

Application of Business Ethics by Shirkah Contract: A Case Study of Indonesian Farmer Tradition

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ABSTRACT

Economists argue that positivism refers to science and economic activities should be value-free. This means that the norm variable is not included as a variable that has an important meaning for both output and production input. This is not the case with Islamic economics, which firmly states that economic activity is bound to value or is not value-free. This research aims to show evidence of shirkah or profit-sharing contracts and to dissect how elements of values and ethics accompany the business activities of Indonesian farming communities. The method used is a qualitative approach with case study techniques. Literature studies are also used to strengthen the validation and triangulation stages. This research shows that Shirkah contracts are found in agricultural activities in various regions in Indonesia, including those known as maro (50:50), mertelu (1:3), etc. Shirkah, as one of the contracts in Sharia finance, is an actual implementation of enforcing norms and ethics. The Shirkah contract manages the risks inherent in all business cycles, both during profits and losses, which is typical in all sectors. Shirkah contracts systematically work and control competition and business risks with an ethical and normative approach. The Shirkah contract also suppresses economic injustice and unequal distribution of resources and business profits. The domino effect of the values of the sharia contract is not only limited to production-sharing agreements between sharecroppers and land owners but also spreads to the spirit values of sale and purchase (Murabaha) and rental (ijarah) agreements and includes broad implications for all aspects life. Farmers and cultivators are actively involved in upholding the values of justice, risk sharing, and togetherness in facing the cycle of profit and loss that automatically occurs as a lifestyle.

Keywords: *musharaka; morals-ethics; risk management; way of life*

A. INTRODUCTION

Business ethics began to be intensively discussed after the world was hit by the global crisis sometime in the past 20 years. The phenomenon of the global crisis revealed the failure of the market, the problem of inequality of income distribution or concentration of wealth in the world minority of the world community, high unemployment and poverty and rising crime, making many economists call for the enforcement of business ethics. Capitalism, which makes the market mechanism a determinant of late, has been widely demonstrated impartiality in universal

ethical values and morals. Similarly, the country that made socialism a determinant, minus the market mechanism and negating the rights of individuals, cannot provide solutions to uphold the universality of morals and ethics in the world economy.

In human civilization, upholding ethics and morality should be the leading indicator to measure the economy's success. Achievement will be good indicators of macro- and micro, then measured quantitatively, which does not explain the actual situation in the contextual facts. Economic success should be accessible to every community with the principles of justice, which can only be achieved by enforcing ethics and morals. With the enforcement of ethics and morals, the economy is a tool of power and greed, a manifestation of a more powerful group, and realizing justice becomes very difficult.

Indonesia is an agricultural country with a true diversity of the support of abundant natural resources. Through policies and legal products, the government needs to manage this potential properly. In the end, the Indonesian agricultural systems must face the market mechanisms outside the cycle of agricultural activities. More agricultural business failures are caused by the economic policies that must align with the production and marketing cycle. Usury instruments have become the most significant obstacle blocking the agricultural sector from growing and developing optimally.

A tradition for the results practised for hundreds of years by tenant farmers and landowners began to fade since the values of Indonesia's capitalist hegemony economic system began to fade. Since then, one by one, the mainstay of agricultural commodities went bankrupt and could not be a host of commodities, especially export commodities. Treated with a unilateral usury system, making the agricultural sector a sector that is highly dependent on the presence of subsidies and sensitive to changes in the economy, it has a low bargaining position. From the description of the background of the above problems, it is necessary to analyze and study the importance of implementing the outcome of the Musharaka contract in building a system of morals and ethics in economic activity. This paper will raise the topic titled "Application of Business Ethics By Shirkah Contract: A Case Study of Indonesian Farmer Tradition."

B. LITERATURE REVIEW AND HYPOTHESIS

1. Business Ethics

Business ethics began to be intensively discussed after the world was hit by the global crisis sometime in the past 20 years. The phenomenon of the global crisis revealed the failure of the market, the problem of inequality of income distribution or concentration of wealth in the world minority of the world community, high unemployment and poverty and rising crime, making many economists call for the enforcement of business ethics. Capitalism, which makes the market mechanism a determinant of late, has been widely demonstrated impartiality in universal ethical values and morals. Similarly, the country that made socialism a determinant, minus the market mechanism and negating the rights of individuals, cannot provide solutions to uphold the universality of morals and ethics in the world economy.

In human civilisation, upholding ethics and morality should be the leading indicator to measure the economy's success. Achievement will be good indicators of macro- and micro, then measured quantitatively, which does not explain the actual situation in the contextual facts. Economic success should be accessible to every community with the principles of justice, which can only be achieved by enforcing ethics and morals. With the enforcement of ethics and morals, the economy is a tool of power and greed, a manifestation of a more powerful group, and realising justice becomes very difficult.

2. Profit Loss Sharing (PLS) on Farmer Tradition in Indonesia

Indonesia is an agricultural country with a true diversity of the support of abundant natural resources. The government needs to manage this potential properly through policies and legal products. In the end, Indonesian agricultural systems must face market mechanisms outside the cycle of agricultural activities. More agricultural business failures are caused by economic policies that must align with the production and marketing cycle. Usury instruments have become the most significant obstacle blocking the agricultural sector from growing and developing optimally.

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From the background of the above problems, it is necessary to analyse and study the importance of implementing the outcome of the Shirkah contract in building a system of morals and ethics in economic activity.

3. The Shirkah

Sharing is the literal definition of shirkah. Being a partner is the root of the word "Shirkah" in Arabic. It is employed in the same meaning as the diction "shirk", meaning partner to God. Based on Islamic jurisprudence, the definition of Shirkah is a joint venture created for business driving that all partners receive the profit according to the ratio of contribution and role. It is an ideal alternative to an interest system.

Shirkah is cooperation established based on a contract by the parties' mutual consent for sharing profits and losses emerging from a joint enterprise or venture. Investments arise from all partners/shareholders, now referred to as partners. Profits shall be distributed in the proportion mutually agreed in the contract. Profits will be distributed in the proportion mutually agreed in the contract. Fixing a lump sum amount for any of the partners or any rate of profit tied up with his capital is prohibited. All partners share losses in proportion to their capital. Share capital in a Shirkah can be contributed either in cash or in the form of commodities. In the latter case, the commodities' market value shall determine the partner's share in the capital.

In the case of a loss, all the Muslim jurists are unanimous on the point that each partner shall suffer the loss precisely according to the investment ratio. Therefore, if a partner has invested 40% of the capital, he must suffer 40% of the loss, not more, not less, and any condition to the contrary shall render the contract invalid. There is a complete consensus of jurists on this principle. Profit is based on the parties' agreement, but loss is always subject to the investment ratio.

Conventional Financing (Usury) VS Shirkah:

1. A fixed yield rate on a loan advanced by the lender is predetermined irrespective of the debtor's profit or loss. Shirkah does not impose a fixed rate of earning. The revenue depends on the actual return received by each business.

2. The lender is free of loss in conventional financing. In Syrah, The lender must impose if the business gets lost; the usury system will produce injustice to the creditor or the debtor. If the business gets lost, only the manager bears the burden. It is because the creditor claims the claims profit rate.

On the other hand, if the debtor earns a very high rate of profit, it is an injustice to the creditor to give him only a tiny proportion of the profit, leaving the rest for the debtor. The revenue of the financier should be tied up with the actual profits accrued through the business. The greater the business's earnings, the higher the rate of profit to the creditor. If the business earns enormous profits, it cannot be secured by the debtor exclusively but will be distributed by familiar people, e.g. Depositors in the bank.

4. The PLS Implementation Framework in Rice Farmhand at East Java, Indonesia

The PLS cases are associated with a farming PLS in Java historical traditions. (Noor & Jumberi, 2006), (Sudrajat Amanto & Ach. YAsin, 2022), (Chuluqy, 2020), (Shidiqie, 2017), (Ria Ayu Novita, Agung Basuki Prasetyo, 2017) findings showed that the cultural transformation mechanism in East Java resulted from Hindu-Buddhist culture with an Islamic cultural component in the XIV-XVI century. It was in the era of the Majapahit Empire and the establishment of the Islamic Empire, namely Mataram and Demak. Majapahit Empire was the most prominent kingdom as the Indonesian Archipelago was changed to the Republic of Indonesia. Furthermore, Islam arrived in Indonesia and then influenced the traditional values within the kingdom and land management, as Majapahit was well recognised as a farming and maritime country. In line with the finding of (Perwataatmadja, 2003), (Butary et al., 2022), (RASYIDIN, 2013) the absorption of Islamic character into the Islamic business formula happens continuously with the Islamization activities in Indonesia, particularly in Java. Islamic principles promote implementing Islamic values in the whole way of life, including farming. (Hefner, 2013), (Nagata et al., 1998) found that the Islamization phenomenon occurs in the local culture absorbed into daily activities. The equality principles in Islamic values affect the economic behaviour of society.

Furthermore, those principles become a locomotive in equality empowerment amid society's economy. The agricultural census data (1993 and 2003) showed that the classification of small farmers with less than 0.50 hectares of land reached 52.5 %. It shows that the ownership of the narrow and unstable agricultural land in the villages is declining due to the rising unemployment rate, as only a few vacant jobs are available. It has driven people to use PLS as a tool to create job opportunities and increase their revenue (Darsono, 2016), (Mubyarto, 1989), (Mubyarto, 2014), (M. Mubyarto, 2001), (N. Mubyarto, 2013).

C. DATA AND METHOD

This study employs a qualitative research method using literature and case studies. The interpretation is worked by classification and coding data to generate conclusions and findings. The collection and discussion of the data are worked simultaneously. Observation is the main instrument. The study employs hermeneutics, that is, the interpretation of social practice with two analytical levels. The first interpretation is to investigate PLS implementation in farming citizen according to their perception, conception, trust, and understanding. The second interpretation is the author's interpretation of the first interpretation by upgrading it to a higher language (metalanguage). The interpretation procedure employs concept or construction employment involving standard scientific inventory (Atkinson, 2007).

The following is the completeness of the research activities:

Time and Place of Research Qualitative research on this case study was conducted in Jakarta, Indonesia, on January – February 2024.

How to Determine Samples

The sampling method was carried out using Purposive Sampling. Purposive sampling means that the sample is not intended to represent the population but rather to represent information. In quantitative research, the sample must represent the population; for example, there is a precise percentage or formula regarding sampling, but in qualitative research, it is not based on that consideration. This means that when qualitative researchers want to research a community or case in an area, the number of informants that can be taken may be limited; the important thing is that the information is considered representative of the information as a whole.

Data analysis

Analysis technique using an interactive analysis model ("Qualitative Data Analysis: An Expanded Sourcebook," 1994), (Engle, 1999), (Schwandt, 1996), (Miles et al., 2014), (Miles & Huberman, 1994). The three analysis components in this model are data reduction, data presentation, and conclusion drawing or verification. The activities are carried out in an interactive form, with the data collection process as a process that is continuous, repetitive, and continuous until it forms a cycle.

Data or Test Validity

To ensure the data's validity, researchers use literature studies techniques and feedback from informants (Milles and Hubberman, 1992: 453). Researchers also used triangulation techniques to validate the data further. Triangulation techniques include source triangulation, method triangulation, and theory triangulation. Source triangulation, namely collecting similar data from several different sources.

D. RESULTS AND DISCUSSION

In English literature, the technical term "tenancy" refers to all forms of land use that do not belong to the tenants. In this context, it included the rent and profit sharing. It is called the "tenant" or "share Cropper". The term "owner crooper" is for farmers working on their land, or so-called "peasants". Specifically in the U.S., the technical term for lease cash tenants and share tenants for the results. In Indonesia, the result is known throughout the region. For results in Aceh, called meudua profit for the two; known appellation in West Sumatra mampaduokan, mampatigoi, and so on; in South Sulawesi, for example, called thesang-tawadua for the two; Bali known nandu, Telon, negmepat-empat, and ngelima-lima, while in Java known maro, mertelu, mrapat, and so on.

Indonesian officers have scrambled to address the agribusiness handicap via conventional finance services. While the credit assistance agenda for farmhands could have been more effective as a result of the finding of (Sudrajat Amanto & Ach. YAsin, 2022). The big problem is not only the banking technical but also the agribusiness financing through conventional banking having many complications. Conventional financing is classified as *riba*, while Islam prohibits interests, and most of the farmers are Muslims. (Saptana & Ashari, 2007), (Ashari & Saptana, 2016), (Saptana, 2005) found that the conventional financing frame becomes a dilemma for farmers. It leads to farmers' debt accumulation and non-performance loans. Furthermore, creating a suitable formula to overcome farming financing is an urgent problem. On the contrary, The Islamic bank offers financing products and services as follows: *murabahah* and *PLS*. The formula of *murabahah* is facilitated by the *bai' salam* instrument. *PLS* is facilitated by the *mudharabah* and *musharakah* framework. On the other hand, the *PLS* formula applied by farmhands and owners is not in line with the facilities given by Indonesian Islamic finance companies. (Syafi'i Antonio, 2001), (RASYIDIN, 2013) said that the *PLS* formula is generally implemented by Islamic banking for at least four products: *mudharabah*, *musharakah*, *muzara'ah*, and *musaqoh*. However, only two products are generally implemented in Indonesia, i.e. *mudharabah* and *musharakah*. *Muzara'ah* and *Musaqoh* have not practised Islamic banking products, though they are directly associated with agribusiness. *Muzara'ah*, especially in line with *PLS* cooperation in rice cultivation. However, they are generally practised between farmers. As the main study, the research aims to conduct a deeper study on *PLS* implementation and understanding its meaning in farming in Kota Malang and Kabupaten Malang, East Java. The results aim to enhance the study of Islamic bank financing and develop Islamic bank financing services appropriate for recent farming financing needs.

The government has paid enough attention to the importance of the results in the middle of the farming community. This can be seen with the issuance of the Law on two sharing, i.e. Law no . 2 1960 for the results in agriculture and the Law. 16, 1964, for the results of the fisheries sector. However, this rule's application could be more vital for various reasons. Revenue-sharing in the community has been since the first split of the gross proceeds (Dutch: *deelbouw*), but in the spirit of land reform, it is a shared desire for the net result (*deelwinning*). The division of the gross proceeds contains social feeling and togetherness, and more just because *penyakap* works with investment and investment in the form of land owners with equally risky. However, the second pattern, *penyakap* risk, becomes more significant than the owner, for gross proceeds to look more fair to the tenant when the means of production are bought very low. However, various patterns are found when the value of the means of production becomes essential enough. In some areas, there are means of production to be carried along. However, in regions where the *penyakap* position is increasingly desperate, the means of production is only borne by the *penyakap*.

Some system characteristics can be presented for the results now living in Indonesia, which has indirectly made outside parties pay less attention to the phenomenon and its potential in agrarian reform. These characteristics are: First, it has become a powerful pendant on all sides that the profit-sharing agreement between a land owner and the *penyakap* is a personal private area, not a public matter. In other words, outsiders, administrators, farmer groups, village government officials, and especially local governments feel they have no authority to intervene in the form of a profit-sharing agreement that lasts.

Second, the relationship relied on patron-client relationships (*patron-client relationships*). The patron-client relationship is a dyadic relationship between the two parties that is very personal and intimate and tends to be unbalanced. An unbalanced flow of services, where the services rendered to the client patron more than vice versa, has been regarded as a destiny. Therefore, the distribution for a more favourable outcome owner has been regarded as commonplace by the *penyakap*. Moreover, if observed, the result is not because the owner did not have time to *mengerjakan* own land, but more because of social attitudes such as demand *penyakap* owners who require arable land.

The Definitions of PLS of Farming

1. The Economics Equality Definition

PLS will generate equality in economics because profit sharing is being implemented to create equality in a business. There is an equal interaction between the landowner and the farmhand. This equity is applied to the sharing of the proportional profit-sharing rules depending on each contribution and role in farming.

2. The Prosperity Definition

In the PLS activities, not only the shareholder and stakeholder receive the benefit, but the surroundings also economically benefit. The more added value is the existence of new business

areas or business opportunities, such as muamalat transactions, the occurrence of ijarah, mukhabarat, Madinah, Rahn, bay' salam, bay' istishna', qardul hasan, and other sites. PLS also creates business establishments such as culinary mushroom agribusiness, Saprodikiosks, etc. The PLS mechanism creates established businesses as the cooperation and collaboration network creates them.

3. The Partnership Definition

PLS generates traditional values, such as the culture of business partnership. PLS promotes a culture of mutual understanding, respect and cooperation. In the practice of PLS, if they do not have money, the farmers can hire others whose jobs can be rewarded by doing the same thing if the associated farmers need someone to cultivate the farmland. In realization of PLS, if they do not have money, the farmhand can recruit others whose jobs can be appraised by making the same point if the associated farmers need someone to cultivate the farmland. Many partnerships in PLS have worthy values for the landowner, sharecropper, majek workers, drab workers and the edges.

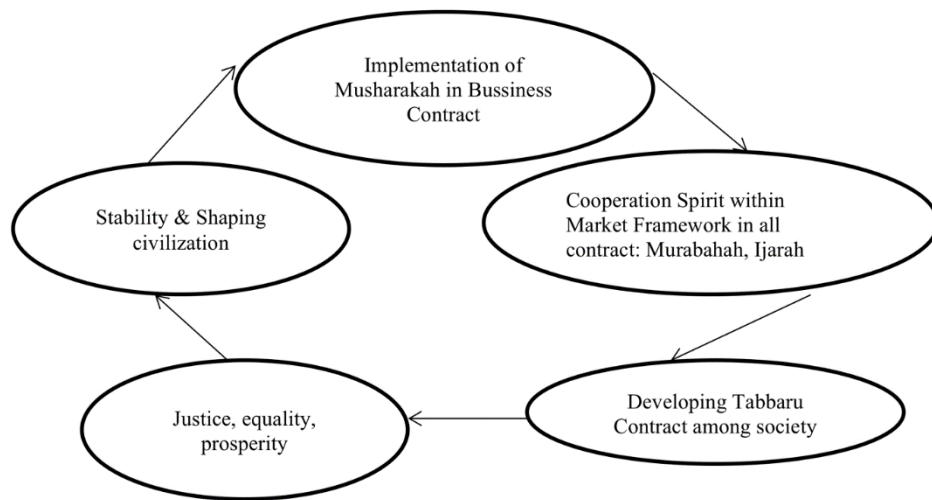
4. The Ta'awun Definition

The PLS realization in agribusiness can increase the spirit of cooperation (ta'awun). The spirit of ta'awun is indicated in many farming management structures. The values of cooperation also generate good social capital for the farming society (Khasanah, 2009).

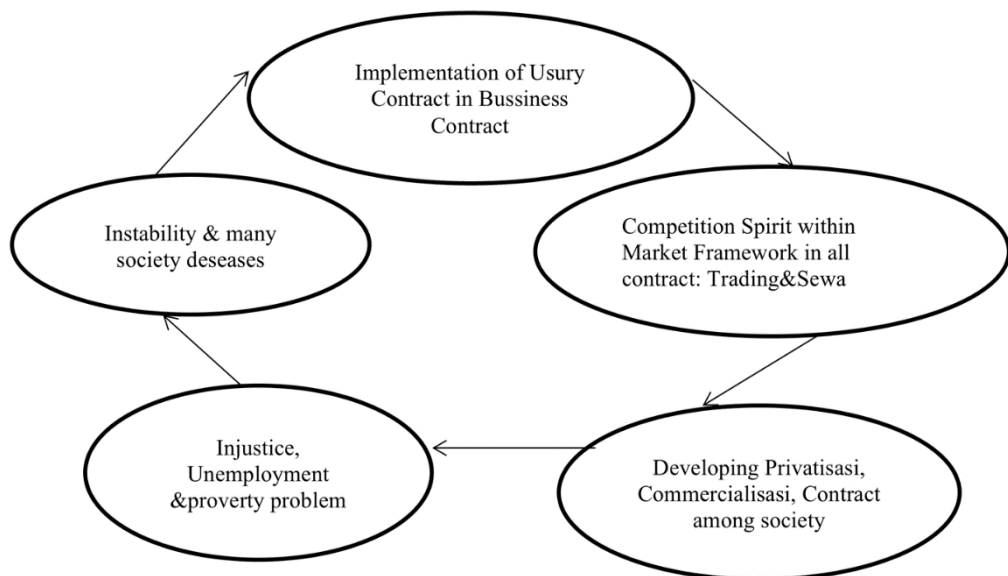
5. Implementation Shirkah Toward Systematization of Business Ethics

Shirkah's concept of explanation and case studies on the application of the results between tenant farmers and landowners found a strong correlation between the application of contract enforcement and Shirkah against business ethics. In the figure 4.1. below, it can be seen that the Shirkah contract mechanism systematically builds business ethics. Shirkah contract will stimulate the overall transactions that occur in the market to promote cooperation within the framework of the market. Spirit of cooperation also runs on the sale and purchase agreement and lease. In the end, will flourish and thrive among the members of helping people or tabbaru contract. The contract tabbaru is an amplifier and a driving element for social justice and economic stability in the community.

Conversely, in Figure 4.2. demonstrated how the usury-based contract has a different groove than a contract-based Shirkah. In the Usury contract, the market competition between strong and weak groups is encouraged to develop indiscriminately. Competition stimulates the emergence of privatization and commercialization in all areas of life. Privatization and commercialization of injustice stimulate social and economic instability, especially in developing countries, where people have a significant gap in education and socio-economic circumstances.



Gambar 4.1. The Flow of Implementation Shirkah



Gambar 4.2. The Flow of Implementation Usury

From the second image above, there is a need for good business contracts in the real sector and banking and finance to develop and carry out various innovations. The Shirkah contracts are transparent. Banking and finance have to make the features of products by the character of the respective business sectors of the economy. Not as long as this is where the real sector should follow the cycle of the anti-risk contract. Usury and anti-cycle losses. Features products and services issued by banking and finance should have a spirit of cooperation within the framework

of the market, not the anti-anti risks and losses. Developing the values of cooperation within the market framework will enrich business ethics. Business ethics running well will stimulate justice and the welfare of the community; otherwise, breaches and disruptions in upholding ethics will damage the interests of the public at large *maslahah*.

6. The Incentive Problem

As indicated by many studies, the use of partnership-based instruments in Islamic finance gets entangled in the incentive problem, implying that such instruments cannot result in the most efficient solution owing to the asymmetry of information between *Rabb al-mal* and *Mudarib*. Generally, asymmetric information leads to 'adverse selection' before a contract is entered into and 'moral hazards' afterwards. It is rightly said that the unpopularity of partnership-based instruments in Islamic finance is due to the theoretical implication of the symmetry of information between the parties involved being relatively more significant than that of parties involved in non-partnership-based instruments. Further, reducing such asymmetry (for example, the monitoring cost) is higher (Khan, 2012). Thus, *rabb al-mal* needs to bear the additional cost of monitoring a *mudarib*'s behaviour in order to induce him to manage capital efficiently (Nagaoka Shinsuke, 2007). Ways to reduce moral hazards are sharing gross profits (not net profits), daily product methods, accounting techniques, cluster systems, and linkage programs.

Based on the results and discussion above, enforcement of business ethics in *shirkah* contracts is more than just normative and verbal. In other words, the *shirkah* contract realizes that apart from being a work contract agreed upon by both parties, the contract also contains ethical values (Zakariya Ansori et al., 2023)

These ethical values are not passive and ceremonial but are actualized in a contract with rights, obligations and their impact on the business ecosystem. This means that realizing the *shirkah* contract has a comprehensive impact on the ethics of the actors and the business ecosystem. As an example of a case study of farmers in Central Java, by implementing the *maro* system (profit sharing with a 50:50 ratio in rice farming), they not only share burdens and income but also foster togetherness and solidarity in farming. Furthermore, the togetherness and solidarity formed in farming will have an influence, both directly and indirectly, on the social order in society in general (Fadhilah, 2022; Salam & Iqbal, 2023)

The content of ethical values in realizing the *shirkah* contract also articulates a set of ethical codes in business without describing them in a special regulation. For example, in a case study of the *maro* system in Central Java, the habit of sharing results in rice farming between land owners and rice field managers not only fosters a collaborative economy but also transmits the character of cooperation and sharing in various aspects of community life. The spirit of cooperation applies to rice farming between capital owners and rice field managers. It extends to everyday social culture, for example, helping each other morally and materially when a neighbour is sick, marrying off children, repairing houses, etc. (Salam & Iqbal, 2023)

Moreover, the *shirkah* contract plays a significant role in the development of the sharing economy model. In this model, collaboration and resource optimization occur, with costs based

on the capabilities of each economic actor. The sharing economy, exemplified by popular applications like Gojek, Uber, Grab, and Airbnb, is a community-owned capital that is now driving the global economy. This model expands business actors' access to all levels of capital or competency classes. The widespread adoption of the shirkah contract is a key pillar in forming and strengthening the sharing economy model from a macro perspective (Dabbous & Tarhini, 2021; Dewi & Sundiman, 2022; Jiang & Li, 2020; Lee et al., 2018; Valente et al., 2019; Zhu et al., 2023; Zuhroh et al., 2024)

From a micro perspective, realizing the shirkah contract will maintain price stability because the capital used is not based on interest rates, where interest rates can trigger inflation. A shirkah contract at the exact cost will result in a lower selling price because there are no capital costs in the form of interest. This condition of price stability and the tendency for lower selling prices will create a favourable business ecosystem. In other words, the profit-sharing values in the shirkah contract form a business ecosystem with healthy competition while minimizing individualistic (Fadhilah, 2022).

Every Muslim entrepreneur needs to discuss syirkah law (cooperation/partnership) in business and its various forms. This will provide material for studying and understanding the Fiqh code of ethics and practical guidelines so that they can be used in business collaborations today. Farmers in Indonesia have demonstrated the business ethics attached to realizing the shirkah contract through benefits to the business world and society in general (Andriyansyah et al., 2023; Maryani, 2018; Nisa, 2016; NURFITRIANI & HASBI, 2022; Putri et al., 2023; Salfianur et al., 2021)

E. CONCLUSION

The application of business ethics must go through the system. A system of ethics is intended in that the variable is not merely incidental or an instrument of external factors depending on their ownership interests unilaterally. Business ethics should be systemized, as a violation of ethics has nothing to do with the chain of collective interests and *maslahah*. Business ethics should melt at an economic system that has a natural signification of justice and the welfare of society at large.

Case studies on sharecroppers' sharecropping system and the owner of the land in many parts of Indonesia prove the existence of the contract Shirkah's role in upholding business ethics and a domino effect on the development of public welfare and fairness. Instead, applying a Usury-based contract during this time indicates a terrible transmission mechanism to the emergence of unfair competition, disruption of economic indicators, privatization, commercialization, and an end to the widespread injustice and instability of socioeconomic circumstances.

The incentive problems in implementing partnership instruments are asymmetry of information and morals, which require higher costs and additional costs to reduce.

RECOMMENDATION

The necessity of the development and innovation of the Shirkah contract. Shirkah's contract must apply to all sectors of the economy with the right features by the character of each business sector. Banking and finance businesses explore the character of each sector of the economy as a basis for manufacturing products and services features. Not vice versa, which is required to follow the actual sector interest cycle anti-anti-cycle risks and losses, leading to injustice and the emergence of many social ills that are moral and ethical degradation phenomena.

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