - Journal of Universal Studies*, 3.7 (2023), 1289–1302 <https://doi.org/10.59188/eduvest.v3i7.845>.

P-ISSN: 0854-8919, E-ISSN: 2503-1023

presence of Islamic banking in Indonesia has received a positive response from the Indonesian Muslim community. The existence of Islamic banking in this country (in other countries called Islamic banking) is of utmost significance because Muslims in Indonesia have been expressly prohibited from conducting financial transactions through conventional banking.[2]

The market share of Islamic banking has only been able to reach around 5% compared to the conventional one. The existence of sharia banking in Indonesia as a country with the largest Muslim population with a population of 240.6 million is still far from ideal, it still has many weaknesses, is still considered to apply usury even in a sharia perspective, According to research by,[3] It is found that the practice of Islamic banks in Indonesia is no different from conventional banks which are based on an interest system.

Even from the aspect of innovation, Islamic banking in Indonesia has not shown significant development, because the service products offered tend to be monotonous and outdated; they have not been in tune with the dynamics of the rapidly developing contemporary economy. Even from the innovation aspect, sharia banking in Indonesia has not shown significant development, because the service products offered tend to be monotonous and outdated.[4] The internal causes of the slow growth of sharia banks are the dominance of *murabahah* contracts in the financing segment of sharia banks, the lack of variety in sharia bank financing, the inefficiency of sharia banks in carrying out their operational activities, the dominance of expensive deposit funds in sharia bank deposits, the inefficiency of sharia banks in operational activities. Despite the factors of sharia conformity on the one hand and innovative products and modifications on the other, there are two absolute requirements for the development of sharia banking. A comparison between sharia banking in Indonesia and Malaysia reflects differences in history, regulations, product innovation, public acceptance and market size. Malaysia, with a longer history since the founding of Bank Islam Malaysia in 1983, has built a strong foundation and has careful regulations, supports product innovation, and enjoys a higher level of acceptance in society.[5]

Iswanaji stated that the two main problems encountered by Islamic banking in the world and must be solved immediately, first; lack of innovation such that the offer given by sharia banking is very limited and second, the issue of conformity of Islamic banking products with sharia principles (Sharia compliance) which still has to be tightened. In this regard, two strategies for advancing sharia banking that must be continuously developed are making product innovations more varied, modernisation and modification according to the demands of the global economy while preventing Islamic banking products from violating sharia principles.[6]

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[2] Sri Astutik and Irawan Soerodjo, 'The Role of The Financial Services Authority in Setting the Interest Rate For Financial Technology Loans As Consumer Protection of Financial Services', *Yuridika*, 38.2 (2023), 431–42 <https://doi.org/10.20473/ydk.v38i2.40064>.

[3] Virginia Nur Rahmanti, 'Mengapa Perbankan Syariah Masih Disamakan Dengan Perbankan Konvensional?', *Jurnal Ekonomi, Manajemen, Dan Akuntansi Islam*, 1.1 (2013) <https://doi.org/10.34202/imanensi.1.1.2013.62-74>.

[4] Maryam Batubara and Sakti Andiyanto, 'The Influence of Islamic Insurance And Islamic Banks on Indonesia's Economic Growth For The Period 2016-2022', *AL-FALAH Journal of Islamic Economics*, 3.1 (2023), 271–86 <https://doi.org/10.29240/alfalah.v8i2.8210>.

[5] Rosnia Masruki, Mustafa Mohd Hanefah, and Bablu Kumar Dhar, 'Shariah Governance Practices of Malaysian Islamic Banks In The Light Of Shariah Compliance', *Asian Journal of Accounting and Governance*, 13.1 (2020), 91–97 <https://doi.org/10.17576/AJAG-2020-13-08>.

[6] Chaidir Iswanaji, 'Challenges Inhibiting Islamic Banking Growth in Indonesia Using the Analytical Hierarchy Process', *Journal of Islamic Economics Lariba*, 4.2 (2018), 97–107 <https://doi.org/10.20885/jielariba.vol4.iss2.art4>.

Sharia banks in Indonesia are the same as sharia banks in Malaysia and Saudi Arabia, act as intermediary institutions collecting funds from the public through savings or investment and channelling funds to people who need it through financing products. Several types of financing are operated by Islamic banking in Indonesia, including *murabahah* (Sale and purchase agreement between the bank and the customer) and *Musharakah mutanaqisah* (a form of cooperation between two or more parties for ownership of an item or asset) which are formally abbreviated as MMQ. However, the financing products prevalent in Indonesia till date are still dominated by *murabahah* financing. Almost all Islamic banks in Indonesia consider *murabahah* products to be excellent services, especially the Islamic People's Financing Bank or *Bank Pembiayaan Rakyat Syariah* (BPRS) whose business activities are based on *murabahah* financing as a mainstay product. The dominance of *murabahah* in Islamic banking has indeed become an international phenomenon. *Murabahah* domination does not only occur in Indonesia but also in various countries in the world such as Malaysia, Pakistan, countries in Saudi Arabia and so on. [7]

Khan stated that the composition of *murabahah* financing was increasingly considered financing with the largest distribution. According to him, since 1984, *murabahah* financing has been occupying 80% of Pakistani financial institutions, and in Dubai it occupies 82%; even the Islamic Development Bank (IDB) has been operating with 73% *murabahah* schemes for more than 10 years of financing. It is also stated that the dominance of *murabahah* constituted 80–95% of the financing of Islamic finance institutions that implemented *murabahah* transactions. [8] Besides, it noted that 42% of the investments offered by banks in Jordan are Islamic investments, and the majority of such investments are related to *murabahah*. Data from the Financial Services Authority of the Republic of Indonesia shows that the *murabahahh* portion currently makes the largest contribution to total sharia banking financing in Indonesia, reaching around 60% of total sharia banking financing.[9]

The dominance of *murabahah* is understandable as this type of financing has technical operational advantages and promises direct benefits for Islamic bankers. But when studied in depth, *murabahah* also exhibits many weaknesses and limitations with respect to its implementation applied in Indonesia because there are regulations that prohibit utilising certain products using the *murabahah* scheme.[10] Meanwhile, on the other hand, Islamic banks also operate under MMQ financing, which is considered to have many advantages but has not been implemented optimally in banking practice because of limited understanding of the concepts and techniques of implementation which are considered complicated. Therefore, the research is presented to discuss the following topics: what are the legal foundations and regulatory frameworks governing *musharakah mutanaqisah* financing in Indonesia? how do *murabahah* transactions manifest weaknesses within the Indonesian legal framework? What

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[7] Mohammad Dulal Miah and Yasushi Suzuki, '*Murabahah* Syndrome of Islamic Banks: A Paradox or Product of the System?', *Journal of Islamic Accounting and Business Research*, 11.7 (2020), 1363–78 <https://doi.org/10.1108/JIABR-05-2018-0067>.
[8] Tauseef Khan and others, 'An Investigation of the Performance of Islamic and Interest Based Banking Evidence from Pakistan', *Journal of Business and Public Administration*, 9.1 (2018), 81–112 <https://doi.org/10.1515/hjbpa-2018-0007>.
[9] Theresia Anita Christiani, Mary Grace Megumi Maran, and Johannes Ibrahim Kosasih, 'Analysis of Financial Services Authority Regulation Number 10/Pojk.05/2022 Concerning Information Technology-Based Joint', *International Journal of Multidisciplinary Research and Analysis*, 6.3 (2023), 1144–52 <https://doi.org/10.47191/ijmra/v6-i3-36>.
[10] Azhar Alam and others, 'The Problem of *Murabahah* Financing of Islamic Microfinance Institution and The Handling Strategies in Indonesia: A Literature Review', *AL-MUZARA'AH*, 11.1 (2023), 17–30 <https://doi.org/10.29244/jam.11.1.17-30>.

legal mechanisms can be implemented to address the identified weaknesses in *Murabahah* financing in Indonesia?

2. Research Method

This study was conducted qualitatively using secondary data and doctrinal legal study methods. The data used were obtained from literature references such as books, journal articles, websites, and study results related to the topic. Moreover, in-depth analysis was applied, and the results were presented descriptively and structurally within the frame of Islamic Sharia perspective. It was applied to ensure coherence and logical series connection between one part and another.

3. Result and Discussion

3.1. Comparative Analysis of *Musyarakah Mutanaqisah* with *Murabahah*

Murabahah is a type of sale-based financing which is more easily understood by the public because the community has become accustomed to buying and selling transactions in their daily lives. *Murabahah* is also categorised as a trustworthy sale and purchase agreement because when the contract is over, the bank must openly state the purchase price of the goods and the profit margin requested by the bank as the seller.[11] The characteristics of *murabahah* as a kind of trustworthy sale-and-purchase practice are certainly advantageous because they agree with the spirit of Islamic teachings that uphold honesty and openness.[12] *Murabahah* has also been defined as a financing instrument covering a financial institution purchasing a complete physical goods with a commitment to subsequently sell the object for a profit. The profit covers the risk which taken by bank. *Murabahah mu'ajjal* meanwhile refers for the seller's supply of goods to the buyer at a defined profit margin which mutually agreed between them. *Murabahah* seemed to be originally a sort of sales agreement, instead of a financing instrument. Islamic financial institutions do not offer a loan to clients in *murabahah* transactions. In-fact they only sell the goods at a mark-up price to customers.[13]

Sharia does not accept the validity of sales in which the goods are not presently possessed by seller. And hence, when the customer is seeking a *murabahah* facility, the bank as a financier may not consider making a sale transaction. In this situation, the bank is obliged to buy, claim ownership of the required goods from a third party and then sell them to the customer (Sadique, 2018). Furthermore, *murabahah* is also superior in terms of increasing the market share of Islamic banking because without *murabahah*, the percentage of market share of Islamic banks compared to conventional ones can be far lower than the the market share at present.[14]

Taufik Akbar assess the application of *murabahah* as the most appropriate financing model to buy various business equipment. This model requires Islamic banks to acquire and buy assets or business equipment and sell them at an increased price According to them, this model of financing was introduced in Malaysia in 1997, and in 1999, and there were more than 1000 active users. They also stressed that *murabahah* proved to be more practical and was the most suitable scheme for Islamic financing provided by Islamic banks because it allows repayment

[11] Anas Maulan, Burhanudin Harahap, and Sasmini, 'Comparative Analysis of *Murabahah*h Financing Agreement with Musyarakah Mutanaqisah Financing Agreement in Indonesia's Sharia Banking System', *International Journal of Law and Society (IJLS)*, 2.1 (2023), 43–51 <https://doi.org/10.59683/ijls.v2i1.31>.
[12] Eka Wahyu Hestya Budianto, 'Bibliometric And Literature Review of Financing Risk In Islamic Banking', *JPS (Jurnal Perbankan Syariah)*, 4.1 (2023), 79–97 <https://doi.org/10.46367/jps.v4i1.1031>.
[13] Adi Susandi and Sofian Al Hakim, 'Accelerated Repayment of *Murabahah*h Agreement in Sharia Banking', *Journal of Economicate Studies*, 4.2 (2020), 108–16 <https://doi.org/10.32506/joes.v4i2.663>.
[14] Zahid Iqbal and Maria Quibtia, 'Theoretical Differences between Islamic Banking and Conventional Banking', *International Journal of Business and Social Science*, 8.1 (2017), 141–53 <https://doi.org/10.30845/ijbss>.

in equal installments which are more easily managed and monitored.[15]

It is also argued that the dominance of *murabahah* financing is an indicator of the benefits it provides to Islamic banks. These benefits include first, the certainty of buyers because Islamic banks will not buy an item unless they have already had buyers' transaction; second, there is certainty of profit, that is, Islamic banks can ensure profits for goods sold; third, *murabahah* financing is easier to apply than other forms of financing. Also, in order to provide security, the bank may ask the buyer to provide a registered mortgage of the property or asset or provide a third-party guarantee, so in case the buyer defaults, the bank may ask the payment from such a guarantor.

The dominance of *murabahah* financing occurs because most of the loans and financing provided by the banking sector in Indonesia depends on the consumptive sector. Therefore, in order to compete with conventional banking, the easy and simple *murabahah* financing feature of Islamic banking is efficient in meeting consumer financing needs such as motorised vehicles, property and other consumptive needs. *Murabahah* financing is also dominant because it is considered to have a system and calculation techniques that are easier to carry out and to understand both by customers and the Islamic banking system. In *murabahah*, customers do not have to use the financing to conduct a business.

Mahmud Yusuf argues that *murabahah* is a form of natural certainty contracts, namely financing that provides certainty both in terms of quantity and time; cash flow can also be predicted with relative certainty because it has been agreed upon by both parties at the beginning of the contract.[16] Additionally, its dominance in Islamic banking is also due to the banking sector's concern about the occurrence of moral hazard and asymmetric information on profit-based financing that can harm the banks. Moreover [17] emphasised the superiority of *murabahah* as in *murabahah*, the risks that Islamic banks might face are minimal, and banks also do not need to know about the profit and loss of customers. Whereas, when using *mudharabah* or *Musharakah* products, the potential risks are high and the banks are vulnerable to possible moral hazards because Islamic banks have to assume that everyone is honest which makes them vulnerable to dealing with people with harmful intentions. Additionally, the calculations in *mudharabah* and *Musharakah* are more complicated than *murabahah* so professionals are truly reliable. However, so far most of the professional staff in Islamic banking are hired from conventional banks that still operate with calculations under the interest system.[18]

Based on the various opinions mentioned previously, the superiority of *Murabahah* is evident as follows: first, *murabahah* is the most preferred financing technique compared to various other types of financing so it is also the most dominant type in Islamic banking. Second, the high customer interest in *murabahah* has implications for its substantial contribution to the

[15] Taufik Akbar and A.K. Siti-Nabiha, 'Objectives and Measures of Performance of Islamic Microfinance Banks in Indonesia: The Stakeholders' Perspectives', *ISRA International Journal of Islamic Finance*, 14.2 (2022), 124–44 <https://doi.org/10.1108/IJIF-11-2020-0231>.

[16] Mahmud Yusuf and others, 'Islamic Banks: Analysis of the Rules of Fiqh on the Fatwa of the National Sharia Board-Indonesian Ulama Council', *International Journal of Law, Environment, and Natural Resources*, 3.1 (2023), 21–37 <https://doi.org/10.51749/injurlens.v3i1.44>.

[17] Mohamed Ali Trabelsi and Naama Trad, 'Profit and Loss Sharing; Funding Solutions at Indonesian Islamic Banks', *International Journal of Islamic and Middle Eastern Finance and Management*, 10.4 (2017), 454–69 <https://doi.org/10.1108/IMEFM-05-2016-0070>.

[18] Nida Zehra and others, 'The Role of Islamic Banking Development and Its Impact on Financial Stability: Evidence from Morocco's Financial Institutions', *Pakistan Journal of Humanities and Social Sciences*, 10.1 (2022), 354–365 <https://doi.org/10.52131/pjhss.2022.1001.0203>.

market share of Islamic banking.[19] Third, *murabahah* is considered a simple, easy-to-apply financing model because the community has become accustomed to buying and selling transactions in daily life. Fourth, from the sharia perspective, *murabahah* includes bai 'al-amanah, namely the model of buying and selling trust because the factor that distinguishes *murabahah* from ordinary buying and selling is the seller's obligation to honestly explain the purchase price of the buying object and then selling at the profit desired by them to be agreed upon by the buyer.[20] Fifth, *murabahah* financing from the beginning has ensured the existence of profits, because *murabahah* includes the natural certainty contract so that the bank cannot lose money. Sixth, *murabahah* is more directed to fulfill consumptive needs, as is credit to conventional banks, so that banks do not need to know and supervise customers profit or loss.[21]

Despite its several advantages, *murabahah* financing in Indonesia also has many weaknesses that need to be resolved: first, the *murabahah* financing procedure is not considered in accordance with sharia. *Murabahah* financing in Islamic banking in Indonesia is implemented almost 100% using *wakalah* (*murabahah* bi al-*wakalah*), namely a bank that is represented to the customers to purchase *murabahah* objects themselves. The practice of *murabahah* bi *al-wakalah* is actually no problem if applied in accordance with sharia provisions. According to MUI's DSN Fatwa No. 04 of 2000 concerning *Murabahah*, "in the event that the bank wants to represent customers to purchase goods from third parties, the *murabahah* sale and purchase contract must be made after the goods, in principle, belong to the bank. "This provision implies that *murabahah* sale and purchase can only take place after the *wakalah* contract is carried out by the customer. The ownership of the *murabahah* object shifts from the third party (supplier) to the bank that represents the purchase to the customer. The fatwa of MUI DSN No. 111 of 2017 concerning *Murabahah* Sale and Purchase Agreement also confirms that *Mutsman/mabi* '/*murabahah* objects may be in the form of goods and/or in the form of rights owned by the seller in full. They must be tangible, clear or certain and can be handed over when the *murabahah* sale and purchase contract is carried out.

The *murabahah bi al-wakalah* procedure applied in Indonesia is generally of the following format: the customer submits a *murabahah* application; the bank assesses the appropriateness of the application; after both the interested parties have agreed, the bank and the customer sign a *wakalah* contract.[22] After the *wakalah* contract, the bank transfers a certain amount of money for the purchase of *murabahah* objects to the customer's account and, before the customer can purchase the goods (which means the customer has not implemented *wakalah*), the *murabahah* sale agreement between the bank and the customer needs tobe realised. Such a procedure triggers the polemic that the practice of *murabahah* in Islamic banking in Indonesia, considered not in accordance with sharia provisions, contains *gharar* (the object is unclear) because when the *murabahah* agreement is carried out, the object being sold is not clear in its

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[19] Amirudin Mohd Nor, Siti Nurulhuda Ibrahim, and Shahreena Daud, 'Recovery Issues on *Murabahah*h Financing in Malaysia', *International Journal of Academic Research in Business and Social Sciences*, 10.4 (2020), 323–36 <https://doi.org/10.6007/IJARBSS/v10-i4/7132>.
[20] Salah Alhammadi, Khaled O. Alotaibi, and Dzikri F. Hakam, 'Analysing Islamic Banking Ethical Performance from Maqāṣid Al-Sharī'ah Perspective: Evidence from Indonesia', *Journal of Sustainable Finance & Investment*, 12.4 (2022), 1171–93 <https://doi.org/10.1080/20430795.2020.1848179>.
[21] Siti Afidatul Khotijah and Chaidir Iswanaji, 'Analysis of The Effect of *Murabahah* Finance In Sharia Banks on the Economic Growth of Agricultural Sector', *Amwaluna : Jurnal Ekonomi Dan Keuangan Syariah*, 4.2 (2020), 246–59 <https://doi.org/10.29313/amwaluna.v4i2.5432>.
[22] Chokri Kooli, Mohammed Shanikat, and Raed Kanakriyah, 'Towards A New Model of Productive Islamic Financial Mechanisms', *International Journal of Business Performance Management*, 23.2 (2021), 17–33 <https://doi.org/10.1504/IJBPM.2022.119551>.

form and ownership. Cash transfers made by banks to customers before selling objects not only clearly buy their form and ownership but also indicate the practice of *murabahah* is no different from interest-based loans in conventional banking.[23]

In connection with the above, the practice of *murabahah* in Islamic banking in Indonesia is a form of contempt and is not in accordance with Islam due to it resembles credit in conventional banking. A more extreme assessment of the practice of *murabahah* in Indonesia, has seen that the practice of *murabahah* financing, which is a mainstay product of Islamic banks, poses a big problem, if not very problematic.

The weakness of the next *murabahah* lies in its constant nature because in Indonesia, there is a rule stating *murabahah* financing is not permitted to change prices or margins during the agreement. The fatwa of the MUI DSN No. 16 of 2000 states that the price in *murabahah* sale and purchase is the purchase price and the necessary costs plus profits in accordance with the agreement. The price and profit are not allowed to be changed during the execution of the agreement because changing the price and profit of *murabahah* due to the influence of time being usury *nasiah*. The characteristics of *murabahah* are not flexible because this type of financing is not appropriate for instalment transactions in long term/tenor. The use of *murabahah* for long-term financing (over five years) may have implications for banks when faced with a monetary crisis or experiencing very dynamic economic fluctuations. Banks cannot adjust prices and profits even though the prices of goods on the market have increased significantly. The ban on changing *murabahah* prices and profits has also an impact on *murabahah* prices that seem expensive as, in order to avoid the risk of losses, banks must anticipate by setting high margins at the beginning of the agreement. The next implication hassled to the assumption that *murabahah* prices are more expensive than conventional banking loans. Furthermore, the prohibition on reviewing *murabahah* prices and profits also affects banks when selling *murabahah* guarantees, as they are not permitted to change margins or prices, even though prices for collateral goods are continuing to increase over time. This situation is often allows customers to buy time, both in fulfilling the obligation to pay instalments and in resolving disputes.

The application of *murabahah* to Islamic banking in Indonesia also has a weakness when used for property financing. *Murabahah* advances are as large as financing in conventional institutions, which is 20%, higher than the advance on *Musharakah* or MMQ financing, which is only 15%. Thee high advances are difficult to attain by grassroots class communities with people who are in most need of housing finance services in instalments.[24]

The next weakness of *murabahah* is the limited use of *murabahah* because in Indonesia, *murabahah* cannot be applied in a variety of Islamic banking products. *Murabahah* financing in Indonesia is prohibited from being used for refinancing transactions, as stipulated in MUI DSN No. 89 of 2013 concerning Sharia Refinancing. Using *murabahah* for refinancing means conducting *murabahah* repeatedly implies conducting *bai al-inah*, which is prohibited in Indonesia.

Murabahah financing in Indonesia is also not permitted for use for restructuring or conversion of *murabahah* contracts if a customer experiences a decline in ability or default, as stipulated in

[23] Aang Kunaifi, Puji Handayati, and Mat Bahri, 'Accounting of Refinancing and Take Over for *Murabahah*h Contract', *Indonesian Interdisciplinary Journal of Sharia Economics (IIJSE)*, 5.1 (2022), 108–20 <https://doi.org/10.31538/iijse.v5i1.1490>.

[24] Aulia Fitria Yustiardhi and others, 'Issues and Challenges of the Application of Mudarabah and Musharakah in Islamic Bank Financing Products', *Journal of Islamic Finance*, 9.2 (2020), 26–41 <https://doi.org/https://journals.iium.edu.my/iiibf-journal/index.php/jif/article/view/482>.

MUI DSN No. 49 of 2002 which regulates *murabahah* contract conversion. Converting *murabahah* using *murabahah* means repetition of *murabahah* and that also means doing bai al-inah which in Indonesia has been expressly prohibited.

Murabahah financing is also inappropriate for taking over or transferring debt from conventional banks to Islamic banks, even though currently in Indonesia it is still allowed on emergency grounds. MUI DSN Fatwa Number 31 of 2002 which regulates Transfer of Debt from banks or Conventional Financial Institutions to Sharia Banks or Financial Institutions states that taking over from conventional banks to Islamic banks is actually not permitted to use *murabahah*, but for the benefit of releasing Muslims from conventional banking shackles, it is temporarily allowed to use *murabahah*. Whereas take over among sharia banks is strictly prohibited from using *murabahah*, as stipulated in the MUI DSN Fatwa Number 90 of 2013 concerning the Transfer of Debt of Inter-islamic Financial Institution *Murabahah* Financing (LKS) which confirms that *murabahah* financing debt transfers should not be used in *murabahah* because it includes *bai 'al-inah*. *Murabahah* financing is also not appropriate for taking over or transferring debt from conventional banks to Islamic banks although, currently, in Indonesia, this is still allowed upon emergency. The MUI DSN fatwa No. 31 of 2002 regulating the transfer of debts from banks or conventional financial institutions to banks or Islamic financial institutions states that taking over from conventional banks to Islamic banks does not encourage use of *murabahah*; however, for the purpose of releasing Muslims from the shackles of conventional banking, use of *murabahah* has temporarily been encouraged. Contrarily, the taking over among sharia banks strictly prohibits the use of *murabahah*, as stipulated in the MUI DSN Fatwa Number 90 of 2013 concerning transfer of debt of Inter-islamic Financial Institution *Murabahah* Financing (LKS), which confirms that the transfer of *murabahah* financing debt is not encouraged, including *bai 'al-inah*.

The last weakness of *murabahah* can be seen in the prohibition on the use of *murabahah* for securitisation, even though securitisation is very much needed in business in modern times. Securitisation is the liquidation of illiquid assets by means of sales made by the originator (originator of financing) to their investors by issuing asset-backed securities. MUI DSN Fatwa Number 120 of 2018 concerning securitisation in the form of asset backed securities based on the principles of shariah in connection with Fatwa of MUI DSN Number 121 of 2018 concerning asset backed securities in the form of sharia participation principles prohibits *murabahah* for securitisation.

3.2. *Musharakah mutanaqisah* Excellence as A Solution

MMQ as a result-based financing is assessed and recognised by many national and international Islamic banking experts, both and has many advantages. Jurists had agreed on the superiority of *syirkah* and MMQ, which they claimed were not only legitimate contracts in an Islamic perspective but also preferred contracts over buying and selling models. The capital to be invested in MMQ does not have to be the same and, if capital is in the form of commodity goods, a market value must be determined by mutual agreement to determine the parties'profit sharing or risk management, if the MMQ financing is a justice-based financing instrument (equity) that is better than the debt-based financing because of its flexibility and the end result in asset ownership of the customer. Norma also considers MMQ as an innovative model in financing and claims it should be the instrument of choice in financing in Islamic microfinance institutions.[25]

[25] Ikin Rojikin, 'Musyarakah Mutanaqishah Contract Concept: Review of Product Refinancing and Take Over', *Jurnal Mediasas: Media Ilmu Syari'ah Dan Ahwal Al-Syakhsiyyah*, 5.2 (2022), 188–200 <https://doi.org/10.58824/mediasas.v5i2.493>.

The advantages of MMQ financing as *musharakah mutanaqishah* is one of the equity-based modes of financing in the Islamic microfinance scheme. The argument that the provision of equity-based financing by Islamic financial institutions will facilitate toward achieving the Islamic socio-economic objectives, which include social justice, economic growth efficiency and stability".[26]

The MMQ has been presented as a replacement initiative for controversial *Bai Bithaman Ajil* (BBA) Home Financing. MMQ is indeed a better option home financing agreement, and is well known by Muslim scholars around the world compared to BBA. On top of that, because it shuns interest, MMQ can be operated in a Shariah-compliant way. MMQ is also a multinational product that can be extended to other kinds of funding that could be managed as a partnership. In addition, some scholars suggest using cash waqf in the MMQ model. Implementing MMQ as a home finance contract, though, isn't an easy task.[27]

MMQ is regarded to be much convenient better compliant to shariah regulation. Most of Malaysian bank still provide home financing through BBA contracts. We urge more Islamic banks will come forward and adopt MMQ home financing to provide benefits to the clients and also to keep it more compliant to the Sharia principles. However, some legal rules related to Islamic banking contract, tax and land ownership needed to be modified to implement MMQ. Besides, the shariah prescribed conditions must be observed in MMQ, otherwise, it would not be other than the shadow of interest-based loans".[28]

The research shows the attractiveness of MMQ due to several factors: "Factors influencing selection of diminishing partnership are identified as "concept of equity financing," "method of computing and pricing of equity based," "Sharia compliance," "justice and equality," "societal wellbeing of society and equitable distribution" and "overall view and preference".[29]

Concerning comparative examination on the practice of MMQ with BBA, Smolo stated that "The paper concludes that MMP, ijarah and ijarah sukuk have several advantages over BBA. Apart from being Sharia compliant, by implementing MMP model, we can avoid interest (riba) totally by using some rental or house index. It is also shown that the balance of financing under MMP, at any point of time will never exceed the original price of the asset, unlike the BBA where it can go beyond its original price. All these modes of financing are in line with the *maqashid sharia* since they are not contributing to the micro economic problems".

This exposure reflects the international recognition of the advantages of MMQ financing. MMQ financing is considered to have many advantages compared to other debt-based financings such as *murabahah*, BBA and lease-based financing. Some of these advantages are as follows: 1) MMQ is considered a more Islamic financing, preferred by jurists and supported by international sharia scientists because the validity is not in doubt, more in accordance with sharia principles; 2) MMQ is also considered to be in harmony with *maqashid sharia* because it is in accordance with the socio-economic goals of Islam and productive economic growth; 3)

[26] Anas Maulan, Burhanudin Harahap, and Sasmini, 'Comparative Analysis of Murabahah Financing Agreement with Musyarakah Mutanaqisah Financing Agreement in Indonesia's Sharia Banking System', *International Journal of Law and Society (IJLS)*, 2.1 (2023), 43–51 <https://doi.org/10.59683/ijls.v2i1.31>.
[27] Alam Asadov and others, 'Musharakah Mutanaqisah Home Financing: Issues in Practice', *Journal of Islamic Accounting and Business Research*, 9.1 (2018), 91–103 <https://doi.org/10.1108/JIABR-08-2015-0036>.
[28] Wiwin Juliyanti and Yohanes K. Wibowo, 'Literature Review: Implementation of Musharakah Mutanaqisah Partnership over the World', *Bukhori: Kajian Ekonomi Dan Keuangan Islam*, 1.1 (2021), 1–10 <https://doi.org/10.35912/bukhori.v1i1.196>.
[29] Kevin Loke Ke Wei and Hassanudin Mohd Thas Thaker, 'A Qualitative Inquiry into Islamic Home Financing: Evidence from Malaysia', *Qualitative Research in Financial Markets*, 9.2 (2017), 147–67 <https://doi.org/10.1108/QRFM-07-2016-0020>.

MMQ is considered as an equitable, equity-based financing because of its concept of profit sharing; however, concerning loss and profit sharing, there is equality because there are no creditors and debtors and there is togetherness in ownership; 4) MMQ is considered an innovative financing because it can be used as an alternative by consumers; so, Islamic banking in particular or Islamic Financial Institutions (LKS) generally have varied and created financing products in accordance with the development of contemporary economics, not only in monotonous forms of financing. 5) MMQ is flexible financing and can be used in various financing products, such as in obtaining working capital, acquisition of business assets in the fields of property, home ownership, automotive, machinery and ownership of buildings, factory buildings or companies on a large scale.[30]

Under the Indonesian context, MMQ also has many advantages that can be used to overcome various weaknesses in *murabahah*: 1) it can be a solution for Islamic banks that find it complicated to implement sharia *murabahah bi al-wakalah*. Banks can provide cash funds to customers based on MMQ so that both banks and customers will not have to rely on *murabahah* bi al-*wakalah* which, in practice, it has many irregularities. Moreover, Rahman et al (2018) argued that the MMQ asset can be various. In general, the asset may be a completed or non-completed asset (under construction). The arrangement for the completed asset in MMQ contract can be preserved with *ijarah* (lease). Meanwhile, the arangement for the under-construction asset may be carried out with *Istisna, Ijarah mawsufa fi zimmah*, and/or sale.

MMQ financing with a flexible nature can also be used for financing in a long tenor. The application of MMQ financing in Indonesia is generally combined with the MMQ object rental agreement, where the tenant is the customer himself. This MMQ along with a rental makes the MMQ agreement flexible because during the MMQ agreement, the bank can change the amount of the rent if the situation and conditions demand such an action. Flexibility in changing the rent (ujrah) can save banks from the risk of large losses when facing a monetary crisis or experiencing other volatile economic turmoil.[31] The ability to change rent in Indonesia is regulated as the MUI DSN Fatwa No. 56 of 2007 concerning *Ujrah* Review which, among others, explains that the ujrah review may be carried out between the parties that carry out the *ijarah* contract (rent) if they fulfil the following criteria: 1) A change in the ijarah contract period: There is a very strong indication that if a review is not carried out, then one party will suffer a severe loss; 2) Agreed by both parties: MMQ has the potential to finance customers 'business in the long run amid conditions of uncertain or volatile cost of funds. Sharia banking in Indonesia has been dominated for decades by *murabahah* financing, both for short- and long-term financing, even though long-term *murabahah* financing are facing the risk of ever-changing price of funds.[32]

The flexibility of MMQ's financing in changing rent also allows it to minimise losses in the face of problem financing, such as those that occur in *murabahah*. Islamic banks in the face of problem financing must take strategic steps to minimise the occurrence of risks, either by rescheduling, converting contracts or selling collateral owned by customers. In rescheduling *murabahah* financing, Islamic banks are prohibited from changing the principal amount and

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[30] Yuli Nurhayati and Asyari Hasan, 'Analysis of the Mutanaqisah Musyarakah Contract as a Solution for Home Ownership Financing in Islamic Banking', *Indonesian Interdisciplinary Journal of Sharia Economics (IIJSE)*, 5.1 (2022), 390–408 <https://doi.org/10.31538/iijse.v5i1.1770>.

[31] Stefano De Nichilo, 'Substantive Analytical Procedures in Sharia Compliance: [illegible] Service in Italian Corporate Governance', *Indonesian Interdisciplinary Journal of Sharia Economics (IIJSE)*, 3.2 (2021), 96–112 <https://doi.org/10.31538/iijse.v3i2.1069>.

[32] Lailatul Azizah, 'The Practice of Fair Transaction on Property Business: A Case on Islamic Property Company', *Airlangga Journal of Innovation Management*, 3.1 (2022), 33–47 <https://doi.org/10.20473/ajim.v3i1.36339>.

margin whereas, in MMQ financing, banks can make changes to the margin or ujrah. Therefore, they can restructure the contract without the need to convert, simply by contract addendum. Likewise, when a bank must sell collateral belonging to a customer, regarding *murabahah* financing, the selling price of *murabahah* may not change, even though the value of the assets pledged by the customer continues to increase in price. This situation often allows customers to delay execution or wait for asset prices to become more expensive. Contrarily, regarding MMQ, the sale of collateral goods at the time of problem financing uses a market price pattern upon execution; if high market prices and guarantees are sold at high prices, then the profit sharing obtained by the bank and the customer is also high. Conversely, if the MMQ assets are to be sold at a low price then, according to the *Musharakah* concept, the loss will be shared jointly between the bank and the customer, thus fulfilling a sense of justice for both parties.[33]

The advantages of MMQ financing related to property advances can also overcome the weaknesses of *murabahah*, which burden customers with a high-down payment. The share of Sharia House Financing (KPRS) in Indonesia using MMQ is only 15% while the KPRS advance with *murabahah* is the same as KR down payment for conventional banks, which is 20%. This policy regarding advances is known as the policy of the Financial Services Authority of the Republic of Indonesia that supports and motivates Islamic banks to use MMQ in financing KPRS. With a low-down payment policy, it is also expected to make KPRS products with MMQ more attractive to customers.[34]

MMQ financing in Indonesia also acts as a solution to various limitations of *murabahah*. Currently, in Indonesia, many innovations in Islamic banking financing products have been prohibited from using *murabahah* contracts because of the fear of it containing usury or gharar, as explained previously. *Murabahah* financing cannot be used for refinancing while MMQ can be used for refinancing, as regulated in MUI DSN No. 89 of 2013 concerning Refinancing, basically confirming that Islamic banks can finance refinancing with the MMQ mechanism or bai wal-isti'jar (sale and lease back) or bai in the framework of MMQ (which is preceded by buying and selling).[35]

Musharakah mutanaqisah is a model of interest-free finance that can also be applied to mortgages. *Musharakah mutanaqisah* may become a significant answer to classical bank mortgage practices. Several countries, such as Turkey and Pakistan, have also carried out this practice. Studies have proven that mortgage financing through the *Musharakah mutanaqisah* contract is practically effective, with benefits such as profitability, periodic revenues, a strong guarantee structure and capital adequacy advantages.[36]

MMQ financing is also more appropriately used as an instrument for conversion (restructuring) *murabahah* financing. When customers experience a decline in their ability to

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[33] Anas Maulan, Burhanudin Harahap, and Sasmini, 'Comparative Analysis of Murabahah Financing Agreement with Musyarakah Mutanaqisah Financing Agreement in Indonesia's Sharia Banking System', *International Journal of Law and Society (IJLS)*, 2.1 (2023), 43–51 <https://doi.org/10.59683/ijls.v2i1.31>.
[34] N. Abdul Jabar, R. Ramli, and S Abidin, 'Understanding the Mushārakah Mutanāqiṣah of Koperasi Pembiayaan Syariah Angkasa (KOPSYA)', *ISRA International Journal of Islamic Finance*, 10.1 (2018), 62–77 <https://doi.org/10.1108/IJIF-07-2017-0016>.
[35] M. I Nurjaman, 'Fund Ownership of Sharia Banking According To', *EkBis: Jurnal Ekonomi Dan Bisnis Universitas Islam Negeri Sunan Kalijaga Yogyakarta*, 3.3 (2021), 113–26 <https://doi.org/10.14421/EkBis.2021.5.2.1377>.
[36] M. R. Ashsiddiqqy, H. Monoarfa, and A Cakhyaneu, 'Implementation of Aqad Musyarakah Mutanaqisah (MMQ) Take Over Financing on KPR Products in Sharia Banks', *Review of Islamic Economics and Finance*, 1.1 (2020), 32–42 <https://doi.org/10.17509/rief.v1i1.2374>.

pay instalments, Islamic banks can make salvation through rescheduling *murabahah* financing. However, they are prohibited from changing the principal amount and margin. Therefore, if rescheduling cannot be carried out and the bank must convert *murabahah* financing, the Islamic bank must terminate the *murabahah* contract and, then, convert it to MMQ financing. MUI DSN Fatwa No. 49 of 2002 concerning *Murabahah* Contract Conversion which confirms that if a customer experiences a decline in ability but still has productive potential, ex-*murabahah* customers can make a new contract but not in the form of *murabahah* and must either choose *Ijarah Muntahiya* agreements *Bittamlik* (IMBT), *mudharabah, Musharakah* or MMQ.[37]

Furthermore, MMQ financing is more ideal for taking over or transferring debt from conventional banks to Islamic banks although, based on MUI DSN Fatwa No. 31 of 2002, it has been temporarily allowed to use *murabahah* in case of an emergency.[38] The fatwa states that taking over from conventional banks to Islamic banks is actually does not allow the use of *murabahah* because of *bai 'al-inah*. However, for the benefit of the purpose of releasing Muslims from the shackles of conventional banking, use of *murabahah* has temporarily been granted. Islamic banks in Indonesia regarding taking over from conventional banks to Islamic banks can actually avoid *bai 'al-inah* because the fatwa of DSN MUI no. 31 of 2002 also allows mechanising the take-over using the MMQ scheme.[39]

MMQ financing also overcomes the limitations of *murabahah* in the case that Islamic banks need to take over among sharia banks. DSN-MUI Fatwa No. 90 of 2013 concerning Transfer of Inter-fellow *Murabahah* Financing Sharia Bank states that the transfer of *murabahah* financing at the customer's initiative may be carried out by using a ujrah bil rahad (transfer of debt from the party owed to the insurer accompanied by compensation or ujrah), using MMQ or IMBT, instead of *murabahah* because using *murabahah* including *bai 'al-inah* in Indonesia is prohibited.

Finally, MMQ financing can be used to conduct securitisation as stipulated in MUI DSN Fatwa No. 120 of 2018 concerning securitisation in the Form of Asset Backed Securities Based on Sharia Jo Principles of MUI DSN Fatwa No. 121 of 2018 concerning Asset Backed Securities in the Form of Sharia Participation Principles. The two fatwas emphasised that securitisation must avoid gharar, usury, servitude, illicit goods, rishwah and immorality. Securitisation can only be achieved on Islamic assets in the form of non-debt/debt (ASBBD).[40] Conversely, securitisation should not be carried out on Islamic assets in the form of dain (ASBD). *Murabahah* financing assets are included in ASBD; so, securitisation is not permitted. On the other hand, DSN Fatwa No. 121 of 2018 states that securitisation of housing finance assets should only be done on sharia assets in the form of non-dain, that is, assets arising from housing finance based on the MMQ or IMBT agreement. According to this fatwa, securitisation should not be carried out on housing finance, which is a sharia /debt (ASBD) asset, such as *murabahah*.

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[37] Zulfikar Zulfikar, Asmuni Asmuni, and Tuti Anggraini, 'Mutanaqishah Musyarakah Contract: A Solution To Infrastructure Investment Syndication Financing', *Jurnal Ekonomi Syariah Indonesia*, 13.2 (2023), 325–39 <https://doi.org/10.21927/jesi.2023.13(2).325-341>.

[38] T. Anggraini, M. Y. Nasution, and A. Soemitra, 'Implementation Strategy of the Mutanaqishah Musyarakah Academic at Home Ownership Financing in Sharia Banks in Indonesia', *Budapest International Research and Critics Institute (BIRCI-Journal): Humanities and Social Sciences*, 4.2 (202AD), 2394–2415 <https://doi.org/10.33258/birci.v4i2.1941>.

[39] Wiwin Koni, Syamsul Bachri, and Haeru Anam, 'Perception of Amanah on Musyarakah Mutanaqisah Financing In Sharia Banking In Gorontalo', *World Bulletin of Management and Law*, 12.1 (2022), 85–98 <https://doi.org/https://www.scholarexpress.net/index.php/wbml/article/view/1167>.

[40] M. H. Dolgun, A. Mirakhor, and A Ng, 'A Proposal Designed for Calibrating the Liquidity Coverage Ratio for Islamic Banks.', *ISRA International Journal of Islamic Finance*, 11.1 (2019), 82–97 <https://doi.org/10.1108/IJIF-03-2018-0033>.

4. Conclusion

Murabahah financing practices in Islamic banking in Indonesia, in addition to having many advantages, also have many weaknesses. Some of these weaknesses include the appropriateness of its application to the provisions of sharia that are still in question, the nature of the agreement is constant and improper usage for long-term agreements. These imply *murabahah* prices have become expensive, and banks have the potential to experience losses when facing economic crises and settling financing. The weakness of *murabahah* is also in the form of high-down payment and its use, which is limited by regulation and cannot be used for refinancing. Conversion of *murabahah* contracts have taken over Islamic banks and are prohibited for securitisation. Therefore, MMQ is a better solution to overcome the weaknesses of *murabahah*. The advantages of MMQ can overcome these weaknesses because of the following factors: first, the MMQ financing model is relatively safer to be operated by Islamic banking because of its suitability with sharia. Second, MMQ's flexibility makes this financing model applicable to long-term agreements, implicating prices to be cheap and can save Islamic banks from losses when completing problem financing. Third, MMQ financing is very appropriate when applied to property financing (KPRS) because the down payment is quite low and affordable compared to *murabahah* advances. Fourth, MMQ financing can be used for refinancing, which has been prohibited from using *murabahah*. Fifth, MMQ financing is right for *murabahah* conversion which, according to sharia, is not justified regarding the use of *murabahah*. Sixth, MMQ financing can be used to take over from conventional banks to Islamic banks or take over between Islamic banks in order to avoid bai'al-inah if using *murabahah*. Seventh, MMQ Financing can be used for asset securitisation needs while *murabahah* assets according to sharia are prohibited for securitisation.

Recommendation: First, the weakness of *murabahah* in implementing *murabahah* bi al-wakalah, which is still aberrant, needs to be immediately corrected in order to maintain the credibility and appropriateness of *murabahah* practices with sharia principles. Second, Islamic banking in Indonesia needs to implement MMQ financing optimally so as to overcome the inherent weaknesses in *murabahah* financing. This will help it develop in Indonesia. Third, MMQ's financing application regulations and techniques need to be socialised to all stakeholders so that the MMQ financing model is well understood and can be easily applied by Islamic banking.

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