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Criticism of Margin Actualization in *Murābahah* Financing at Sharia Banking Evidence from Indonesia

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Abstract

This study aims to analyze margin actualization of murābaha contract. It is because, although murābaha is a favorable financing contract at sharia banking, it still has problem due to the related issue. This happens due to lack of trust form such customers, who have a tendency that sharia bank is the same with conventional bank due to the issue of margin actualization. This is a qualitative descriptive reseach with library reseach approach, exploring the issue and relating to the Islamic study to get such deep analysis. The result revealed that relating to the issue it needs such a fatwa or other binding which aligned with sharia principles, and such reconstruction of the contract which appropriate with sharia principle reflected by maqāṣid al-sharia.

Keywords: *murābaha financing; margin; sharia bank*

A. INTRODUCTION

Several issues of *murābaha* financing products are related to sharia and operational compliance. A key barrier in sharia banking system such as *murābaha* financing is the public's reaction to the financing product, considering it same as a credit system in conventional banking. This condition happens due to assumption that *murābaha* financing at sharia banking is copied a credit schemes in conventional banks as general, and only replaces some conventional terms to Islamic terms (Ahmad, 2010; M. Rifqi, 2010). Furthermore, people commonly complain about the relatively high-priced of *murābaha* financing, causing by the level of margin Which does not flat as stated in the contract(*Wawancara Nasabah Bank Syariah yang Menggunakan Akad Murabahah*, 2021). This tends to happen, because sharia bank still refers to the BI rate when determining margin levels. Thus, it is important to more analyze this issue deeply in orderto know why sharia banking determines such ahigh-level of margin in *murābaha* financing.

Sharia compliance is a type of accomplishment in various activities performed as representation of sharia principle both for individual or organization. Sharia banks are one of the growing financial institutions in Indonesia, which are obey and uphold sharia values in order to increase public confidence at sharia banking system through the adaptation of sharia rules to the scope of sharia bank activities (Bonita & Anwar, 2018). One of Sharia compliance is implementing such contracts in accordance with sharia principle, issued by DSN-MUI.

According to a survey, *murābaha* is a very popular product of choice in the operationalization of sharia banks compared to other financing models (Gundogdu, 2014; M. Rifqi, 2010; Prihantono, 2018). Sharia banking statistics reported by the Indonesian Financial Services Authority at the end of December 2019, the percentage portion of financing distribution with *murābaha* agreement at sharia banking is 46.04 percent of the total financing products (OJK, 2020). This assumes that this *murābaha* financing product has its own unique appeal in its customer's believe (Nofinawati, 2016). *Murābaha* financing is widely regarded as the most important instrument used in sharia banking nowadays to support financial activity, particularly in purchasing model (Almsafir & Alsmadi, 2014).

Murābaha financing practices at sharia bank is still being disputed. It is because some parties are still doubtful whether margin regulations can be allied with the interest system at conventional bank and classified as *riba* (Beck et al., 2013; Gundogdu, 2014). Therefore, this condition has an impact on the emergence of the assumption that the term "*sharia*" is only used as a label or tag line of sharia banking sector, particularly sharia banking in Indonesia. Regarding to this, there are numerous conceptual issues encountered in the practice of financing at sharia banks, specifically *murābaha.* The problem that frequently arises as a result of this issue is a fundamental problem, relating to disparity between the practice and theory in relation to the problem. Thus, it is critical to pay attention to the mechanism for margin determination on *murābaha* financing in order to maintain and improve the existence of *murābaha* financing products as one of the superior products offered by sharia banking (Kurniawan & Shomad, 2016).

Using the qur'anic study approach in text and context, this article aims to criticize the practice of *murābaha* financing, particularly margin actualization. Therefore, the authors would like to analyze related the issues in greater depth using qualitative descriptive methods and a library research approach.

B. METHOD

This article is qualitative research based library research approach on literature of Islamic finance and Quranic study. This article will review some literature on Islamic finance regarding to margin actualization in *murābaha* financing contract basen on quranic approach from both theoretical and empirical research. Therefore, this article propose the criticism and such advice relating to the issue based on Islamic study approach.

C. RESULT AND DISCUSSION

1. *Murābaha* in Classical *Fiqh* Literature and The practice at Sharia Bank

Murābaha is derived from the Arabic word *al-ribhu*, which means "profit". Thus, this agreement is frequently associated with purchasing model (Haque, 1987). *Murābaha* is defined in classical *fiqh* studies as a purchasing contract, consisting cost of goods and a certain level of profit at which the selling price is approved by the buyer (Suhaendi, 2010). Sayyid Sabiq explained that *murābaha* is a trusted purchase contract, and also known as *bai' al-amāna* (Sabiq, 1993). Furthermore, several other *fuqaha* such as Burhnuddin al-Marghinni (Al-Marghinâ, 1998), Ibn Rusyd (Rusyd, n.d.), and Hasan al-Mawardi (Mawardi, 1993) interpret *murābaha* as a buying and selling contract that takes into account the cost of acquiring goods, including the price of goods and other costs incurred to obtain the goods, as well as the profit (margin) desired by the seller. In sum, *murābaha* is a purchasing contract with a capital selling price and also margin (Pratiwi et al., 2015).

Murābaha is also classified as *muthlaqa* and *amanah* purchase contracts. *Murābaha* as a *muthlaqa* form when the object of the contract is goods and capital, and it classified as *al-amanah* because the seller must be told honestly about the price of acquisition and profit obtained during the transaction process with the buyer in the agreement (Al-Jaziri, 2004).

Historically, the Qur'an did not direct or specific mention relating to *murābaha*. However, some scholars (*ijmā*) have affirmed on this condition, allowing the contract refers to the verse of al-Qur'an regarding to buy and sell, profit, loss, and trade. Thus, the model of buying and selling with murābaha agreement can be described as a modification of the buying and selling contract that has evolved over time to meet the needs of the community. Here is a Qur'anic verse that is commonly used as a legal foundation for the *murābaha*:

يٰٓاَيُّهَا الَّذِيْنَ اٰمَنُوْا لَا تَأْكُلُوْٓا اَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ اِلَّآ اَنْ تَكُوْنَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ..

"O you who have believed, do not eat your relative's right in a different way unless it is for sake of good business among you" (QS. An-Nisa':29)

...وَاَحَلَّ اللّٰهُ الْبَيْعَ وَحَرَّمَ الرِّبٰواۗ...

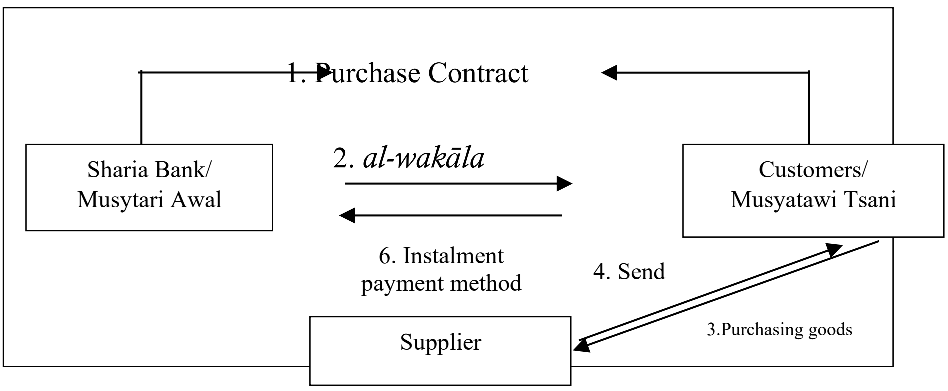
"...and Allah has justified the purchasing contract as well as the prohibition of usury..." (Q.S Al-Baqarah: 275).

According to the explanations, *murābaha* contract is a buying and selling contract, consist of seller's profit-giving agreement which takes the initial capital into account. The main component of *murābaha* in this case is the existence of a profit alliance. The profit is calculated and agreed upon in relation to the seller's capital. The main requirements for *murābaha* genuine are openness and honesty. As a result, *murābaha* contract requires the seller to inform the buyer regarding to the price of the goods as well as the amount of profit added to the cost.

In practice, *murābaha* has no correlation to financing at first because, according to classical *fiqh* discussion this account is a representative form of buying and selling contract.Where the seller offers an item to the buyer, and explaining the cost of acquisition and the profit that has been accrued ata the same time (Sulaiman, 2014). However, *murābaha* emerged as an alternative to *non-ribawi* financing in the form of buying and selling at sharia banking practice. This is happened due to the fact that *murābaha* practice at sharia banking considers as a special type of contact based on customer's desires. Where the customer directly proposed such a financing form to sharia bank in order to finance such items with specific specifications, then purchased to the customer with the profits that have been required to pay. Commonly, after getting an approval, the customer will purchase the item through a *murābahah* contract with an installment payment method (Sulaiman, 2014).

Practically, *murābaha* is usually followed by *al-wakāla* at sharia bank. *Al-wakāla* is a contract which represents a person or institution in holding out an affair with specific limits and authority. In this case, sharia bank usually represents its role to the customers in discovering their own order of goods that they desire (Dahlan, 2012). Therefroe this is a *murābaha* contract scheme following by *al-wakālah*:

Figure 1: *Murābaha* Financing Scheme



Source: Fatwa No. 04/DSN-MUI/IV/2000

Murābaha is the financing of commercial transactions at sharia banking where the delivery of goods occurs at the beginning of the contract (Al-Zuhaily, 2013;

Almsafir & Alsmadi, 2014; Ngasifurdin & Faizah, 2016). The bank derives the customer to provide information on the price of goods to be purchased. Then, set the margin to further determine the installment period for the payment of the goods refers to the contract (Otoritas Jasa Keuangan, 2021). *Murābaha* financing application at sharia banks could be used to purchase consumer goods such as vehicles, houses and other residences, and the completion of other household needs. Furthermore, *murābaha* also determines as a fiancing product to meet the requirements of productive activities such as the purchase of goods for investment and business working capital (Almsafir & Alsmadi, 2014). Furthermore, it is well known that at sharia banking practice, *murābaha* dominates sharia banking products in Indonesia, as evidenced by the Sharia banking statistics report 2021, showing that *murābaha* contract has the highest market share compared to other products.

The structure of *murābaha* through customers as representatives makes sharia banking easier. When the contract is approved, the bank sends representatives to customers to purchase the goods they have ordered. Then, the customers just only pay through the installments methodrefers to agreed-upon time period (Al-Sawi, 1990). This structure is the most secure way for banks to avoid risks (Otoritas Jasa Keuangan, 2021). However, that kind of contract is able to trigger such interest system referrals in the implementation of *murābaha* financing. Therefore, it needs such a tight supervision to keep the contract related trough sharia principle.

2. Standard of *Margin* Determination in *Murābaha* Financing at Bank Syariah

The main reference used in determining margins at sharia banking, particularly in murābaha financing, is based on sharia banking product standards that have been regulated by the Financial Services Authority. Some considerations for determining margin statndard in murābaha financing as follows (Otoritas Jasa Keuangan, 2016):

a. Margin on *murābaha* financing is the expected yield by sharia bank.
b. Margin can be affirmed in either nominal or specific terms of the bank's principal price.
c. Margin calculation refers to the commonly accepted rate of remuneration in financial markets, which takes into account cost expectations, premium risk, and profit levels.
d. After both parties have agreed on and signed the contract, the margins should not increase during the financing period.
e. The Bank may provide a cut of *murābaha* margin as long as it does not become a contractual obligation of the bank.

Furthermore, the determination of margins in financing contract based on the recommendations of the ALCO (Asset Liabilities Committee), taking into account the following factors (Karim, 2009: 253-254):

a. Direct Competitor"s Market Rate (DCMR) the average profit margin level of sharia banking established by ALCO as the nearest direct competitor.
b. Indirect Competitor"s Market Rate (ICMR), the effective interest rate of conventional banking, designated as indirect competitor groups in ALCO meetings.
c. Expected Competitive Return for Investors (ECRI), the bank's expenses, attempting to achieve third-party funds directly.
d. Overhead cost, Bank expenses, attempting to obtain third-party funds.

3. Criticism of Margin Actualization in *Murābahah* Financing at Sharia Banking

Such dilemmas that frequently arises in *murābaha* financing at sharia banks is the assumption that margin in *murābaha* financing is more expensive than interest rate in conventional-credit banks (Furwanti, 2020; Maulidizen, 2018; Pratiwi et al., 2015). The closest statement was expressed by Maulidizen (2018) in his research, revealed that community believe that sharia bank was always entirely compatible with low prices based on the results of interviews with respondents. Thus, if sharia bank offers a relatively high margin in comparison to the interest rate offered by conventional banks, the former considered no more religios than conventional banks. Whereas essentially, Islamic economics not just only related to affordable or not but, there are some other complex considerations relating to this issue. Thus, affordable prices do not guarantee the validity of a product, fulfilling sharia compliance (Muhammad, 2014).

The reason why sharia bank determines such a high-margin level in *murābaha* financing contract atsharia banks is one of the strategies used by sharia banks to avoid such risks of losses caused by changes in interest rates or inflation. Therefore, if the interest rates climb up significantly, sharia banks will be able to mitigate the impact of losses in a prudent manner. However, if the interest rate remains consistent, this is perceived as a positive condition for sharia banks because the interest margin will be higher than conventional banks (Muhammad, 2014). Therefore, based on the condition it is possible that the number of margin is fluctuative, because sharia bank still refers to BI rate in order to determne the margin.

Rlating to the explanation, it is evidence that the fluctuative margin case at sharia bank still discovered in the field. Nevertheless, such issues appear relating to the fluctuattive margin is that sharia bank does not inform to the customer relating to it. This phenomenon supported by the results of a research interview with one of the sharia bank's customers, which revealed a fluctuating margin in the practice of *murābahah* financing, where the general concensus was not in accordance with the contract, where the margin to be reimbursed was flat. Furthermore, sharia bank does not give such advises to the custumer relating to the changing margin adjustment at each payment maturity, causing the customer feels burdened by this situation (*Wawancara Nasabah Bank Syariah yang Menggunakan Akad Murabahah*, 2021). Furwanti's (2020) reported that although the sharia financial institution provides margin negotiation opportunities, it still prioritizes margin determination decisions based on conditional factors such as installment time periods and customer characteristics, thus negotiations play a minor role in determining margin levels (Furwanti, 2020).

The phenomenon of fluctuative margin is quite conversely with the rule of margin determination, which reported that the level of margin in *murābaha* financing contract is flat according to the contract. Furthermore, margin determination in *murābaha* contract obtained based on the agreement between the two parties, according to the classical fiqh study.This condition strengthened by Financial Service Authority law, determining standard of margin that the margin levels should not fluctuate during the financing period after both parties have agreed and signed the contract (Otoritas Jasa Keuangan, 2016). Therefore, this phenomenon is considered as a case which not complying with the appropriate rules. Furthermore, According to *fiqh mu'amala* one of the conditions that must be met in the purchasing contract is *antarāḍin min kum,* and do not burden each other as stated in QS. An-Nisa':29. Therefore, if such contracts is burdening each other, or do not occurs such mutually, it can be indicated to *ribawi* deeds, as mentioned in Q.S Al-Baqarah: 275. The connotation of riba is not always associated with "profits," but it can be regarded as one of the behaviors that considered unpleasant for someone (Muslim, 2021).

As a result, this situation happens due to a lack of clarity regarding the establishment and calculation of sharia-compliant margin percentage norms. Thus, it considers that sharia bank still refers to BI rate in order to compete with conventional bank and attract floating consumers. This is also a question about the inconsistencies of the regulators that supervise financial institutions such as National Sharia Council and the Financial Services Authority, relating to margin standardization regulations, particularly the minimum and maximum standard guidelines for determining the percentage of *murābaha* financing margin. Therefore, sharia bank has their own set of rules and not depend on Bank Indonesia's interest rates.

Furthermore, the concept of a price mechanism proposed by Ibn Khaldun, which emphasizes that the amount of profit relies on the turnover of capital and goods, is one that sharia bank can consider when determining *murābaha* financing margin (Pertaminawati, 2016). When earnings are high, the selling price is high as well, ensuring that demand for these commodities is not excessive, resulting in a low capital turnover rate. But, if the margin is set lower, the selling price isn't too high, and demand rises, resulting in a faster capital turnover and higher profit. Low margin levels within reasonable limits can increase market share on a regular basis (frequently), resulting in high profit margins and blessings (Syahatah, 2001). Therefore, providing margin negotiating choices is a way of applying the principle of fairness, as well as the characteristics of *murābahah* financing products.

Moreover, in order to avoid misunderstandings about sharia contracts used at sharis bank financing, particularly in murābaha financing, the reconstruction of sharia agreements must begin with the simplest, easiest, and most likely to be completed immediately. Given that sharia banking, which supposed to be the essence of Shariah norms, has been contaminated by certain elements that are not complete shariah compliant, and this is not an easy thing. The reconstruction of the contract or agreement in sharia banking must be based on the true purpose of sharia as reflected buy *maqashid sharia*, based on the Qur'an and Sunnah. The principles of contactuality, fairness, social justice, and permisibility must be included in the contract, so that it can not only fulfill the parties' rights and obligations, but also realize benefits for humankin.

D. CONCLUSION

At sharia banks*, murābaha* is a common finance contract. However, although this is a popular contract of financing product, it becomes the most desirable product. This occurs because there are still some operationalization obstacles which considered less in accordance with sharia principles, such as determining a clear margin percentage regarding the calculation and determination of margin percentage standards, which tend to inappropriate with the Financial Service Authority rules. Therefore, a fatwa or other binding regulations must be issued to serve as instructions for sharia banks in establishing margin-setting norms based on specific indicators and aligned with sharia principles. Despite, a reconstruction of *murābaha* funding contract which appropriate with sharia principle reflected by *maqāṣid al-sharia* also required.

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