

Reassessing the Implementation of Murābahah Contracts in Islamic Financial Institutions: Legal, Ethical, and Operational Challenge

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Abstract: Murābahah contracts constitute one of the most widely used financing instruments in Islamic financial institutions and are designed to provide a Sharia-compliant alternative to conventional credit-based transactions. Despite their dominance in Islamic banking practices, growing concerns have emerged regarding their legal compliance, ethical implications, and operational efficiency. This study aims to reassess the implementation of murābahah contracts by critically examining their legal, ethical, and operational challenges and by exploring strategies for reform that align these contracts with the objectives of Islamic law (*Maqāṣid al-Sharī'ah*). The research adopts a qualitative research design employing a mixed qualitative approach that integrates systematic literature review, case studies from Islamic financial institutions across different regions, and semi-structured interviews with Islamic finance experts, practitioners, and regulators. Data were analyzed using thematic analysis and comparative analysis to identify recurring patterns and discrepancies in murābahah implementation across institutional contexts. The findings reveal three major challenges. First, legal challenges arise from inconsistencies in Sharia compliance and regulatory ambiguities, particularly concerning ownership transfer, agency arrangements, and the continued reliance on interest-based benchmarks for determining profit margins. Second, ethical challenges are reflected in the partial realization of *Maqāṣid al-Sharī'ah*, where murābahah financing often prioritizes consumptive lending rather than promoting justice, social welfare, and productive economic development. Third, operational challenges include complex documentation procedures, high transaction costs, and institutional overdependence on murābahah financing, commonly described as the “murābahah syndrome.” The study further identifies the need for comprehensive reforms, including the reformulation of murābahah products, diversification toward partnership-based financing models, strengthening of regulatory frameworks, and the integration of financial technologies to improve transparency and compliance. This study contributes to the literature on Islamic finance by offering a holistic framework for reassessing murābahah practices and by proposing practical strategies to enhance their alignment with Islamic ethical principles and sustainable economic development.

Keywords: Murābahah Contract; Islamic Banking; Maqāṣid Al-Sharī'Ah; Sharia Compliance; Islamic Finance Reform.

Introduction

Murābaḥah contracts are a cornerstone of Islamic financial institutions, particularly in Islamic banking, where they serve as a Sharia-compliant alternative to conventional credit systems. (Syah, 2025a) These contracts, based on cost-plus-profit arrangements, have gained prominence due to their alignment with Islamic principles, such as the prohibition of usury (*ribā*) and the promotion of ethical financial practices. (Nienhaus, 2011) Despite their widespread use, murābaḥah contracts face challenges in implementation, including legal inconsistencies, ethical concerns, and operational inefficiencies, which hinder their ability to fully embody maqāṣid al-sharī'ah (the objectives of Islamic law). (Sriani & Habibah, 2023)

Murābaḥah contracts are rooted in classical Islamic jurisprudence, where they were originally designed as resale agreements with a stated profit margin. In modern Islamic finance, these contracts have undergone significant transformation to accommodate contemporary financial needs, such as credit-based transactions and asset-backed financing. (Saleh & Muayyad, 2024) However, this evolution has sparked debates regarding their compliance with Sharia principles, particularly when practices resemble conventional interest-based systems. (Madbash, 2024a)

Existing studies highlight several issues in murābaḥah implementation:

- **Legal Challenges:** Discrepancies between regulatory frameworks and Sharia compliance, such as ownership transfer and contract enforcement. (Wulandari & Ubaidillah, 2025)
 - **Ethical Concerns:** Practices like "hilah" (legal trickery) and coercion in contract use undermine the ethical foundations of murābaḥah. (Sriani & Habibah, 2023)
 - **Operational Weaknesses:** High down payments, limited refinancing options, and reliance on fixed contracts reduce flexibility and accessibility. (Suzuki & Miah, 2018)
- While murābaḥah remains dominant, alternative contracts like musharakah mutanaqisah and istijrar have been proposed to address these shortcomings. (Maouchi, 2024a)

Despite extensive research, there is limited exploration of how murābaḥah contracts can be reassessed to better align with maqāṣid al-sharī'ah, particularly in addressing legal, ethical, and operational challenges. Current studies often focus on isolated aspects, leaving a gap in holistic evaluations that integrate these dimensions. (Nienhaus, 2011) (Syah, 2025a)

This study aims to reassess the implementation of murābaḥah contracts in Islamic financial institutions by critically analyzing their legal, ethical, and operational challenges. The objective is to propose strategies for reforming murābaḥah practices to better reflect the holistic objectives of Islamic law and enhance their role in promoting justice, welfare, and sustainable finance .

By addressing the identified gaps, this research contributes to:

- **Theoretical Advancement:** Providing a comprehensive framework for evaluating murābaḥah contracts in light of maqāṣid al-sharī'ah .
- **Practical Solutions:** Offering actionable recommendations for improving murābaḥah implementation, including regulatory reforms and ethical safeguards .

- Policy Development: Guiding policymakers and financial institutions in refining murābahah practices to enhance Sharia compliance and operational efficiency .

Literature Review

Murabaha Contracts in Islamic Banking

Murabaha, a resale contract with a predetermined profit margin, is the most widely used financing instrument in Islamic banking.(Moosa, 2023) The modern application of Murabaha was redesigned in the 1970s to provide an alternative to conventional credit-based financing while maintaining compliance with Islamic legal principles.(Guney, 2015) Through this mechanism, Islamic financial institutions purchase an asset and resell it to the customer at a disclosed cost plus profit margin, allowing financing without explicit interest.

Despite its widespread adoption, Murabaha has attracted significant criticism in the literature. Many scholars argue that its current implementation often resembles conventional debt-based financing, which raises debates regarding its true compliance with Shariah principles.(Syah, 2025b) In addition, Murabaha contracts tend to be relatively rigid, as they often require high down payments, operate under fixed contractual structures, and provide limited options for refinancing.(Asyiqin & Alfurqon, 2024a) Another important concern relates to the potential risk of Shariah non-compliance when financial institutions prioritize profitability over ethical and social considerations embedded in Islamic economic principles.(Madbash, 2024b)

To address these limitations, several scholars propose reformulating Murabaha products to better align with **Maqasid al-Shariah**, which emphasize justice, welfare, and fairness in economic transactions.(Syah, 2025b) Furthermore, some studies recommend developing valuation methodologies that are detached from conventional interest-rate benchmarks and instead rely on real economic indicators, thereby reinforcing the distinctiveness of Islamic financial practices(Ahroum et al., 2020a)

Musharakah and Musharakah Mutanaqisah Contracts

Unlike Murabaha, Musharakah and Musharakah Mutanaqisah represent equity-based financing models that emphasize partnership and risk-sharing principles. In these contracts, all parties contribute capital and share profits and losses according to agreed proportions, reflecting the participatory spirit of Islamic finance.(Jaffar et al., 2017)

One notable advantage of Musharakah Mutanaqisah is its structural flexibility. The model allows gradual transfer of ownership, refinancing possibilities, and asset security arrangements, making it particularly suitable for long-term financing such as housing or asset acquisition.(Asyiqin & Alfurqon, 2024a) In addition, equity-based contracts such as Musharakah are often considered more consistent with the objectives of Maqasid al-Shariah than debt-like instruments because they promote fairness, shared responsibility, and equitable wealth distribution.(Dowaishan, 2024)

Nevertheless, the practical implementation of Musharakah financing faces several challenges. These include high monitoring costs, elevated risk levels, and limited public awareness regarding profit-and-loss sharing mechanisms.(Dowaishan, 2024) In Indonesia, empirical studies suggest that some Musharakah financing practices have gradually

shifted toward quasi-Murabaha structures, which reduces their participatory characteristics and undermines the genuine risk-sharing principle. (Suzuki et al., 2019)

Recent technological developments have opened new opportunities to address these challenges. For example, blockchain technology and decentralized finance (DeFi) systems may help reduce information asymmetry, enhance transparency, and strengthen trust among contracting parties in Musharakah arrangements. (Maouchi, 2024b) Additionally, mathematical modeling in diminishing Musharakah structures can provide clearer guidance for equity distribution and improve transparency in profit-sharing calculations..

Structural Issues in Islamic Banking Practices

A recurring theme in the literature is the phenomenon commonly referred to as the **“Murabaha syndrome.”** This concept describes the tendency of Islamic banks to favor debt-like instruments such as Murabaha rather than equity-based financing contracts. The preference is often driven by lower risk exposure, simpler operational procedures, and more predictable returns compared with partnership-based contracts. (Sastrawaty, 2025)

As a result, many scholars emphasize the need for continuous product innovation and modernization within Islamic financial institutions. Such innovation is essential to overcome the structural limitations of existing contracts and to enhance the level of Shariah compliance in financial products. (Noviarita et al., 2025a) Moreover, Islamic banks face unique forms of risk, including credit risk and operational risk, which require specialized risk management strategies that remain consistent with Islamic ethical and legal principles. (Yusoff et al., 2023)

The literature demonstrates that Murabaha contracts continue to dominate Islamic banking practices despite their conceptual and operational limitations. In contrast, equity-based contracts such as Musharakah offer stronger alignment with the normative ideals of Islamic finance, particularly in terms of risk-sharing and distributive justice. However, these contracts still face substantial practical challenges related to monitoring costs, risk management, and institutional preferences.

To bridge the gap between the normative ideals and real-world practices of Islamic finance, innovative solutions are increasingly necessary. Technological advancements such as blockchain systems, along with the development of alternative valuation methodologies, may play a crucial role in enhancing transparency, improving risk-sharing mechanisms, and strengthening Shariah compliance within the Islamic financial system.

Method

This study employs a qualitative research design to reassess the implementation of Murābahah contracts in Islamic financial institutions, particularly focusing on their legal, ethical, and operational challenges. A mixed qualitative approach is utilized by integrating literature review, case studies, and expert interviews, allowing the research to capture both theoretical perspectives and practical experiences. Through this design, the study aims to develop a comprehensive understanding of the complexities associated with Murābahah contracts and their application across different institutional and regulatory contexts.

The study begins with a systematic review of the existing academic literature on Murābahah contracts. This review includes journal articles, conference papers, and institutional reports from reputable academic and policy sources. The objective is to identify the main themes,

challenges, and proposed solutions related to the implementation of Murābaḥah within Islamic financial systems.

To ensure the relevance and reliability of the sources, the literature search was conducted through major academic databases such as Scopus, Google Scholar, and JSTOR, with particular emphasis on publications from the past two decades. This time frame enables the study to capture the evolution of Murābaḥah practices in contemporary Islamic finance.

In addition to the literature review, the research incorporates case studies from selected Islamic financial institutions that actively utilize Murābaḥah contracts. These case studies provide empirical insights into the operational dynamics, legal structures, and regulatory environments surrounding Murābaḥah implementation.

The institutions were selected based on geographical diversity and different levels of market maturity, including institutions from the Middle East, Southeast Asia, and Africa. This selection strategy allows the research to compare variations in institutional practices and regulatory frameworks across different regions within the global Islamic finance industry.

To complement the documentary and case-based evidence, the study also conducted semi-structured interviews with experts in Islamic finance. The interview participants include Islamic finance scholars, industry practitioners, and regulatory authorities with experience in designing, implementing, or supervising Murābaḥah-based financial products.

A purposive sampling technique was used to identify participants with relevant expertise and professional experience in Islamic finance. The interviews were designed to capture qualitative insights into the practical challenges, regulatory concerns, and ethical considerations that arise in the implementation of Murābaḥah contracts.

The qualitative data obtained from the literature review and expert interviews were analyzed using thematic analysis. This method involves systematically coding the data in order to identify recurring themes and patterns related to the challenges associated with Murābaḥah contracts.

The identified themes were subsequently categorized into three principal analytical dimensions: legal compliance, ethical considerations, and operational efficiency. This categorization enables a structured evaluation of Murābaḥah practices from both normative and practical perspectives.

A comparative analysis was also conducted to examine similarities and differences between findings derived from the case studies and those obtained through expert interviews. This approach helps identify areas of alignment and divergence in perspectives regarding the implementation of Murābaḥah contracts.

Through this comparison, the study aims to highlight best practices, structural limitations, and potential areas for improvement in the application of Murābaḥah financing across different institutional and regional contexts.

Based on the empirical findings and thematic patterns identified in the analysis, the study develops a conceptual framework for reassessing Murābaḥah contracts. This framework integrates the legal, ethical, and operational dimensions of Murābaḥah implementation, providing a holistic analytical tool for evaluating and improving the practice of Murābaḥah within Islamic financial institutions.

Results and Discussion

Findings on the Legal, Ethical, and Operational Challenges of Murābahah Contracts in Islamic Financial Institutions

1. Legal Challenges in the Implementation of Murābahah

The findings reveal that the implementation of Murābahah contracts in Islamic financial institutions faces several legal challenges related to the consistency of Sharia compliance and the adequacy of regulatory frameworks. Although Murābahah is designed as a Sharia-compliant financing mechanism, a number of studies indicate that its practical implementation sometimes resembles conventional interest-based credit systems. Such practices weaken the fundamental Islamic prohibition of *riba* (usury) and raise questions about the authenticity of the contract structure in contemporary Islamic banking. (Khalidin et al., 2023)

Furthermore, inconsistencies have been identified between the normative guidelines issued by the **National Sharia Council of the Indonesian Ulema Council** and their practical application within financial institutions. In particular, issues related to the ownership of goods before resale and the improper use of *wakālah* (agency contracts) have been observed. These discrepancies indicate the presence of compliance gaps between regulatory fatwas and actual operational practices. (Ibrahim & Salam, 2021)

Another important legal challenge concerns regulatory ambiguities within existing legal frameworks. The lack of detailed regulatory provisions often results in multiple interpretations of Murābahah contract structures, which may lead to contractual disputes between financial institutions and customers. Consequently, strengthening the regulatory framework and clarifying legal standards are essential to ensure legal certainty and effective dispute resolution in Murābahah transactions. (Hidayah et al., 2023)

2. Ethical Challenges and the Realization of Maqāṣid al-Sharī'ah

Beyond legal compliance, the study also identifies several ethical challenges associated with the implementation of Murābahah contracts. One of the major issues is the **partial realization of Maqāṣid al-Sharī'ah**, the higher objectives of Islamic law. Although Murābahah contracts generally comply with formal procedural requirements of Sharia, their broader alignment with Islamic ethical values—such as justice, social welfare, and mutual assistance—remains incomplete. The absence of strong institutional standardization further limits the ability of these contracts to contribute to the holistic objectives of the Islamic economic system. (Syah, 2025c)

Another ethical concern relates to the presence of **hilah practices**, or legal stratagems, which are sometimes employed to justify financial structures that indirectly replicate interest-based mechanisms. Although these arrangements may appear formally compliant with contractual requirements, they risk undermining the ethical integrity of Islamic finance and eroding public trust in Islamic financial institutions. (Nurjannah & Setiaji, 2021)

3. Operational Challenges in Murābahah Financing

The findings also highlight several operational limitations in the implementation of Murābahah contracts. One major issue is the dependency on conventional interest rate benchmarks when determining profit margins. In many cases, Islamic banks calculate Murābahah margins by referencing prevailing interest rates in conventional financial markets, which contradicts the normative objective of establishing an independent Sharia-based financial system. As a result, some scholars propose alternative valuation methodologies based on real economic parameters rather than interest-based benchmarks. (Ahroum et al., 2020b)

Another operational concern is the tendency of Murābaḥah financing to focus primarily on **consumptive financing** rather than supporting productive sectors. Such a focus limits the broader economic impact of Islamic finance and reduces its potential contribution to sustainable economic development and wealth creation within society. (Nurjannah & Setiaji, 2021)

In addition, Murābaḥah transactions often involve relatively complex administrative procedures. Extensive documentation requirements and procedural steps can increase operational costs for both financial institutions and customers. These administrative burdens may also reduce the efficiency and accessibility of Murābaḥah financing in comparison with alternative financial instruments. (Rahman & Chowdhury, 2024)

4. Recommendations for Improving Murābaḥah Practices

Based on the findings above, several recommendations are proposed to improve the implementation of Murābaḥah contracts in Islamic financial institutions. First, a **reformulation of Murābaḥah products** is necessary to better reflect the principles of Maqāṣid al-Sharī'ah. Such reformulation should emphasize wealth preservation, equitable distribution, risk-sharing mechanisms, and greater support for productive economic sectors. (Noviarita et al., 2025b)

Second, the development and adoption of **alternative financing models** may help address some of the structural limitations of Murābaḥah contracts. Instruments such as *musharakah mutanaqisab* and *istijrar financing* provide more flexible and participatory financing mechanisms that are considered more consistent with the principles of Islamic finance while also potentially reducing transaction costs. (Asyiqin & Alfurqon, 2024b)

Finally, the findings highlight the need for **stronger regulatory frameworks** to ensure the proper implementation of Murābaḥah contracts. More detailed and enforceable regulations can help improve Sharia compliance, reduce legal ambiguities, and provide clearer mechanisms for dispute resolution within Islamic financial systems.

5. Summary of Key Findings

Overall, the results demonstrate that the implementation of Murābaḥah contracts in Islamic financial institutions continues to face interconnected legal, ethical, and operational challenges. Legal issues arise primarily from inconsistencies in Sharia compliance and regulatory ambiguities. Ethical concerns are associated with the partial realization of Maqāṣid al-Sharī'ah and the presence of hilah practices that may compromise the integrity of Islamic finance. Meanwhile, operational limitations include dependence on interest-based benchmarks, the dominance of consumptive financing, and the relatively high administrative costs associated with Murābaḥah transactions.

These findings collectively underscore the importance of comprehensive reforms in Murābaḥah financing structures. Strengthening regulatory frameworks, promoting alternative financing instruments, and aligning Murābaḥah practices more closely with the objectives of Maqāṣid al-Sharī'ah are essential steps toward enhancing the sustainability and credibility of Islamic financial systems..

Reassessing Murābaḥah Practices in Light of Legal Compliance, Ethical Objectives, and Institutional Reform

1. Reassessing Legal Compliance in Murābaḥah Practices

The findings indicate that the implementation of murābaḥah contracts in Islamic financial institutions is characterized by a complex interaction between legal frameworks, institutional practices, and Sharia compliance requirements. Although murābaḥah is formally recognized as a legitimate contract in Islamic jurisprudence, the empirical evidence presented in the results section suggests that its practical implementation often diverges from its normative legal foundations.

One of the central issues concerns the gap between theoretical Sharia guidelines and operational banking practices. In several cases, murābaḥah financing mechanisms rely heavily on interest-based benchmarks when determining profit margins, thereby creating structural similarities with conventional credit systems. This practice raises concerns about the substantive prohibition of *riba*, as Islamic finance was originally intended to provide an alternative to interest-based financial transactions. Consequently, the credibility of Islamic financial institutions may be questioned when murābaḥah functions merely as a modified form of conventional lending rather than a genuinely distinct Islamic financing model.

These challenges highlight the need for stronger and more coherent regulatory frameworks. Regulatory bodies and Sharia supervisory authorities must ensure that murābaḥah contracts are implemented in accordance with both the legal requirements of Islamic jurisprudence and the regulatory standards governing financial institutions. Strengthening oversight mechanisms and clarifying operational guidelines would help reduce interpretative ambiguities and prevent the misuse of contractual structures that may undermine the legitimacy of Islamic finance.

2. Ethical Dimensions and the Realization of Maqāṣid al-Sharī'ah

Beyond legal compliance, the discussion also reveals important ethical considerations related to the broader objectives of Islamic law. While murābaḥah contracts generally fulfill the minimum procedural requirements of Sharia, their contribution to the realization of **Maqāṣid al-Sharī'ah**—including justice, social welfare, and equitable economic distribution—remains limited in many institutional contexts.

A significant concern is the dominance of consumptive financing within murābaḥah-based products. When murābaḥah is primarily used to support consumer credit rather than productive economic activities, the broader socio-economic objectives of Islamic finance are weakened. Islamic economic principles emphasize not only the legality of transactions but also their ability to promote societal welfare, economic justice, and balanced wealth distribution.

Therefore, Islamic financial institutions need to move beyond a narrow interpretation of Sharia compliance that focuses solely on contractual formalities. Instead, greater attention should be given to the ethical spirit underlying Islamic economic principles. Aligning murābaḥah practices with maqāṣid al-sharī'ah requires institutional commitment to promoting financial inclusion, supporting productive sectors, and ensuring that financial products contribute to sustainable socio-economic development.

3. Operational Limitations and Institutional Dependence on Murābaḥah

Operational considerations also play a crucial role in shaping the dominance of murābaḥah in Islamic banking. The results demonstrate that murābaḥah contracts often involve complex administrative procedures, extensive documentation requirements, and

relatively high operational costs. These factors may reduce efficiency and limit accessibility for certain customer groups.

At the institutional level, the heavy reliance on *murābaḥah* financing reflects what many scholars describe as the “**murābaḥah syndrome.**” This phenomenon refers to the tendency of Islamic financial institutions to depend excessively on debt-like instruments because they provide predictable returns and involve lower monitoring costs compared to equity-based financing models. While this strategy may reduce operational risk for banks, it also restricts innovation and limits the development of more participatory financing mechanisms within Islamic finance.

To overcome these limitations, Islamic financial institutions should gradually diversify their financial instruments. Greater adoption of partnership-based contracts such as *mudarabah* and *musharakah* would promote risk-sharing and encourage more equitable participation in economic activities. Diversification would also strengthen the resilience of Islamic financial institutions in responding to changing economic conditions and evolving financial markets.

4. Institutional and Technological Strategies for Reform

Addressing the identified challenges requires a comprehensive reform strategy that integrates legal, ethical, and operational improvements. First, the structural design of *murābaḥah* contracts must be re-evaluated to ensure that they genuinely reflect the objectives of Islamic finance rather than replicating conventional financial practices. One important step is the development of alternative valuation methodologies that detach *murābaḥah* pricing mechanisms from interest-rate benchmarks and instead rely on real economic indicators.

Second, institutional governance mechanisms must be strengthened to enhance transparency, accountability, and ethical oversight within Islamic financial institutions. Effective Sharia supervision and regulatory enforcement are essential to prevent the misuse of contractual structures and to maintain public trust in Islamic financial systems.

Third, technological innovation offers promising opportunities to improve compliance and reduce operational inefficiencies. Emerging financial technologies, including blockchain-based systems, can enhance transparency in transaction records, reduce information asymmetry, and minimize moral hazard risks in *murābaḥah* transactions. By leveraging digital technologies, Islamic financial institutions may improve both the efficiency and credibility of their financial products.

5. Implications for the Future of Islamic Finance

Overall, the reassessment of *murābaḥah* contracts reveals several critical areas that require reform in order to strengthen their alignment with the holistic objectives of Islamic law. Addressing legal ambiguities, reinforcing ethical commitments to *maqāṣid al-sharīʿah*, and overcoming operational limitations are essential steps for improving the credibility and effectiveness of *murābaḥah* financing.

For Islamic financial institutions, the challenge moving forward lies in balancing financial sustainability with adherence to Islamic ethical principles. This balance can only be achieved through continuous innovation, stronger regulatory governance, and a renewed commitment to the foundational values of Islamic economics.

By undertaking these reforms, *murābaḥah* contracts can move beyond their current limitations and function more effectively as instruments that promote justice, social welfare, and sustainable economic development within the broader framework of Islamic finance.

Conclusion

In conclusion, this study has critically examined the murābahah contracts within Islamic financial institutions, revealing significant insights into their legal, ethical, and operational dimensions. The findings underscore the necessity for a comprehensive reassessment of these contracts to ensure they align with the fundamental principles of Islamic finance and the overarching objectives of maqāṣid al-Sharī'ah. The analysis highlights that while murābahah contracts serve as a popular financing mechanism, they often fall short of promoting justice, equity, and social welfare, which are essential tenets of Islamic finance. The reliance on conventional benchmarks and interest-based calculations raises concerns about Shari'ah compliance and the integrity of Islamic financial practices. Therefore, it is imperative for institutions to adopt reforms that enhance transparency, ethical governance, and adherence to Islamic principles. Moreover, the integration of innovative technologies, such as blockchain and digital platforms, presents a promising avenue for addressing the challenges associated with murābahah contracts. By leveraging these technologies, Islamic financial institutions can improve compliance, reduce costs, and foster greater trust among stakeholders. Ultimately, this study calls for a paradigm shift in the approach to murābahah contracts, advocating for diversification of financial products and a commitment to ethical practices that align with the broader goals of Islamic finance. By doing so, Islamic financial institutions can not only enhance their credibility and effectiveness but also contribute meaningfully to sustainable economic development and social welfare. The path forward requires collaboration among scholars, practitioners, and regulators to ensure that Islamic finance fulfills its potential as a force for good in society.

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