

Hybrid Sharia Contracts in Islamic Banking: Legal Validity and Sharia Compliance in Indonesian Religious Court Judgments

*Zeis Zultaqawa^a, Joni Harianto^a, Yaumi Sidik Ginanjar^a,
Mohamad Donie Aulia^b, Wahyudi^b

^a Universitas Islam Bandung, Indonesia

^b Universitas Komputer Indonesia, Indonesia

*Email: zeiszul@gmail.com, joeharry72@gmail.com,
yaumi3d@gmail.com, m.donie.aulia@email.unikom.ac.id,
wahyudi@email.unikom.ac.id

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Abstract

*The rapid growth of Islamic banking in Indonesia has encouraged financial product innovation, particularly through the application of hybrid sharia contracts that combine two or more contracts within a single transaction structure. Although such contracts are normatively recognized in fiqh muamalah and explicitly permitted under fatwas issued by the National Sharia Council of the Indonesian Ulama Council (DSN-MUI), judicial practice reveals inconsistent assessments regarding their legal validity. This study aims to examine the legal validity of hybrid sharia contracts from the perspective of Religious Court decisions and to analyze the juridical implications of sharia non-compliance in hybrid contractual arrangements. Employing a normative juridical method with a descriptive-analytical approach, this research analyzes primary legal materials in the form of Religious Court judgments, alongside secondary legal sources including legislation, scholarly works, and DSN-MUI fatwas, using qualitative legal analysis. The findings indicate that hybrid sharia contracts are legally valid in principle, provided that they fulfill the essential elements and conditions of contracts, avoid prohibited elements such as *riba*, *gharar*, and *maisir*, and are implemented in strict accordance with DSN-MUI fatwas. However, Religious Court decisions demonstrate that ambiguity in the classification and sequencing of contracts, imbalanced risk allocation that departs from profit-and-loss sharing principles, and deviations from DSN-MUI fatwas result in hybrid contracts being deemed defective or invalid both sharia-wise and legally binding. These deficiencies not only undermine the juridical validity of contracts but also pose risks to public trust and confidence in Islamic banking institutions. Accordingly, DSN-MUI fatwas function as a crucial source of substantive law and serve as the primary benchmark for Religious Court judges in assessing the legality and sharia compliance of hybrid sharia contracts.*

Keywords: Hybrid Sharia Contracts; Islamic Banking; Sharia Compliance; Religious Court Decisions; DSN-MUI Fatwas.

Abstrak

Perkembangan perbankan syariah di Indonesia mendorong inovasi produk keuangan melalui penggunaan akad syariah hybrid, yaitu penggabungan dua atau lebih akad

dalam satu rangkaian transaksi. Meskipun secara normatif akad hybrid dibenarkan dalam fiqh muamalah dan difatwakan oleh Dewan Syariah Nasional Majelis Ulama Indonesia (DSN-MUI), praktik peradilan menunjukkan adanya perbedaan penilaian hakim terkait keabsahan akad tersebut. Penelitian ini bertujuan untuk menganalisis keabsahan akad syariah hybrid dalam perspektif putusan Pengadilan Agama serta mengkaji implikasi yuridis dari penerapan akad hybrid yang tidak memenuhi prinsip kepatuhan syariah. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan deskriptif-analitis, dengan sumber data berupa bahan hukum primer berupa putusan Pengadilan Agama serta bahan hukum sekunder yang meliputi peraturan perundang-undangan, fatwa DSN-MUI, dan literatur ilmiah yang relevan. Analisis data dilakukan secara kualitatif. Hasil penelitian menunjukkan bahwa akad syariah hybrid pada prinsipnya sah dan diperbolehkan sepanjang memenuhi rukun dan syarat akad, tidak mengandung unsur riba, gharar, dan maisir, serta dilaksanakan sesuai dengan fatwa DSN-MUI. Namun demikian, putusan Pengadilan Agama menegaskan bahwa ketidakjelasan jenis dan urutan akad, ketidakseimbangan pembagian risiko yang tidak berbasis prinsip profit and loss sharing, serta penyimpangan dari fatwa DSN-MUI menyebabkan akad hybrid dinilai cacat secara syariah dan tidak memiliki kekuatan mengikat secara hukum. Ketidakpatuhan syariah tersebut tidak hanya berdampak pada keabsahan yuridis akad, tetapi juga berpotensi menurunkan tingkat kepercayaan masyarakat terhadap perbankan syariah. Oleh karena itu, fatwa DSN-MUI memiliki peran strategis sebagai sumber hukum materiil dan menjadi tolok ukur utama bagi hakim Pengadilan Agama dalam menilai keabsahan akad syariah hybrid.

Kata Kunci: Akad Syariah Hybrid; Perbankan Syariah; Kepatuhan Syariah; Putusan Pengadilan Agama; Fatwa DSN-MUI.

INTRODUCTION

The development of Islamic banking in Indonesia in the last two decades has shown significant acceleration in terms of assets, market penetration, and financial product innovation. Data from the Financial Services Authority shows that the total national Islamic banking assets continue to experience stable annual growth, with market share increasing in line with the increasing number of customers and the complexity of sharia-based financial services.¹ This growth is not only

¹ Hasniati Hasni and Linda Amala Udzma, "Penerapan Hybrid Contract Dalam Aplikasi BSI Mobile Banking (Analisis Hukum Ekonomi Syariah)," *Jurnal Kajian Islam Interdisipliner* 8, no. 1 (June 26, 2023): 39–62, <https://doi.org/10.14421/jkii.v8i1.1347>; N P Nungki, N H Nana, and Y P Yoyok, "Application of the Concept of Hybrid Contracts Pawning and Gold Investment in Sharia Banking (Case Study of Indonesian Sharia Bank KCP Majalengka Duchy)," *Zona Law And Public ...*, 2024; Mega Silvia, Nana Herdiana Abdurrahman, and Yoyok Prasetyo, "Penerapan Hybrid Contract Dalam Pebiayaan Cicil Emas," *AHKAM* 2, no. 1 (March 1, 2023): 1–21, <https://doi.org/10.58578/ahkam.v2i1.784>; Imam Mabur and Merry Andani, "A Literature Review on Islamic Contracts in Sharia Financing," *Islamijah: Journal of Islamic Social Sciences* 6, no. 2 (2025); Saidatolakma Mohd Yunus et al., "Syariah Issues on Selected Hybrid Products Practiced by Islamic Banks,"

triggered by demographic factors in the form of increasing awareness of the Muslim community towards halal finance, but also by the encouragement of state policies that place the sharia economy as one of the pillars of national economic development. In this context, Islamic banking is no longer positioned as an alternative financial system, but rather as an integral part of the national financial system that is required to be competitive, adaptive, and have strong legal certainty.²

Conceptually, Islamic banking operates based on the principles of Islamic muamalah which emphasizes fairness, transparency, and balance of risks between the parties. This principle is manifested through the use of various sharia contracts such as murābahah, mudhārahah, musyārakah, ijārah, salam, and istishnā', each of which has its own legal characteristics and juridical implications. In modern practice, the dynamics of increasingly complex financing needs encourage the birth of contractual innovations in the form of combining more than one contract in one transaction structure. This phenomenon is known as a hybrid sharia contract (al-'uqūd al-murakkabah), which is designed to answer the needs of efficiency, risk mitigation, and compliance with modern banking regulations.³

International Journal of Academic Research in Progressive Education and Development 12, no. 3 (September 20, 2023), <https://doi.org/10.6007/IJARPED/v12-i3/19387>; Abdul Fattah and Syahrul Anwar, "Integration of Maqāṣid Al-Sharī'ah in the Design of Hybrid Financial Contracts (Uqu'd Murakkabah)," *Jurnal Iman Dan Spiritualitas* 5, no. 4 (December 15, 2025): 719–32, <https://doi.org/10.15575/jis.v5i4.48280>; Rani Mariana and Mohamad Anton Athoillah, "Tracking the Implementation of Hybrid Contract Transactions in Islamic Banking Products in Indonesia," *Al-Afkar, Journal For Islamic Studies* 6, no. 3 (2023).

² Hasni and Udzma, "Penerapan Hybrid Contract Dalam Aplikasi BSI Mobile Banking (Analisis Hukum Ekonomi Syariah)"; Nungki, Nana, and Yoyok, "Application of the Concept of Hybrid Contracts Pawning and Gold Investment in Sharia Banking (Case Study of Indonesian Sharia Bank KCP Majalengka Duchy)"; Silvia, Abdurrahman, and Prasetyo, "Penerapan Hybrid Contract Dalam Pebiayaan Cicil Emas"; Maburur and Andani, "A Literature Review on Islamic Contracts in Sharia Financing"; Mohd Yunus et al., "Shariah Issues on Selected Hybrid Products Practiced by Islamic Banks"; Fattah and Anwar, "Integration of Maqāṣid Al-Sharī'ah in the Design of Hybrid Financial Contracts (Uqu'd Murakkabah)"; Mariana and Athoillah, "Tracking the Implementation of Hybrid Contract Transactions in Islamic Banking Products in Indonesia."

³ Hardius Usman et al., "The Exploration Role of Sharia Compliance in Technology Acceptance Model for E-Banking (Case: Islamic Bank in Indonesia)," *Journal of Islamic Marketing* 13, no. 5 (March 29, 2022): 1089–1110, <https://doi.org/10.1108/JIMA-08-2020-0230>; Wahyuniati Hamid et al., "The Effect of Al-Bai' and Wadiah Contracts on Sharia Compliance and the Sharia Banking System

In Indonesia, the use of hybrid contracts has become a common practice in Islamic banking financing products. Schemes such as *murābahah bil wakālah*, *musyārahah mutanāqīshah* on the financing of home ownership, and *ijārah muntahiyah bittamlīk* on the financing of productive assets are clear examples of the incorporation of contracts that are recognized and fatwa normatively. The fatwas issued by the National Sharia Council-Indonesian Ulema Council serve as a guideline for sharia compliance for the banking industry, as well as a normative reference for regulators and judicial institutions. Theoretically, a hybrid contract is permissible as long as it meets the requirements for clarity of the contract, does not cause *gharar*, does not contain usury, and does not violate the purpose of sharia (*maqāshid al-sharī'ah*).⁴

However, the legitimacy of hybrid contracts is not completely free from debate. In the treasures of classical *fiqh*, there are a number of hadiths of the Prophet Muhammad PBUH that explicitly prohibit the incorporation of certain contracts in one transaction, such as *bai'atani fī bai'atin* and *shafqatani fī shafqatin*. This prohibition is based on

Performance through the Maqashid Index in Sharia Banks in Indonesia,” *Banks and Bank Systems* 14, no. 4 (December 12, 2019): 104–13, [https://doi.org/10.21511/bbs.14\(4\).2019.10](https://doi.org/10.21511/bbs.14(4).2019.10); Ro’fah Setyowati, Bagas Heradhyaksa, and Ismail Suardi Wekke, “Sharia Compliance in the Islamic Banking Perception in Indonesia,” *International Journal of Innovation, Creativity and Change* 5, no. 2 (2019); Muhammad Maksum et al., “Why Do Women Micro-Entrepreneurs Adopt Islamic Digital Financing? Perspectives from UTAUT, Trust and Sharia Compliance,” *Journal of Islamic Marketing* 16, no. 12 (November 25, 2025): 3509–39, <https://doi.org/10.1108/JIMA-03-2023-0087>.

⁴ Muhamad Izazi Nurjaman et al., “Implementation Of Agreements In Multi Level Marketing (Mlm) Business Schemes Based On Sharia Principles,” *Jurnal Ilmiah Ekonomi Islam* 9, no. 3 (November 11, 2023): 3331, <https://doi.org/10.29040/jiei.v9i3.10815>; Lutfianah Putri and Uliyatul Mu’awwanah, “Aplikasi Hybrid Contract Pada Produk MJB: Studi Multiakad Di BMT Nusantara Capem Kencong,” *Al-Kharaj: Jurnal Ekonomi, Keuangan & Bisnis Syariah* 6, no. 7 (July 1, 2024), <https://doi.org/10.47467/alkharaj.v6i7.3196>; Muhammad Sauqi, “ANALISIS FATWA DSN-MUI TERHADAP HYBRID CONTRACT PADA LEMBAGA KEUANGAN SYARIAH,” *Jurnal Hadratul Madaniyah* 10, no. 2 (December 26, 2023): 54–60, <https://doi.org/10.33084/jhm.v10i2.6541>; Fauzan Muhammadiyah, Nor Fahimah Mohd Razif, and Rahimin Affandi Abdul Rahim, “Architecting Hybrid Contract in Al-Rahn: A Comparative Study between Malaysia and Indonesia,” *Indonesian Comparative Law Review* 6, no. 1 (January 22, 2024): 62–76, <https://doi.org/10.18196/iclr.v6i1.20699>; Ade Abdulloh, Nana Herdiana Abdurrahman, and Yoyok Prasetyo, “The Application of Hybrid Contract Concept in Ijarah Muntahiyah Bittamlīk (IMBT) Product,” *Zona Law and Public Administration Indonesia (Zlpai)* 1, no. 4 (2024).

concerns about the unclear rights and obligations of the parties, price manipulation, and the potential for covert usury.⁵ Therefore, contemporary scholars affirm that the feasibility of hybrid contracts is conditional and must be tested substantively, not only in terms of contract formality, but also in terms of the risk structure, allocation of responsibilities, and economic justice that result.

The tension between the need for innovation in Islamic banking products and the prudence of fiqh is even more evident when hybrid contracts are tested in judicial practice. In the Indonesian legal system, Islamic banking disputes are normatively the absolute authority of the Religious Courts, as affirmed in the Religious Courts Law and the Sharia Banking Law. This authority is strengthened by the Constitutional Court's decision that ends the dualism of the Islamic banking dispute settlement forum, thus making the Religious Court the only institution authorized to adjudicate these disputes. Within this framework, judges of the Religious Court not only function as positive legal interpreters, but also as guardians of the principles of sharia compliance in Islamic financial contracts.⁶

⁵ Chinta Khusnia et al., "Hybrid Contract Pada Syariah Card Dalam Perspektif Ekonomi Islam," *Adzkiya : Jurnal Hukum Dan Ekonomi Syariah* 13, no. 1 (June 30, 2025): 56–67, <https://doi.org/10.32332/adzkiya.v13i1.8567>; Ilham Wahyudi, "Manajemen Risiko Terhadap Praktik Akad Hybrid Pada Pembiayaan UMKM Di Indonesia Melalui Digitalisasi Perbankan Syariah," *Moderasi : Journal of Islamic Studies* 5, no. 1 (June 12, 2024): 303–16, <https://doi.org/10.54471/moderasi.v5i1.115>; Cindy Septiana Putri, Nana Herdiana Abdurrahman, and Yoyok Prasetyo, "Application of Hybrid Contract Concept in Giro Product," *Zona Law and Public Administration Indonesia (ZLPAI)* 1, no. 4 (2024); Anita Niffilayani and Le Thi Thao, "Legal Analysis of Islamic Economic Law on Hybrid Contracts in Islamic Financial Institution Products," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 10, no. 2 (April 16, 2024): 232, <https://doi.org/10.29300/mzn.v10i2.3002>.

⁶ Dimas Kenn Syahrir and Erika Amelia, "Implementation of Hybrid Contracts in the Gold Pawn Practice in Sharia Pawnshops," *Iqtisad: Reconstruction of Justice and Welfare for Indonesia* 10, no. 2 (December 23, 2023): 131–48, <https://doi.org/10.31942/iq.v10i2.8333>; Asra Febriani, "HYBRID CONTRACT ACCORDING TO SHARIA ECONOMIC LAW PERSPECTIVE," *PROCEEDINGS: Dirundeng International Conference on Islamic Studies*, May 31, 2022, 317–34, <https://doi.org/10.47498/dicis.v1i1.1024>; Mahmudatus Sa'diyah, Asep Gugun Gumilar, and Edi Susilo, "Sharia Hybrid Contract Compliance of Islamic Microfinance Institutions in Jepara Regency," *EkBis: Jurnal Ekonomi Dan Bisnis* 4, no. 2 (December 28, 2020): 441, <https://doi.org/10.14421/EkBis.2020.4.2.1272>; Eka Wahyuningrum and Ismail Yahya, "Hybrid Contract Analysis On Sharia Safe Deposit Box Service Products," *Jurnal Al-Hakim: Jurnal Ilmiah Mahasiswa, Studi Syariah, Hukum Dan Filantropi* 5, no. 1 (May 30, 2023): 72–83,

Problems begin to arise when there is a difference between the normative design of the fatwa hybrid contract and its empirical implementation in banking contracts. A number of Religious Court rulings show the tendency of judges to declare hybrid sharia contracts invalid or legally defective for various substantive reasons. Among them are the unproven ownership of the financing object by the bank in the murābahah contract, the unclear sequence and separation of contracts in a series of contracts, the unilateral imposition of risks on the customer, and the inclusion of fines and penalties clauses that are considered contrary to sharia principles.⁷ These juridical findings show that sharia compliance does not stop at the legitimacy of fatwas, but is highly determined by contractual implementation and legal proof at trial.

This condition has serious implications for legal certainty and public trust in the Islamic banking industry. On the one hand, Islamic banks operate based on the DSN-MUI fatwa which normatively allows the use of hybrid contracts. On the other hand, a court decision that cancels or negates the validity of the contract creates legal uncertainty for business actors and customers. This inconsistency has the potential to weaken the credibility of Islamic banking as a financial institution that upholds the principles of sharia compliance and legal certainty, as well

<https://doi.org/10.22515/jurnalalhakim.v5i1.7008>; Faruqi Imam M, Abdal Abdal, and Tajul Arifin, “Penerapan Konsep Hybrid Contracts Dalam Pembiayaan Rahn Di Pegadaian Syariah,” *AHKAM* 3, no. 1 (January 1, 2024): 1–12, <https://doi.org/10.58578/ahkam.v3i1.2441>; Pitriani Pitriani et al., “Re-Reading Al-Uqud Al-Murakkabah: Types and Models of Hybrid Contracts Concept in Fatwa DSN-MUI,” *Khazanah Hukum* 6, no. 2 (August 31, 2024): 172–88, <https://doi.org/10.15575/kh.v6i2.34717>.

⁷ Rafiullah Sheikh and Khalid Hussain, “Reimagining Islamic Banking in the Light of Maqasid Shariah,” *Qualitative Research in Financial Markets* 17, no. 5 (December 4, 2025): 1113–34, <https://doi.org/10.1108/QRFM-04-2024-0108>; R. Donny M. Iskandar et al., “Indonesian Islamic Banking Fintech Model Strategy: ANP Method,” *Aptisi Transactions on Technopreneurship (ATT)* 4, no. 2 (July 20, 2022): 142–52, <https://doi.org/10.34306/att.v4i2.257>; Riyad Moosa and Smita Kashiramka, “Objectives of Islamic Banking, Customer Satisfaction and Customer Loyalty: Empirical Evidence from South Africa,” *Journal of Islamic Marketing* 14, no. 9 (August 17, 2023): 2188–2206, <https://doi.org/10.1108/JIMA-01-2022-0007>; Jabbar Sehen Issa, Mohammad Reza Abbaszadeh, and Mahdi Salehi, “The Impact of Islamic Banking Corporate Governance on Green Banking,” *Administrative Sciences* 12, no. 4 (December 12, 2022): 190, <https://doi.org/10.3390/admsci12040190>.

as opening up space for criticism of the effectiveness of sharia supervision in banking practices.⁸

Furthermore, this phenomenon shows the existence of an epistemic gap between normative muamalah fiqh, the fatwa of authoritative institutions, and judicial practice in the Religious Courts. The judge does not always place the DSN-MUI fatwa as an absolute binding legal source, but as one of the references that must be tested for conformity with legal facts and the principle of substantive justice. This raises fundamental questions about the position of fatwa in the hierarchy of material legal sources of religious justice and the extent to which the fatwa affects judges' legal considerations in deciding Islamic banking disputes.⁹

Based on this reality, this study is important to examine in depth the assessment pattern of Religious Court judges on the validity of hybrid sharia contracts in Islamic banking disputes. This research is also directed to examine the juridical implications of the use of double sharia contracts that are considered non-sharia compliant, both on the binding power of the contract and on the principles of legal protection of the parties. In addition, this study seeks to critically analyze the role of DSN-MUI fatwa as a source of material law in the consideration of judges, in

⁸ Muhammad Yusuf et al., "Integrated Reporting, Corporate Governance, and Financial Sustainability in Islamic Banking," *Uncertain Supply Chain Management* 12, no. 1 (2024): 273–90, <https://doi.org/10.5267/j.uscm.2023.9.022>; Tira Nur Fitria, "Islamic Banking Digitalization: Challenges and Opportunities in the Era of Industrial Revolution 4.0," *JIEI: Jurnal Ilmiah Ekonomi Islam* 11, no. 1 (2025); Abdikarim Abdullahi Farah et al., "Impact of Islamic Banking on Economic Growth: A Systematic Review of SCOPUS-Indexed Studies (2009–2024)," *Cogent Economics & Finance* 13, no. 1 (December 31, 2025), <https://doi.org/10.1080/23322039.2025.2490819>; Salman Ahmed Shaikh, "Market Development of Islamic Banking in Pakistan and Its Economic Impact," *Journal of Islamic Accounting and Business Research* 16, no. 1 (January 2, 2025): 53–74, <https://doi.org/10.1108/JIABR-02-2022-0028>.

⁹ Muhammad Rizieq, "Keabsahan Kripto Dalam Perspektif Hukum Ekonomi Syariah: Studi Kasus Fatwa DSN-MUI Terhadap Aset Kripto," *Jurnal Multidisiplin Ilmu Akademik* 2, no. 4 (2025); Sanuri et al., "Epistemological Transformation of 'Urf in the DSN-MUI Fatwa on E-Commerce: A Maqāsid Al-Sharī'ah Based Analysis," *Al-Manahij: Jurnal Kajian Hukum Islam* 19, no. 2 (July 10, 2025): 167–90, <https://doi.org/10.24090/mnh.v19i2.13145>; Andi Asti Yuninsi, Rahma Aulia, and Ilham Ilham, "Fatwa-Fatwa Dewan Syariah Nasional Majelis Ulama Indonesia (Dsn-Mui) Dan Aspek Hukum Islam," *Journal of Islamic Banking and Finance Studies* 1, no. 1 (2025); Tri Hidayati and Muhammad Syarif Hidayatullah, "Urgensi Fatwa DSN-MUI Mengenai Manajemen Risiko Pembiayaan Berbasis Syariah," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (December 1, 2021): 201–20, <https://doi.org/10.24090/mnh.v15i2.4641>.

order to bridge the gap between sharia norms, contractual practices, and judicial decisions. Thus, this research is expected to make a theoretical and practical contribution to the development of Islamic banking law that is more consistent, fair, and oriented towards legal certainty.

RESEARCH METHODS

This research is a legal research with normative juridical methods and descriptive-analytical specifications, which aims to examine legal norms and sharia principles related to the use of hybrid sharia contracts in Islamic banking practices. The approaches used include a legislative approach to examine Islamic banking regulations, a conceptual approach to analyze the doctrine of fiqh muamalah and sharia compliance theory, and a case approach to review decisions in Islamic banking disputes decided by Religious Courts.

Primary legal material research data sources include laws and regulations in the field of Islamic banking, court decisions related to sharia banking contract disputes, and fatwas issued by the National Sharia Council-Indonesian Ulema Council as normative guidelines for sharia compliance. The secondary legal materials include sharia economic law textbooks, reputable scientific journals, the results of previous research, and classical and contemporary muamalah fiqh literature that are relevant to the research focus.

Data collection is carried out through literature studies by searching, inventorying, and systematically reviewing all relevant legal materials. The data obtained were then analyzed using normative-qualitative analysis through interpretation and evaluation of the suitability between positive legal norms, sharia fatwas, and judges' considerations in court decisions. The results of the analysis are used to draw deductive conclusions to explain the juridical implications of the use of hybrid sharia contracts in sharia banking dispute resolution.

RESULTS AND DISCUSSION

Hybrid Contracts in the Perspective of Fiqh Muamalah and Positive Law

Akad is the main foundation in every Islamic financial transaction, because from this contract is born the legal relationship, rights and obligations of the parties, as well as the assessment of the suitability of a product with sharia principles. In fiqh muamalah, the validity of the contract is not only determined by the existence of an agreement (consensus ad idem), but also by the fulfillment of the pillars and conditions of the contract which include the subject of the law that is capable, the object of the contract that is halal, clear, and transferable,

sighat ijab and kabul which shows the free will of the parties, and the purpose of the contract that does not contradict maqāṣid al-syarī'ah. These principles are the normative foundation that is universal and remains relevant in the context of modern financial transactions, including in contemporary Islamic banking practices.¹⁰

The development of the increasingly complex Islamic finance industry requires product innovation that is able to answer the needs of the community without sacrificing compliance with sharia principles. One form of innovation is the use of hybrid contracts (multi-contracts), which is the merger of two or more contracts in a series of transactions that are economically and legally treated as a unit. In Islamic banking practice, hybrid contracts are widely used in home ownership financing products, multipurpose financing, sharia financing cards, to murābahah-based working capital financing accompanied by wakālah or kafālah. This phenomenon shows that hybrid contracts are not just a theoretical construction, but a practical necessity in the modern Islamic financial system.¹¹

From the perspective of muamalah fiqh, the ability of hybrid contracts departs from the fundamental rule of al-aṣl fī al-mu'āmalāt al-ibāḥah, which emphasizes that basically all forms of muamalah can be done as long as there is no evidence that expressly prohibits it. The majority of contemporary scholars allow the incorporation of contracts on the condition that each of the combined contracts is a valid contract according to sharia, does not affirm each other, and does not become a

¹⁰ Muhammad Nabhani and Bustanul Arifin, "Rekonstruksi Konsep Keadilan Relasional Dalam Filsafat Hukum Dan Implikasinya Terhadap Akad-Akad Muamalah Kontemporer," *CENDEKIA: Jurnal Studi Keislaman* 11, no. 1 (June 25, 2025): 96–120, <https://doi.org/10.37348/cendekia.v11i1.704>; Erry Fitrya Primadhany, "ANALISIS KONSEP SHAFQATAINI FI SHAFQATIN PADA HYBRID CONTRACT AKAD IJARAH MUNTAKHIFAH BIT TAMLIK (IMBT)," *Journal Evidence Of Law* 2, no. 2 (May 29, 2023): 47–62, <https://doi.org/10.59066/jel.v2i2.277>; Febriani, "HYBRID CONTRACT ACCORDING TO SHARIA ECONOMIC LAW PERSPECTIVE."

¹¹ Silvia, Abdurrahman, and Prasetyo, "Penerapan Hybrid Contract Dalam Penerimaan Cicil Emas"; Fattah and Anwar, "Integration of Maqāṣid Al-Sharī'ah in the Design of Hybrid Financial Contracts (Uqu'd Murakkabah)"; Aditya Ramadhaniar El Islamy, Nana Herdiana Abdurrahman, and Yoyok Prasetyo, "Penerimaan Sindikasi Bank Syariah Perspektif Hukum Ekonomi Syariah," *Jurnal Riset Sosial Humaniora Dan Pendidikan* 2, no. 1 (March 27, 2023): 54–60, <https://doi.org/10.56444/soshumdik.v2i1.526>; Rani Mariana and Mohamad Anton Athoillah, "Melacak Implementasi Transaksi Hybrid Contract Pada Produk Perbankan Syariah Di Indonesia," *AL-AFKAR: Journal for Islamic Studies* 6, no. 3 (2023).

means to legalize prohibited elements such as *riba*, excessive *gharar*, or *maisir*. The prohibition of the hadith on "two contracts in one transaction" is not understood absolutely, but is interpreted as a prohibition against combining contracts that cause price uncertainty, exploitation of one party, or covert usury engineering.¹²

This approach is in line with the opinion of modern *muamalah* fiqh scholars who emphasize the aspect of substance (*jawhar al-'aqd*) rather than mere formality. Hybrid contracts are considered valid as long as the contract structure is structured in a transparent, sequential manner, and can be separated conceptually and legally. For example, in the financing of *murābahah* with *wakālah*, the *wakālah* contract serves as an instrument of delegation of power to purchase goods, whereas the *murābahah* contract only takes effect after the object of the contract belongs to the bank. With the separation of functions and the validity time of the contract, the potential for *gharar* and conflicts of interest can be minimized.¹³

In the Indonesian context, the ability of hybrid contracts to gain strong legitimacy through a fatwa issued by the National Sharia Council of the Indonesian Ulema Council. A number of DSN-MUI fatwas explicitly and implicitly acknowledge the use of multi-contract in Islamic banking products, with an emphasis on clarity of its structure, purpose, and implementation mechanism. The fatwas emphasized that hybrid contracts are conditional, not absolute, so that each product must

¹² Supriyadi Supriyadi and Nina Kurniawati, "Hybrid Contracts in Islamic Banking: A Shariah and Fiqh Muamalat Perspective," *Masyrif: Jurnal Ekonomi, Bisnis Dan Manajemen* 6, no. 2 (December 31, 2025): 347, <https://doi.org/10.28944/masyrif.v6i2.2474>; Khusnia et al., "Hybrid Contract Pada Syariah Card Dalam Perspektif Ekonomi Islam"; Jerry Anggara Saputra and Ice Trisnawati, "INTEGRATING SHARIA CONTRACTS INTO DIGITAL TRANSACTIONS: AN ANALYSIS OF DSN-MUI FATWAS 2021 IN E-COMMERCE PRACTICES," *Jurnal Hukum Ekonomi Syariah* 10, no. 1 (2025); Febriani, "HYBRID CONTRACT ACCORDING TO SHARIA ECONOMIC LAW PERSPECTIVE"; Niffilayani and Thao, "Legal Analysis of Islamic Economic Law on Hybrid Contracts in Islamic Financial Institution Products."

¹³ Supriyadi and Kurniawati, "Hybrid Contracts in Islamic Banking: A Shariah and Fiqh Muamalat Perspective"; Khusnia et al., "Hybrid Contract Pada Syariah Card Dalam Perspektif Ekonomi Islam"; Anggara Saputra and Trisnawati, "INTEGRATING SHARIA CONTRACTS INTO DIGITAL TRANSACTIONS: AN ANALYSIS OF DSN-MUI FATWAS 2021 IN E-COMMERCE PRACTICES"; Febriani, "HYBRID CONTRACT ACCORDING TO SHARIA ECONOMIC LAW PERSPECTIVE"; Niffilayani and Thao, "Legal Analysis of Islamic Economic Law on Hybrid Contracts in Islamic Financial Institution Products."

be assessed casuistically based on potential violations of sharia principles that may arise.¹⁴

The strengthening of the argument for the ability of hybrid contracts can also be seen from empirical data on the development of the national Islamic banking industry. Based on the Sharia Banking Statistics report published by the Financial Services Authority, Indonesia's Islamic banking assets in recent years have shown a consistent growth trend and have broken through more than two thousand trillion rupiah, with a market share of around seven to eight percent of the total national banking industry. Most of the financing products that support this growth use a hybrid contract structure, especially in the consumptive financing and asset ownership financing segments.¹⁵ This fact shows that hybrid contracts are not only accepted normatively, but also empirically proven to be an important instrument in increasing the competitiveness of Islamic banking.

From a positive legal point of view, the use of hybrid contracts also has a relatively strong juridical basis. Law Number 21 of 2008

¹⁴ Tri Hidayati et al., "Digitalization of Islamic Finance: Epistemological Study of the National Sharia Board-Indonesian Council of Ulama's Fatwa," *Al-Ahkam* 33, no. 2 (October 31, 2023): 255–78, <https://doi.org/10.21580/ahkam.2023.33.2.17324>; Yasardin Yasardin and Syuhood B. Kooria, "Revisiting the Compilation of Islamic Economic Law in Indonesia: Legal Challenges and Pathways to Harmonization," *JURIS (Jurnal Ilmiah Syariah)* 24, no. 1 (June 27, 2025): 127, <https://doi.org/10.31958/juris.v24i1.13736>; Eva Sumanti et al., "Integrating Hybrid Sharia Contracts in Letter of Credit (L/C) Transactions for Export and Import in Islamic Banking in Indonesia," *Al-'Adalah* 21, no. 2 (December 26, 2024): 449, <https://doi.org/10.24042/adalah.v21i2.23301>; N K Hidayati, R Setyowati, and M Mulyani, "Hybrid Contract in Sharia Insurance Practices in Indonesia," *Jurnal Ilmiah Ekonomi Islam* 7, no. 03 (2021); Hasni and Udzma, "Penerapan Hybrid Contract Dalam Aplikasi BSI Mobile Banking (Analisis Hukum Ekonomi Syariah)"; Mohammad Ghozali et al., "The Law Concept of Sharia Banking Compliance on Murabaha Financing in Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (August 24, 2024): 1391, <https://doi.org/10.22373/sjhk.v8i3.11313>.

¹⁵ Niffilayani and Thao, "Legal Analysis of Islamic Economic Law on Hybrid Contracts in Islamic Financial Institution Products"; Putri, Abdurrahman, and Prasetyo, "Application of Hybrid Contract Concept in Giro Product"; Wanti Annurria, Dahlifah Dahlifah, and Rimi Gusliana Mais, "Ethnomethodological Insights into Hybrid Contract Practices in Islamic Accounting," *Economica: Jurnal Ekonomi Islam* 13, no. 2 (December 31, 2022), <https://doi.org/10.21580/economica.2022.13.2.14142>; Primadhany, "ANALISIS KONSEP SHAFQATAINI FI SHAFQATIN PADA HYBRID CONTRACT AKAD IJARAH MUNTAHIYA BIT TAMLIK (IMBT)"; Pitriani et al., "Re-Reading Al-Uqud Al-Murakkabah: Types and Models of Hybrid Contracts Concept in Fatwa DSN-MUI."

concerning Sharia Banking does not limit the form of contract rigidly, but provides space for product development as long as it is in accordance with sharia principles and DSN-MUI fatwa. This approach reflects a legal model that is responsive to the dynamics of economic practice, where law does not act as an inhibitor of innovation, but as a controlling instrument to keep the innovation within the agreed value corridor.¹⁶

However, the positive legal acceptance of hybrid contracts does not eliminate the need for prudence in their implementation. The complexity of the multi-contract structure has the potential to cause legal problems, especially related to consumer protection, contract transparency, and proof in the event of a dispute. In some cases, customers do not fully understand the different functions of each combined contract, so there is a risk of causing information asymmetry. Therefore, strengthening the disclosure and customer education aspect is an important prerequisite so that hybrid contracts are not only legally valid, but also fair substantively.¹⁷

Thus, the hybrid contract in the perspective of fiqh muamalah and positive law in Indonesia can be understood as a form of adaptation of Islamic law to modern economic reality. Its ability is based on the basic principle of flexible muamalah is strengthened, strengthened by the

¹⁶ Irma Amanda, Sri Aulia, and Fakhriyyah Zulfa Hany, "Pelunasan Utang Pembiayaan Murabahah Sebelum Jatuh Tempo," *Ondonesia Journal of Islamic Jurisprudence, Economic and Legal Theory*, no. 19 (2025); Sakum Sakum, "IMPLEMENTASI AKAD MURABAHAH PADA PRODUK PEMBIAYAAN MURABAHAH DI KOPERASI SIMPAN PINJAM DAN PEMBIAYAAN SYARIAH BAITUL MAAL WAT TAMWIL FAJAR CABANG BEKASI," *Jurnal Ekonomi Syariah Pelita Bangsa* 6, no. 01 (April 10, 2021): 20–29, <https://doi.org/10.37366/jespb.v6i01.173>; Derani Hotimah, Dandan Irawan, and Nanang Sobarna, "Implementasi Akad Pembiayaan Murabahah Pada Koperasi Pojok Syariah," *Eco-Iqtishodi: Jurnal Ilmiah Ekonomi Dan Keuangan Syariah* 4, no. 1 (February 2, 2023): 1–10, <https://doi.org/10.32670/ecoiqtishodi.v4i1.2956>; Hidayati et al., "Digitalization of Islamic Finance: Epistemological Study of the National Sharia Board-Indonesian Council of Ulama's Fatwa."

¹⁷ Ramadhaniar El Islamy, Nana Herdiana Abdurrahman, and Yoyok Prasetyo, "Pembiayaan Sindikasi Bank Syariah Perspektif Hukum Ekonomi Syariah"; Sakirah Sakirah et al., "Tinjauan Ekonomi Islam Pada Implementasi Gadai Emas Di Pegadaian Syariah," *Journal of Islamic Economics and Finance* 3, no. 1 (January 2, 2025): 51–63, <https://doi.org/10.59841/jureksi.v3i1.2189>; Nabhani and Arifin, "Rekonstruksi Konsep Keadilan Relasional Dalam Filsafat Hukum Dan Implikasinya Terhadap Akad-Akad Muamalah Kontemporer"; Eka Rahayuningsih, "Manajemen Risiko Pembiayaan KPA Trans Icon Di Bank Mega Syariah Dalam Perspektif Maqashid Al Shariah," *Jurnal Ilmiah Ekonomi Islam* 9, no. 3 (November 20, 2023): 3812, <https://doi.org/10.29040/jiei.v9i3.10875>.

legitimacy of fatwas and national regulatory frameworks, and supported by empirical data on the development of the Islamic banking industry.¹⁸ However, these abilities remain limited and conditional, requiring caution in designing the contract structure so as not to deviate from the main purpose of sharia, which is to realize justice, benefits, and protection for all parties involved in the transaction.

Hybrid Contract in Religious Court Decisions

The practice of using hybrid contracts (*al-'uqūd al-murakkabah*) in Islamic financial transactions has become an inseparable phenomenon from the development of the banking industry and Islamic financial institutions in Indonesia. Hybrid contracts are generally used to answer the needs of complex modern transactions, especially consumptive and productive financing, such as home, vehicle, and business capital financing.¹⁹ However, findings in a number of decisions of the Religious Court show that the implementation of hybrid contracts still leaves serious problems, especially related to compliance with sharia principles and conformity with the fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI).

An analysis of the decisions of the Religious Court shows the tendency of judges to assess hybrid contracts substantively, rather than merely formalistic. The judge not only assesses the existence of the clause of the contract textually in the contract, but also tests the conformity of the implementation of the contract with the basic principles of Islamic muama, such as clarity of object (*ma'qūd 'alaih*), lawful ownership (*al-milk al-tām*), fair risk sharing, and the prohibition of *riba* and *gharar*. This approach reflects a paradigm shift in religious

¹⁸ Muhammadiyah, Mohd Razif, and Rahim, "Architecting Hybrid Contract in Al-Rahn: A Comparative Study between Malaysia and Indonesia"; Abduloh, Abdurrahman, and Prasetyo, "The Application of Hybrid Contract Concept in Ijarah Muntahiyah Bittamlik (IMBT) Product"; Khusnia et al., "Hybrid Contract Pada Syariah Card Dalam Perspektif Ekonomi Islam"; Wahyudi, "Manajemen Risiko Terhadap Praktik Akad Hybrid Pada Pembiayaan UMKM Di Indonesia Melalui Digitalisasi Perbankan Syariah."

¹⁹ Asriadi Arifin, "Fatwa DSN-MUI No. 04/DSN-MUI/IV/2000 Tentang Murabahah," *BALANCA : Jurnal Ekonomi Dan Bisnis Islam* 5, no. 1 (2023); Isfi Rizka Pitsyahara and Akhmad Yusup, "Analisis Fatwa DSN-MUI No.04/DSN-MUI/IV/2000 Tentang Pembiayaan Murabahah Terhadap Pembiayaan Modal Usaha Di PNM Mekaar Syariah Cabang Cihampelas Kab. Bandung Barat," *Jurnal Riset Ekonomi Syariah*, July 18, 2023, 57–62, <https://doi.org/10.29313/jres.v3i1.1750>; Asriadi Arifin, "Fatwa DSN-MUI No. 04/DSN-MUI/IV/2000 Tentang Murabahah: Refleksi Kritis Terhadap Implementasi BSI Dimensi Ekonomi Islam," *BALANCA : Jurnal Ekonomi Dan Bisnis Islam* 5, no. 1 (June 22, 2023): 1–11, <https://doi.org/10.35905/balanca.v6i1.5079>.

justice that no longer focuses solely on freedom of contract, but rather on substantive justice and sharia compliance as the main foundation.²⁰

One of the important decisions that is often used as a reference is the Decision of the Palu Religious Court Number 510/Pdt.G/2020/PA. Pal. In this case, the judge stated that the murābahah bil wakālah contract used by the Islamic bank was legally flawed because the bank could not prove that it had actually owned the object of the goods before the sale and purchase contract was carried out with the customer. The facts of the trial show that the bank only acts as a provider of funds, while the entire process of purchasing goods is carried out by the customer without any real or legal control by the bank. This condition is contrary to the principle of murābahah as stipulated in DSN-MUI Fatwa Number 04/DSN-MUI/IV/2000, which expressly requires the ownership of goods by the seller before the sale and purchase contract is carried out.²¹

²⁰ Arifin, “Fatwa DSN-MUI No. 04/DSN-MUI/IV/2000 Tentang Murabahah”; Pitsyahara and Yusup, “Analisis Fatwa DSN-MUI No.04/DSN-MUI/IV/2000 Tentang Pembiayaan Murabahah Terhadap Pembiayaan Modal Usaha Di PNM Mekaar Syariah Cabang Cihampelas Kab. Bandung Barat”; Arifin, “Fatwa DSN-MUI No. 04/DSN-MUI/IV/2000 Tentang Murabahah: Refleksi Kritis Terhadap Implementasi BSI Dimensi Ekonomi Islam”; Khusnia et al., “Hybrid Contract Pada Syariah Card Dalam Perspektif Ekonomi Islam”; Abduloh, Abdurrahman, and Prasetyo, “The Application of Hybrid Contract Concept in Ijarah Muntahiyah Bittamlik (IMBT) Product.”

²¹ Arifin, “Fatwa DSN-MUI No. 04/DSN-MUI/IV/2000 Tentang Murabahah”; Sofyan Nurcahyono, Habriyanto, and Muhammad Orinaldi, “Penerapan Akad Murabahah Pada Pembiayaan Kpr Syariah Berdasarkan Fatwa Dsn Mui Pada Bank Syariah Indonesia Cabang Jelutung,” *Jurnal Ilmiah Ekonomi Dan Manajemen* 1, no. 4 (2023); Asriadi Arifin, “Fatwa DSN-MUI No. 04/Dsn-Mui/Iv/2000 Tentang Murabahah Pada Produk Griya Ib Hasanah BSI Cabang Parepare,” *Jurnal Kajian Ekonomi Dan Perbankan Syariah* 2, no. 1 (2023); Tulus Budi Santoso, “Implementasi Akad Murabahah Pada Produk Pembiayaan Kendaraan Bermotor BMT Bina Insan Sejahtera Mandiri Syariah Tangerang Dalam Perspektif Fatwa DSN-MUI No:04/DSN-MUI/IV/2000 Tentang Murabahah,” *JIESP Journal of Islamic Economics Studies and Practices* 1, no. 2 (January 10, 2023): 251–63, <https://doi.org/10.54180/jiesp.2022.1.2.251-263>; Khusnul Azizah and Naufal Kurniawan Naufal, “Analisis Produk Pembiayaan Mitraguna Di Bank Syariah Indonesia (BSI) Kantor Cabang Pembantu (KCP) Banjarnegara Berdasarkan Fatwa DSN MUI No:04/DSN/MUI/IV/2000 Tentang Murabahah,” *Jurnal Ekonomi Manajemen Akuntansi Keuangan Bisnis Digital* 2, no. 2 (December 31, 2023): 137–48, <https://doi.org/10.58222/jemakbd.v2i2.484>; Pitsyahara and Yusup, “Analisis Fatwa DSN-MUI No.04/DSN-MUI/IV/2000 Tentang Pembiayaan Murabahah Terhadap Pembiayaan Modal Usaha Di PNM Mekaar Syariah Cabang Cihampelas Kab. Bandung Barat”; Ridwan Nur Sya’bani and Isti’anah, “Kesesuaian Produk Pembiayaan Jual Beli Barang Dalam Perspektif Fatwa DSN MUI No: 04/DSN-MUI/IV/2000 Dengan Akad Murabahah Di Baitut Tamwil Muhammadiyah Banyumas,” *BISEI: Jurnal Bisnis Dan*

The decision emphasizes that the use of wakālah contracts in murābahah must not eliminate the essence of buying and selling. Wakālah only serves as a technical representative, not as a means of avoiding ownership and risk-taking obligations. When the bank does not bear the risk of the goods, the substance of the murābahah contract turns into a debt-based financing transaction that resembles conventional credit. In this context, the judge views that the hybrid contract used does not meet sharia principles because it contains elements of hilah (legal engineering) to obtain profits without bearing the risks that should be attached to the sale and purchase contract.²²

Similar findings are also seen in the decisions of the Pontianak Religious Court and the Situbondo Religious Court which examined sharia financing disputes with a hybrid contract pattern. In these cases, the judge highlighted the unclear function of each combined contract, especially between the sale and purchase contract, wakālah, and other financing contracts. The merger of the contract is carried out without a strict separation of rights and obligations, thus causing a unilateral

Ekonomi Islam 9, no. 2 (December 10, 2024): 76–90, <https://doi.org/10.33752/bisei.v9i2.6389>; Arifin, “Fatwa DSN-MUI No. 04/DSN-MUI/IV/2000 Tentang Murabahah: Refleksi Kritis Terhadap Implementasi BSI Dimensi Ekonomi Islam”; Muhammad Islah Siregar et al., “Innovating Murabahah through Hybrid Contracts: A Normative Juridical Analysis of Sharia-Compliant Financial Practices and Governance in Islamic Banking,” *Strata Law Review* 3, no. 2 (September 30, 2025): 56–64, <https://doi.org/10.59631/slr.v3i2.135>; Hotimah, Irawan, and Sobarna, “Implementasi Akad Pembiayaan Murabahah Pada Koperasi Pojok Syariah”; Risky Sobari, Tuti Anggraini, and Nurul Inayah, “Analisis Pelaksanaan Akad Murabahah Dalam Pembiayaan Pembelian Rumah (PPR) Syariah, Studi Kasus Bank Syariah Indonesia KCP Medan Marelan,” *El-Mal: Jurnal Kajian Ekonomi & Bisnis Islam* 5, no. 4 (February 9, 2024): 2414–23, <https://doi.org/10.47467/elmal.v5i4.1943>; Sakum, “IMPLEMENTASI AKAD MURABAHAH PADA PRODUK PEMBIAYAAN MURABAHAH DI KOPERASI SIMPAN PINJAM DAN PEMBIAYAAN SYARIAH BAITUL MAAL WAT TAMWIL FAJAR CABANG BEKASI.”

²² Nurcahyono, Habriyanto, and Orinaldi, “Penerapan Akad Murabahah Pada Pembiayaan Kpr Syariah Berdasarkan Fatwa Dsn Mui Pada Bank Syariah Indonesia Cabang Jelutung”; Budi Santoso, “Implementasi Akad Murabahah Pada Produk Pembiayaan Kendaraan Bermotor BMT Bina Insan Sejahtera Mandiri Syariah Tangerang Dalam Perspektif Fatwa DSN-MUI No:04/DSN-MUI/IV/2000 Tentang Murabahah”; Arifin, “Fatwa DSN-MUI No. 04/DSN-MUI/IV/2000 Tentang Murabahah”; Risky Sobari, Tuti Anggraini, and Nurul Inayah, “Analisis Pelaksanaan Akad Murabahah Dalam Pembiayaan Pembelian Rumah (PPR) Syariah, Studi Kasus Bank Syariah Indonesia KCP Medan Marelan”; Hotimah, Irawan, and Sobarna, “Implementasi Akad Pembiayaan Murabahah Pada Koperasi Pojok Syariah.”

burden of risk to the customer. The customer is required to pay installments and bear all risks on the financing object, while the bank still earns a certain profit margin.²³

This condition is considered contrary to the principle of profit and loss sharing which is the main characteristic of Islamic financial transactions. Although murābahah is theoretically a fixed-profit margin-based contract, sharia still requires the risk to be borne by the seller during the ownership period of the goods. When the risk is completely transferred to the customer from the beginning, the contract loses its sharia legitimacy. Data from the Financial Services Authority (OJK) shows that more than 60 percent of Islamic bank financing portfolios in Indonesia are still dominated by murābahah contracts and their derivatives, including murābahah bil wakālah. This dominance shows the high dependence on the sale and purchase contract, as well as increasing the potential for deviations in practice if not strictly supervised.²⁴

²³ Kholidah et al., “Violation of Women’s Rights on Divorce: Study on Religious Court Decision,” *Journal of Law and Sustainable Development* 12, no. 1 (January 22, 2024): e3006, <https://doi.org/10.55908/sdgs.v12i1.3006>; Muhamad Isna Wahyudi, “Judges’ Legal Reasoning on Child Protection: Analysis of Religious Courts’ Decisions on the Case of Child Parentage,” *Al-Jami’ah: Journal of Islamic Studies* 55, no. 1 (June 26, 2017): 127–54, <https://doi.org/10.14421/ajis.2017.551.127-154>; Ahmad Haris, Edy Lisdiyono, and Setiyowati, “The Reconstruction of Religious Court Decision Execution on the Fulfilment of Children’s Rights Post-Divorce in Indonesia,” *Revista de Gestão Social e Ambiental* 18, no. 7 (April 8, 2024): e5564, <https://doi.org/10.24857/rgsa.v18n7-035>; Hotnidah Nasution, Windy Triana, and Ahmad Rifqi Muchtar, “Ensuring Children’s Rights after Divorce in Indonesia: Religious Court Decisions on Nafkah Madiyah,” *Al-Ahwal: Jurnal Hukum Keluarga Islam* 17, no. 1 (June 1, 2024): 41–57, <https://doi.org/10.14421/ahwal.2024.17103>.

²⁴ Ahmad Muhamad Mustain Nasoha et al., “Relevance of Religious Court Decisions on Marriage to National Development Policy Directions: A Legal and Social Analysis,” *EVOLUTIONARY STUDIES IN IMAGINATIVE CULTURE*, October 3, 2024, 1340–47, <https://doi.org/10.70082/esiculture.vi.1496>; Abdul Halim et al., “Application of Sharia Principles in Religious Court Decisions in Divorce,” *Haqqiyyah: Journal of Islamic and Legal Studies* 1, no. 1 (July 31, 2025): 39–48, <https://doi.org/10.65358/haqqiyyah.v1i1.6>; Rifki Fakhudin, Pramestya Raharjanti, and Muhammad Wahyu Saiful Huda, “RELEVANCE OF RELIGIOUS COURT DECISIONS REGARDING DISPENSATION IN CHILD MARRIAGE,” *Indonesia Private Law Review* 3, no. 1 (June 29, 2022): 37–46, <https://doi.org/10.25041/iplr.v3i1.2567>; Inna Fauziatal Ngazizah et al., “Problematics of the Execution of Religious Court Decisions,” *Fiat Justisia: Jurnal Ilmu Hukum* 19, no. 3 (October 14, 2025): 251–64, <https://doi.org/10.25041/fiatjustisia.v19no3.4172>.

The decisions of the Religious Court show that non-compliance with the DSN-MUI fatwa is a determining factor in assessing the validity of hybrid contracts. The judge does not make fatwa just a moral guideline, but rather a normative reference that has binding power in Islamic banking practices. This is in line with Law Number 21 of 2008 concerning Sharia Banking which emphasizes that Islamic bank business activities must be carried out in accordance with sharia principles as fatwa by DSN-MUI. Thus, violations of the fatwa can have direct implications for the defect of the contract law.²⁵

In addition, the judge's approach that focuses on the substance of the contract also shows the protection of customers as parties who are economically and informationally in a weaker position. In many cases, customers do not have the ability to understand the complexity of hybrid contracts that are unilaterally drafted by financial institutions. Therefore, when the contract is proven to deviate from sharia principles and cause injustice, the judge does not hesitate to declare the contract null or at least legally defective. This approach is in line with the principles of justice ('adl) and benefit (maṣlaḥah) in Islamic law, which places the protection of the weak as the primary objective.

Overall, the results of the analysis of the decision of the Religious Court show that the acceptance of hybrid contracts is not determined by complexity or contractual innovation, but by compliance with basic sharia principles. The merger of the contract is permissible as long as it does not create a conflict of substance, does not eliminate the risks that should exist, and does not violate the fatwa of DSN-MUI. These rulings are also a juridical criticism of Islamic banking practices that overemphasize business efficiency without being balanced with strict sharia compliance. Thus, the role of the Religious Court is not only as a

²⁵ Fuji Alia Rahma, Heni Noviarita, and Rita Zaharah, "The Implementation of Law Number 21 of 2008 Concerning Sharia Banking on Sharia Financial Institutions Is Underway Sharia Economic Law Perspective," *ASAS* 16, no. 1 (August 5, 2024), <https://doi.org/10.24042/asas.v16i1.18779>; Taufik Hidayat et al., "Implementation of Law Number 21 of 2008 Concerning Sharia Banking Against Sharia Financial Institutions," *KnE Social Sciences*, January 11, 2024, <https://doi.org/10.18502/kss.v9i2.15002>; Abd Shomad and Sudirman, "Financing Problem Completion Based on Article 40 Jo Article 55 Law Number 21 of Year 2008 Concerning Sharia Banking," *Journal of Advanced Research in Dynamical and Control Systems* 11, no. 5 Special Issue (2019); Saefuddin Saefuddin, "Sharia Banking in State Economic Policy (Study on Politics and Sociology of Islamic Law towards the Enforcement of Law Number 21 of 2008 on Sharia Banking)," *Millah* 19, no. 1 (August 2019): 1–22, <https://doi.org/10.20885/millah.vol19.iss1.art1>.

dispute resolver, but also as a guardian of the integrity of sharia principles in the practice of hybrid contracts in Indonesia.

Juridical Implications of Shariah-Compliant Hybrid Contracts

Hybrid sharia contracts that do not meet the principles of sharia compliance have serious juridical implications, both at the level of the validity of the contract in *fiqh muamalah* and at the level of its applicability in Indonesia's positive legal system. From the perspective of Islamic law, compliance with sharia principles is an essential condition that determines the validity or not of a contract. When a hybrid contract, which is a contract that combines two or more contracts in one transaction, contains prohibited elements such as *riba*, *gharar*, *maysir*, or a combination of contracts that are substantially in conflict with each other, then the contract has the potential to qualify as a *fasid* or even void contract.²⁶ A *fasid* contract is a contract that substantially contains a legal defect so that it cannot be implemented before the defect is corrected, while a null contract is a contract that from the beginning is considered to have never existed and does not cause legal consequences at all.

This qualification has a direct consequence on the binding power of the contract. In *fiqh muamalah*, the principle of "*al-'aqd shari'atun al-muta'qidin*" states that a contract is a law for the parties to the contract, but this principle only applies if the contract is built on the pillars and conditions that are valid according to sharia. When a hybrid contract violates the principle of sharia compliance, the principle is lost, so that the rights and obligations of the parties lose the basis of sharia legitimacy. This condition becomes increasingly relevant considering that modern Islamic banking practices rely heavily on hybrid contracts, such as the combination of *murabahah* and *wakalah*, *ijarah* with *wakalah*, or *mutanaqisah musharakah* which combines elements of *shirkah* and *ijarah*.²⁷

²⁶ Anggara Saputra and Trisnawati, "INTEGRATING SHARIA CONTRACTS INTO DIGITAL TRANSACTIONS: AN ANALYSIS OF DSN-MUI FATWAS 2021 IN E-COMMERCE PRACTICES"; Febriani, "HYBRID CONTRACT ACCORDING TO SHARIA ECONOMIC LAW PERSPECTIVE"; Niffilayani and Thao, "Legal Analysis of Islamic Economic Law on Hybrid Contracts in Islamic Financial Institution Products."

²⁷ Khusnia et al., "Hybrid Contract Pada Syariah Card Dalam Perspektif Ekonomi Islam"; Mariana and Athoillah, "Melacak Implementasi Transaksi Hybrid Contract Pada Produk Perbankan Syariah Di Indonesia"; Mariana and Athoillah, "Tracking the Implementation of Hybrid Contract Transactions in Islamic Banking Products in Indonesia"; Supriyadi and Kurniawati, "Hybrid Contracts in Islamic Banking: A Shariah and Fiqh Muamalat Perspective."

In the context of Indonesia's positive law, the juridical implications of sharia non-compliance in hybrid contracts cannot be separated from the regulatory framework governing Islamic banking. Law Number 21 of 2008 concerning Sharia Banking expressly places sharia principles as the operational basis of Islamic banks. Article 2 of the law states that Islamic banking in carrying out its business activities is based on sharia principles, economic democracy, and the principle of prudence. Furthermore, Article 26 emphasizes that Islamic banking products and services must be subject to fatwas issued by the National Sharia Council of the Indonesian Ulema Council (DSN-MUI).²⁸ Thus, non-compliance with the DSN-MUI fatwa is not only a normative violation of Islamic law, but also a violation of positive juridically binding law.

The practical implications of such violations can be seen in the dispute resolution mechanism in religious courts, which under Law Number 3 of 2006 has the absolute authority to examine, decide, and resolve sharia economic disputes. In a number of religious court rulings, judges often test sharia compliance with disputed contracts. When a hybrid contract clause is found that is contrary to sharia principles, the judge can declare the clause invalid and does not have binding legal force. In certain conditions, the judge can even cancel the entire contract if the non-compliance is fundamental and affects the substance of the transaction.²⁹

Empirical data from judicial practice shows that sharia economic disputes in Indonesia tend to increase along with the growth of the sharia banking industry. The annual report of the Supreme Court of the Republic of Indonesia in recent years has recorded thousands of sharia economic cases that have entered the religious courts, with the dominance of banking financing disputes. Many of these disputes are related to customer objections to the structure of contracts, especially

²⁸ Rahma, Noviarita, and Zaharah, "The Implementation of Law Number 21 of 2008 Concerning Sharia Banking on Sharia Financial Institutions Is Underway Sharia Economic Law Perspective"; Hidayat et al., "Implementation of Law Number 21 of 2008 Concerning Sharia Banking Against Sharia Financial Institutions"; Shomad and Sudirman, "Financing Problem Completion Based on Article 40 Jo Article 55 Law Number 21 of Year 2008 Concerning Sharia Banking"; Saefuddin, "Sharia Banking in State Economic Policy (Study on Politics and Sociology of Islamic Law towards the Enforcement of Law Number 21 of 2008 on Sharia Banking)."

²⁹ Rahma, Noviarita, and Zaharah, "The Implementation of Law Number 21 of 2008 Concerning Sharia Banking on Sharia Financial Institutions Is Underway Sharia Economic Law Perspective"; Hidayat et al., "Implementation of Law Number 21 of 2008 Concerning Sharia Banking Against Sharia Financial Institutions."

hybrid contracts that are considered non-transparent or do not fully reflect the principles of fairness and balance. This fact shows that the issue of sharia compliance is not a purely theoretical issue, but a practical issue that has real implications for the stability of the legal relationship between banks and customers.³⁰

In addition to having an impact on the validity of individual contracts, sharia non-compliance in hybrid contracts also has a systemic impact on the Islamic banking industry as a whole. Public trust is the main asset of Islamic banking, which distinguishes it from conventional banking. Based on data from the Financial Services Authority, the level of Islamic financial literacy and inclusion in Indonesia is still relatively low compared to conventional banking, despite the large Muslim population.³¹ One of the factors that affect this low level of trust is the public's perception that Islamic banking products are not completely different substantially from conventional products, especially when the contracts used are considered to be only contractual engineering (legal engineering) to avoid interest terms without eliminating the substance of usury.

When hybrid contracts are not designed and implemented in a sharia compliant manner, these negative perceptions are even stronger. Violations of sharia principles are not only seen as technical failures in the drafting of contracts, but also as violations of moral and religious values that are the basis of the existence of Islamic banking. In this context, the juridical implications of sharia non-compliance extend from the realm of contractual law to the realm of institutional legitimacy. Islamic banks that are proven to use hybrid contracts that are not sharia-compliant are at risk of facing regulatory sanctions, loss of reputation,

³⁰ Dedik Triyanto, "Sharia Compliance, Islamic Corporate Governance, and Fraud: A Study of Sharia Banks in Indonesia," *Journal of Intelligence Studies in Business* 12, no. 1 (December 22, 2022): 34–43, <https://doi.org/10.37380/jisib.v12i1.925>; Yaser Taufik Syamlan et al., "Exploring Sharia Compliance Parameters in Marketing to Foster Innovation and Collaboration within Islamic Finance," *Journal of Islamic Marketing* 17, no. 1 (January 30, 2026): 96–136, <https://doi.org/10.1108/JIMA-04-2024-0172>; Saefuddin, "Sharia Banking in State Economic Policy (Study on Politics and Sociology of Islamic Law towards the Enforcement of Law Number 21 of 2008 on Sharia Banking)."

³¹ Hasni and Udzma, "Penerapan Hybrid Contract Dalam Aplikasi BSI Mobile Banking (Analisis Hukum Ekonomi Syariah)"; Silvia, Abdurrahman, and Prasetyo, "Penerapan Hybrid Contract Dalam Pebiaya-an Cicil Emas"; Fitroh Nurhayati et al., "Inovasi Produk Dan Digitalisasi Layanan Pada Pegadaian Syariah Di Era Ekonomi Digital," *Jurnal Ilmiah Ekonomi Dan Manajemen* 3, no. Vol.3, No.5 Mei 2025 (2025).

and a decrease in customer trust, which can ultimately affect the sustainability of their business.³²

Furthermore, sharia non-compliance in hybrid contracts also has the potential to cause an imbalance in legal protection for the parties. The principles of justice ('adl) and balance (tawazun) are fundamental principles in Islamic muama. Hybrid contracts that are drafted in a non-sharia compliant manner often tend to be more beneficial to financial institutions than customers, for example through the transfer of all risks to customers or the determination of certain payment obligations without regard to profit realization.³³ This condition is contrary to the principle of risk sharing which is the main character of the Islamic financial system. From a juridical perspective, this imbalance can be used as a basis for judges to make corrections to the content of the contract in order to realize substantive justice.

Thus, the juridical implications of hybrid sharia contracts that are not sharia compliant are multidimensional. At the micro level, the non-compliance has implications for the validity of the contract and the enforceability of the rights and obligations of the parties. At the meso level, it influences judicial practices and sharia economic dispute resolution patterns. Meanwhile, at the macro level, sharia non-compliance has an impact on the legitimacy, credibility, and sustainability of the Islamic banking industry as a whole. Therefore, strengthening sharia compliance in the design and implementation of hybrid contracts is not only a normative demand, but also a juridical and strategic need to maintain the integrity of the Islamic financial system in Indonesia.

CONCLUSION

This study confirms that hybrid sharia contracts are in principle permissible and valid according to Islamic law and positive Indonesian law, as long as they meet the principles and conditions of the contract and comply with the principles of sharia compliance. However, the

³² Sakirah Sakirah et al., "Tinjauan Ekonomi Islam Pada Implementasi Gadai Emas Di Pegadaian Syariah"; Nurjaman et al., "Implementation Of Agreements In Multi Level Marketing (Mlm) Business Schemes Based On Sharia Principles"; Rahayuningsih, "Manajemen Risiko Pembiayaan KPA Trans Icon Di Bank Mega Syariah Dalam Perspektif Maqashid Al Shariah"; M, Abdal, and Arifin, "Penerapan Konsep Hybrid Contracts Dalam Pembiayaan Rahn Di Pegadaian Syariah."

³³ Halim et al., "Application of Sharia Principles in Religious Court Decisions in Divorce"; Nasution, Triana, and Muchtar, "Ensuring Children's Rights after Divorce in Indonesia: Religious Court Decisions on Nafkah Madiyah"; Ngazizah et al., "Problematics of the Execution of Religious Court Decisions."

results of the analysis of the decisions of the Religious Court show that the validity of the hybrid contract is not determined normatively alone, but is highly dependent on the substantive implementation of the contract. The judge considered the hybrid contract to be defective or invalid if there is an unclear type and order of the contract, mixing of contract functions that give rise to *gharar*, unilateral imposition of business risks that are contrary to the principle of profit and loss sharing, or the existence of clauses that deviate from the DSN-MUI Fatwa.

The main findings of this study show that there is a gap between the normative design of hybrid sharia contracts in banking practice and the juridical assessment of Religious Court judges. Although the DSN-MUI fatwa has given legitimacy to the use of hybrid contracts, judicial practice shows that the fatwa serves as a strict material benchmark in assessing the sharia compliance of the contract. Hybrid contracts that are inconsistent with fatwa and the principles of *fiqh muamalah* are considered to lose their sharia legitimacy, thus having implications for the reduction or loss of legally binding power of the contract. This answers the problem of research that double sharia contracts that are not sharia compliant are not only problematic in *fiqh*, but also have a direct impact on legal certainty.

Based on these findings, this study recommends the need to strengthen the implementation of sharia compliance substantively, not just formally, in the design and implementation of hybrid sharia contracts by sharia banks. Islamic banks must ensure clarity of the structure, function, and order of contracts, as well as implement fair risk sharing in accordance with sharia principles and DSN-MUI Fatwa. In addition, the role of the Sharia Supervisory Board needs to be optimized from the product design stage to the supervision of contract implementation. This step is not only important to maintain the juridical validity of contracts in judicial practice, but also crucial to increase public trust and ensure the sustainability of the Islamic banking industry in Indonesia.

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