

**The Concept of Profit In Syirkah Al-‘Inān
Islamic Economic Perspective
(Study at People's Banks Ipoh, Perak Malaysia)**

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Abstrak

Penelitian ini mengenai kajian konsep “keuntungan syirkah al-inan dalam perspektif Sistem Ekonomi Islam”. Untuk mencapai tujuan di atas Penulis menerapkan metodologi berikut dalam penelitiannya: Mengumpulkan data/informasi dari sejumlah perpustakaan dan lembaga; Studi lapangan dengan mempelajari data Bank Rakyat untuk menambah informasi yang dibutuhkan. Metode wawancara digunakan untuk melakukan wawancara terhadap responden yang terlibat langsung dengan topik penelitian, misalnya Manajer dan Pengurus Syariah pada bank tersebut; dan Mengandalkan Al-Quran, Hadits pendapat para Ulama yang pendapatnya telah terpatri dalam kitab-kitab terkenal dan kajian yang dilakukan oleh para pemikir Islam masa kini. Berdasarkan penelitian ini, Penulis mampu memahami konsep keuntungan dalam syirkah al-Inan dari perspektif ekonomi Islam. Penulis menemukan, musyarakah atau syirkah adalah suatu bentuk kerjasama antara dua orang atau lebih untuk melakukan suatu usaha atau kegiatan yang dilatarbelakangi oleh keuntungan. Musyarakah merupakan instrumen yang ditawarkan oleh Bank Rakyat.

Kata Kunci: Perbankan Islam, Musyarakah dan Pembiayaan Proyek.

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Oleh karena itu penelitian ini akan menguraikan permasalahan syirkah al-inan dari sudut pandang hukum Islam dan penerapannya khususnya pada Bank Rakyat serta menyimpulkan apakah konsep yang digunakan sesuai dengan syariah Islam atau tidak. Jika kita amati dari pendapat mazhab kita temukan ada dua konsep utama dalam pembagian keuntungan. Berdasarkan mazhab Syafie, pembagian keuntungan didasarkan pada nisbah modal yang disuntikkan oleh mitra. Konsep pembagian keuntungan yang kedua didasarkan pada apa yang telah disepakati sebelumnya tanpa mengacu pada rasio modal yang disuntikkan. Konsep kedua berdasarkan mazhab Imam Hanafi. Berdasarkan observasi yang dilakukan, ditemukan bahwa Bank Rakyat telah menerapkan konsep Perbankan Syariah yang syariah khususnya dalam permasalahan distribusi keuntungan pada produk musyarakahnya. Oleh karena itu persoalan pembagian keuntungan sangat penting bukan hanya sebagai indeks untuk menentukan berhasil atau tidaknya suatu kemitraan, tetapi juga sebagai tolak ukur bahwa keuntungan yang ditargetkan bagi perusahaan telah tercapai. Oleh karena itu model yang digunakan dalam pembagian keuntungan berdasarkan syariah memerlukan tanggapan yang jelas dan tidak pernah gagal. Penulis berharap penelitian ini dapat menjadi pedoman yang bermanfaat bagi masyarakat.

ABSTRACT

This research is about studying the concept of "advantages of syirkah al-inan from the perspective of the Islamic Economic System". To achieve the above objectives, the author applied the following methodology in his research: Collecting data/information from a number of libraries and institutions; Field studies by studying Bank Rakyat data to add the information needed. The interview method is used to conduct interviews with respondents who are directly involved with the research topic, for example Managers and Sharia Administrators at the bank; and Relying on the Al-Quran, Hadith, opinions of Ulama whose opinions have been embedded in famous books and studies carried out by

Keyword:

*Islamic banking,
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contemporary Islamic thinkers. Based on this research, the author is able to understand the concept of profit in syirkah al-Inan from an Islamic economic perspective. The author found that musyarakah or syirkah is a form of cooperation between two or more people to carry out a business or activity motivated by profit. Musyarakah is an instrument offered by Bank Rakyat. Therefore, this research will describe the problem of syirkah al-inan from the perspective of Islamic law and its application, especially at Bank Rakyat and conclude whether the concept used is in accordance with Islamic sharia or not. If we observe the opinions of the schools of thought we find that there are two main concepts in profit sharing. Based on the Syafie school of thought, profit sharing is based on the ratio of capital injected by partners. The second profit sharing concept is based on what has been previously agreed without reference to the ratio of capital injected. The second concept is based on the Imam Hanafi school of thought. Based on observations made, it was found that Bank Rakyat has implemented the Islamic Sharia Banking concept, especially in the problem of profit distribution in its musyarakah products. Therefore, the issue of profit sharing is very important not only as an index to determine the success or failure of a partnership, but also as a benchmark that the targeted profits for the company have been achieved. Therefore, the model used in sharing profits based on sharia requires a clear response and never fails. The author hopes that this research can become a useful guide for society.

PENDAHULUAN

Islam is a religion that prioritizes justice, virtue and does not oppress its people, so it is certain that all its systems will not oppress anyone, whether from economic, social, political systems and so on. Everything is based on sharia principles and is in line with the wishes of the Qur'an and the Sunnah.

In general, Islam covers three main parts of human muamalat, namely; first, relationship with God, second with himself and third with society. How

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wonderful it would be for those who can appreciate and practice the Islamic system which is syumul (comprehensive) in nature. In fact, Islam is a religion that does not only deal with matters of worship for the sake of the afterlife. However, it also regulates worldly human problems, including the field of muamalat.

Studies in the field of muamalat are closely related to property rights and tasarruf, meaning transactions that cause legal consequences. Muamalat has also become a separate fiqh discipline known as fiqh al-mu`amalah. In this fiqh, various kinds of contracts are regulated, including sales and purchase contracts, rental contracts, mortgage contracts, wakālah contracts, and including syirkah contracts.

Islam has an economic system that is different from current systems. It has principles in sharia which form a worldview as well as targets and maqāṣid al-syar'iyyah which are very different from the secular systems that are currently ruling the world. The target desired by Islam is not profit alone, in fact Islam regulates various concepts, all of which aim at human happiness and a better life. For this reason, Islam places great emphasis on the aspects of ukhwah (brotherhood), socio-economic justice, and fulfilling human spiritual needs.¹

To realize prosperity for all mankind, a form of syirkah is needed which is defined as cooperation between parties who have capital and other parties who have expertise or business opportunities by paying attention to the principles of mutual need, mutual strengthening and mutual benefit. The implied purpose of syirkah, if viewed from the purpose of the meaning of

¹ Chapra, Umar, *Sistem Moneter Islam*, (Jakarta: Gema Insani & Tazkia Cendikia, 2000), hlm. 7.

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syirkah itself, is so that existing business opportunities can be utilized by someone who lacks capital but has the will and expertise in doing business together with entrepreneurs whose existence has been recognized. Basically, syirkah will naturally achieve its goals if the methods of mutual reinforcement and mutual benefit can be maintained and become a strong basic commitment among colleagues.²

Successful implementation of syirkah must focus on healthy competition and prevent abuse of dominant positions in partnerships to avoid bad competition. The pattern implemented in the syirkah concept must be based on participatory (mutual role) and collaborative (mutually working together to become one) principles which involve all parties involved in the syirkah being implemented, in addition, it must also have perfect management.

Islam does not reject any collaboration that allows the formation of profitable business organizations. In fact, one of the basic goals of Islam is to use all the resources and powers of the State in producing wealth and to prepare labor and capital that can be used for the benefit of society. All forms of muamalat organizations such as commerce, education, transportation, development and many more were created by the people to support the economy at that time. All these and thousands more business organizations can be formed based on the same principles for the economic development of the people and to meet the demands of today's modern times.³

Cooperation for mutual gain, if it is in accordance with Islamic business ethics, is permitted and even highly recommended.⁴ Muslim involvement in

² Chapra, Umar, *Sistem Moneter...*, hlm. 16-17.

³ Afzalurrahman, *Muhammad Sebagai Seorang Pedagang*, (Jakarta: Yayasan Swarna Bhumi: 1996), hlm. 281.

⁴ Zulhamdi, *Business Law*. (Medan: Pusdikra 2021) p. 131

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business dates back fourteen centuries. However, at this time Muslims are facing a very dilemmatic problem, even though they are active in the world of commerce, in their minds there is also a kind of uncertainty, are their business practices truly according to Islamic views? The problem is that new forms, institutions, methods or techniques of commerce that have never existed before, have caused these doubts to arise, so that in some problems, they continue to follow the system with feelings of guilt because they have not found a way out.⁵

All forms of business partnerships in which two or more people collaborate in capital, work, expertise and good intentions to run a business, the jurists categorize in the form of mudārabah or musyārah. The difference between the two lies in the technique, in mudārabah only one person spends capital and the other party does the work, while in musyārah both partners put in capital and work together in the business.

In fiqh literature, the fuqaha explain mudārabah and musyārah as agreements based on 'uqud al-amānah (mutual trust). Sincerity and honesty play a central role in the implementation of this cooperation. Colleagues must be truly trustworthy in order to be mutually beneficial and any attempt to commit fraud and dishonest distribution of profits must be based on a violation of Islamic teachings.⁶

As in the hadith Qudsi Rasulullah SAW said:

⁵ Ahmad Mustaq, *Etika Bisnis Dalam Islam*, (Jakarta: Pustaka al-Kautsar: 2005), hlm. 1.

⁶ Chapra, Umar, *Sistem Moneter...*, hlm. 231-232.

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عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ قَالَ : إِنَّ رَسُولَ اللَّهِ يَقُولُ أَنَا ثَالِثُ الشَّارِكَيْنِ : مَا لَمْ يَخُنْ أَحَدُهُمَا صَاحِبَهُ فَإِذَا خَانَ خَرَجْتُ مِنْ بَيْنَهُمَا (رواه أبو داود)

Meaning: "From Abū Hurairah R.a. said Rasulullah S.a.w, verily Allah said: I am the third party of two people who share as long as one of them does not betray the other friend. If you betray then I will leave both of them." (Hadith narrated by Abu Dawūd).⁷

From the hadith above, it can be said that syirkah is a contract that religions really like to carry out and has a strong legal basis. However, in implementing syirkah, the concept of justice and the attitude of not betraying colleagues is very important. In this case, the issue that usually arises is the aspect of sharing the profits of the partnership.

METODE PENELITIAN

This study will use two forms of investigation methods, namely: first, library research, second, field research. The author prefers to use a sampling method in determining research subjects as representing institutions in the relevant category. The author has chosen Malaysia as the location of the research subject and focused on Bank Cooperation Peoples Malaysia Berhad (People's Banks) in the Ipoh Perak area to facilitate the investigation carried out. The author chose People's Banks because this banking institution implemented a comprehensive sharia system in their operations and it was also the first banking institution to implement a sharia system in Malaysia.

⁷ Abū Dawūd, (t.t) *Sunan Abū Dawūd*, kitab al-Buyū' wal Ijārāt, Bab al-Syirkah, jil. 3, no.hadith 3383, Beirut: Dar al-Fikr , hal. 256. lihat juga Abdullah bin Umar al-Baidawi, (t.t) *al-Ghayah al-Quswa fi dirayah al-Fatwa*, `Ali Muhyiddin `Ali al-Qurratu Daghi. Saudi: Dar al-Islah, hlm. 537.

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In this research, the reviewer put forward a literature review method in the form of data study. And data will be obtained from books, scientific journals, treatises, magazines and muktabar books relating to 'syirkah contracts. To obtain these materials, the reviewer used several libraries, including: 1. Universiti Malaya Main Library, Kuala Lumpur; 2. Za'ba Universiti Malaya Library; 3. Universiti Malaya Islamic Academy Library, Kuala Lumpur; 4. Kuala Lumpur State Library. 5. Kuala Lumpur Islamic Center Public Library.

To find information that is not found in the library, the author uses field studies to obtain important information related to products with musyārah (Joint Venture) principles and to get a true picture of musyārah. The research carried out aims to collect, compile and analyze data that has been collected using certain techniques.

PEMBAHASAN

Definition of Syirkah Al-'Inan

Basically, syirkah is divided into many types and has various views given by scholars. However, in general syirkah is divided into four types, syirkah mufāwah, syirkah al-'inān, syirkah wujūh and syirkah abdān. In this study the author only discusses syirkah al-'inān as a topic of discussion that the author examines.

Syirkah al-'inān according to language means sharing something. Meanwhile, the author will refer to the meaning of syirkah al-'inān according to the terms based on the opinions of several muktabar scholars. Syirkah al-'inān according to the term as stated by Sayyīd Sābiq in his book Fiqh al-

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Sunnah is a federation of property affairs by two or more people so that they will face the profits being divided by two.⁸

According to al-Siwasī in his book *Fath al-Qadīr* it is stated that syirkah al-'inān is:

هي ان يشترك اثنان في نوع بر او طعام او يشتركان في عموم التجارات

This means: "Cooperation between two people on several types of grain or foodstuffs or cooperation between two people in buying and selling foodstuffs or cooperation between two people in buying and selling in general."⁹

Shirkah al-'inān according to 'Abd al-Rahmān al-Jazirī in his book *Fiqh al-Islam 'ala Madhāhibil al-Arba'ah* has several kinds of meanings, including the following; According to the Hanāfī School, syirkah al-'inān is cooperation between two or more people in something from various kinds of business/commerce such as wheat or cotton, or sharing in all businesses.¹⁰ According to the Mālikī School, syirkah al-'inān is the cooperation of two people so that one of them does not do anything except with permission from his co-worker.¹¹

According to the Hanbālī School, syirkah al-'inān is a partnership between two or more people on property so that they can develop it together and the profits they get will be shared between them according to the agreement they have agreed, or the cooperation of two or more on property they with one of them are people who do the work with the agreement that

⁸ Sayyīd Sābiq, (1987), *Fiqh al-Sunnah*, Jil. 3, Beirut: Dār al-kitab al-Arabi, h. 176.

⁹ Kamāl al-Dīn Muḥammad bin 'Abd Wahāb al-Siwasī, (t.t), *Fath al-Qādir* Juz V, Beirut: Dār al-Fikr, h. 6.

¹⁰ Abd al-Rahmān al-Jazirī, (t.t), *al-Fiqh 'Ala Madhāhib al-Arba'ah*, Juz III, Mesir: Dār Ihya al-Thurath al-Arabī, h. 64.

¹¹ Malik bin Anas (t.t) *al-Mudawwanah al-Kubra*, Jil. 5, Beirut: Dār Sādir, h. 40 – 41.

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those who do the work will get a greater share of the profits from the profits from their business.¹²

According to the Syafi'i School, syirkah al-'inān is a statement of agreement between two or more people to cooperate in a property capital that will be traded and the profits will be divided between them according to the capital they invested with specified conditions.¹³

The definition of syirkah al-'inān which has been agreed upon by Ḥanafiyah, Syafi'iyah, Zaidiyah, Ja'fariyyah, Zahiriyyah and Ḥanābilah scholars as explained by Wahbah al-Zuhaili in his book *Fiqh al-Islam wa Adillatuhu* is as follows:

شركة العنان هي ان يشترك اثنان في مال لهما على ان يتجر فيه والربح بينهما

Meaning: "Syirkah al-'inān is two people who work together with capital to do a business and the profits from the business or commerce will be shared between the two."¹⁴

Thus it is clear that the meaning of syirkah al-'inān as agreed by the scientists above is a partnership created by two or more in terms of capital to conduct business with both making a profit or both being at risk of loss.

1. al-Musyarakah Products at People's Banks

Al-musyarakah products at People's Banks including People's Banks Cawangan Ipoh Perak, are as follows:

¹² Al-'Abbas Taqiu al-Din Ahmad (t.t) *al-Fatawa al-Kubrā*, Beirut: Dār Ma'rifah, h. 473.

¹³ Muhammad bin Idris al-Syafi'i (t.t), *al-Umm al-Um*, Juz 3, Beirut Lebanon: Dār al-Fikr, h. 207.

¹⁴ Wahbah al-Zuhaili (1989), *Fiqh al-Islam wa Adillatuhu*, Beirut: Dār al-Arabi, h. 729.

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- a. Financing is based on the principle of profit sharing (Cooperative Cooperation), namely special investment.
- b. Providing convenience (facility) letter of credit (L/C)
- c. Capital investment with other companies or banks that also base their business on sharia principles.¹⁵

Based on this concept, People's Banks has now applied the al-musyārah concept to several products, including retail financing, namely Sharik Cooperative Joint Venture Financing. It is a financing product offered by People's Banks to cooperative members who want to buy consumer goods.

Retail, which is a Syārik Cooperative Joint Venture Funding, has attracted many cooperative members to invest in Musyarakah principles until People's Banks has become one of the most successful financial institutions and the most successful cooperative in Malaysia. Profit sharing is divided according to the agreement or agreement they have agreed to.¹⁶

The division involves both partners agreeing to share the percentage of pre-owned shares that each partner will have in the property or item purchased. Then the customer will increase his capital by buying the investor's shares until the property becomes his own. The bank that manages the property purchase is ready to sell its shares to customers in installments according to a certain installment rate and agrees to rent out the goods at market prices. The duration for which the goods will be transferred to the customer depends on the number

¹⁵ Wawancara dengan Mohd. Hanafiah bin Mohd. Nawawi, Pegawai Syariah Ibu Pejabat People's Banks Kuala Lumpur, pada 10 Mei 2013 lihat juga Bank Kerjasama Rakyat Berhad (People's Banks) Info, www.bankrakyat.com.my 18 Jun 2013 (People's Banks Cawangan Ipoh tidak melantik Pegawai Syariah sendiri sebab semua produk perbankan yang dilaksanakan di cawangan adalah berdasarkan kepada arahan dari Bank Pusat). Lihat www.bankrakyat.com.my/jawatan_kuasa_syariah) 11 Mei 2013.

¹⁶ Bank Kerjasama Rakyat Malaysia Berhad (People's Banks) Info, www.bankrakyat.com.my 13 Pebruari 2013.

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of shares the customer or partner will purchase from the bank. Then, profits will be obtained by the bank as a result of the syirkah that has been carried out. Then the profits will be shared between shareholders and the bank according to the agreement they have agreed to.¹⁷

Schedule 1.1 List of Islamic Banking Products at People's Banks

Products	Sharia Principles
Checking account	<i>al-Wadi'ah Yad Ḍamānah</i>
Saving account	<i>al-Wadi'ah Yad Ḍamānah</i>
General Investment Account	<i>al-Muḍārabah</i>
Special Investment Account	<i>al-Musyārah</i>
Invest on a Government Investment certificate	<i>al-Qarḍ al-Ḥasan</i>
Investment in Share / Ownership Financing	<i>al-Wakālah/ al-Muḍārabah/ Bay ' Bithaman Ājil</i>
Home/Vehicle Purchase Financing	<i>Bay Bithaman Ājil/al-Ijārah Thumma al-Bay '</i>
Vehicle Purchase	<i>Bay 'Bithaman Ājil/al-Ijārah Thumma al-Bay '</i>
Working Capital Financing	<i>al-Muḍārabah</i>
Project Financing	<i>al-Musyārah</i>
Property Ownership Financing	<i>Bay 'Bithaman Ājil</i>
Islamic Refinancing of Export Credit • Pre Delivery • Post Delivery	<i>al-Muḍārabah dan Bay al-Dayn</i>
Islamic Acceptance Bill • Import/Purchase • Export/Sales	<i>al-Muḍārabah dan Bay 'al-Dayn</i>
Islamic Corporate Bonds	<i>Bay 'Bithaman Ājil</i>
Ease of Letter of Credit	<i>al-Wakālah/al-Muḍārabah</i>

¹⁷ Wawancara dengan Zaida binti Khairuddin, Ketua unit Bahagian Pembiayaan People's Banks Cawangan Ipoh.

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Delivery Guarantee	<i>al-Kafālah</i>
Letter of guarantee	<i>al-Kafālah</i>
Ease of Overdraft	<i>al-Qarḍ al-Ḥasan</i>
Operation Num	<i>al-Ujr/ al-Wakālah</i>
Ihsan Loans	<i>al-Qarḍ al-Ḥasan</i>
Rent	<i>al-Ijārah</i>
Islamic Bond Guarantee	<i>al-Ujr</i>

Source: People's Banks Ipoh Files.

According to table 1.1 above, it can be seen that the sharia banking products offered by People's Banks with the musyarakah principle are only for special investments and project financing, so these special investments include share ownership which is distributed to customers or partners with certain conditions that they agree to. Meanwhile, project financing is part of sharik financing with musyarakah principles, and project financing. Project financing is managed together with the project developer, project financing is provided to companies or individuals as additional capital to them with regulations or procedures determined by the bank.

Even though the sharia banking products with musyarakah principles offered by People's Banks are only special investments and project financing, with this product, the People's Banks Ipoh branch has gained many benefits compared to other products.¹⁸

1. Profit Sharing Concept at People's Banks Ipoh

¹⁸ Wawancara dengan Rizal Bin Radzi, Penolong Pengurus People's Banks Cawangan Ipoh, Perak. 16 Januari 2014.

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So that both parties benefit from each other and do not experience losses, People's Banks has implemented the principle of revenue sharing.¹⁹ The principle of revenue sharing is that People's Banks sets rules or concepts for sharing profits with its colleagues based on the income obtained from overall sales results. Thus, the principle of revenue sharing that has been practiced by People's Banks in musharaka capital financing contracts is in accordance with the principle of profit sharing that has been implemented by Islamic banking institutions throughout the world.²⁰

In general, estimates of the distribution of profits in Islamic banking products, both the musyārah principle and other principles that have been determined by People's Banks are as follows:

- a. Project income/sales are the result of collaboration that has been attempted before income tax and zakat are deducted and other things.
- b. The monthly sales quota is the financing balance divided by the total initial financing amount multiplied by the sales proceeds.
- c. The daily sales quota in a month is the average daily remaining financing balance in a month divided by the total initial financing multiplied by the sales proceeds.
- d. Next, the amount of profit distribution that has been agreed will be multiplied by the basic reality of profit distribution at the end of the year.²¹

However, the People's Bank project financing scheme has a special concept in sharing profits between the bank and colleagues. The concept of

¹⁹ Sari Wahyuna and Zulhamdi, "Perbedaan Perbankan Syariah Dengan Konvensional," *Al-Hiwalah: Journal Syariah Economic Law* 1, no. 2 (2022): 187.

²⁰ People's Banks Malaysia Berhad, info: www.Bankrakyat.com.my /cawangan Ipoh 27 Juni 2014.

²¹ Lihat info: www.bankrakyat.com.my, 23 Juni 2014.

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dividing profit ratios between banks and partners, especially in financing products with the musyārah principle at People's Banks Cawangan Ipoh Perak, both parties agree to share profits, as follows:

- 1) The distribution of profits in the project financing scheme will be calculated after the project is ready and after receiving results, namely after the project is sold.
- 2) For financing of less than RM5 million, the bank will get 40 percent of the project's net profits after paying taxes and zakat, while colleagues will get 60 percent. As for financing that exceeds RM 5 million, the bank only gets 25 percent and colleagues get 75 percent. This ratio is made with the agreement of both parties, after that it is kept by the bank before project financing for additional capital is approved by the bank. The bank gives the reason for this ratio because the project implementer has more work and is responsible for the project being undertaken. Meanwhile, the bank only sends an employee to monitor, provide advice and so on to the project administrator/implementer. However, if financing is provided to individuals with a financing value not exceeding millions, the profit ratio is sometimes not as stated above, but still follows the mutual agreement.²²

Generally, in business collaborations, sometimes you can experience losses. Losses in a syirkah contract will be borne jointly by both parties, the ratio is based on the mutually agreed agreement²³ regarding the musyārah contract. In the musyārah contract, People's Banks determines and stipulates

²² Hasil wawancara dengan Rizal Bin Radzi, Penolong Pengurus People's Banks Cawangan Ipoh, Perak, 16 Januari 2014.

²³ Yusriadi Yusriadi, "Aturan Utang Dalam Akad Pembiayaan Mudharabah Pada Bank Syariah," *Al-Hiwalah: Journal Syariah Economic Law* 1, no. 1 (2022): 18–36, <https://doi.org/https://doi.org/10.47766/alhiwalah.v1i1.881>.

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musyārah products with the concept of syirkah al-'inān only because there is no difference of opinion regarding syirkah al-'inān among scholars and schools of thought.²⁴

Analysis, People's Banks has succeeded in applying sharia principles through Islamic banking products. The sharia principles applied are based on the Koran, al-Hadith, ijma, qias and other legal sources agreed upon by contemporary fiqh scholars and Islamic scholars. These sources have become the main reference and guide for Islamic jurists and scholars in establishing and applying sharia principles through contemporary Islamic banking products.

People's Banks has also succeeded in applying sharia principles in all Islamic banking products, especially in the principles of musyārah, for example in carrying out a joint business between People's Banks and colleagues in carrying out a project with the principles of musyārah or cooperation, both parties have agreed and made agreement regarding cooperation and profit sharing before carrying out the business, and they agree that the profits will be shared according to the agreement that has been agreed between them.

This is due to People's Banks's desire to run and implement all its products in accordance with Islamic sharia. Thus, People's Banks continues to follow the regulations set by Bank Negara Malaysia, that all financial institutions in Malaysia that wish to run a financial system based on sharia principles, these institutions are required to appoint at least five sharia power of

²⁴ Hasil wawancara dengan Mohd. Hanafiah bin Mohd. Nawawi, Pegawai Syariah Bahagian Pengawasan Ibu Pejabat People's Banks Kuala Lumpur, pada 10 Mei 2013, lihat juga Bank Kerjasama Rakyat Berhad (People's Banks) Info: www.bankrakyat.com.my 18 Juni 2013.

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attorney experts. The role of the power of attorney expert is as an advisor to the bank and monitoring the progress of each product that will be implemented.²⁵

1. Ulama's Opinion on Profit Distribution at People's Banks

The Ḥanāfī school of thought states, as the author has previously mentioned, that it is permissible to share profits by giving a profit share that is more than the capital ratio of one party over the other party, even though each co-worker puts in the same capital or in other words the Ḥanāfī school of law allows profit sharing that exceeds the ratio. The capital invested by one of the collaborating parties is compared with that of the other party in Syirkah al-‘inān.

The opinion of the imam in the Ḥanāfī school of thought regarding the permissibility of sharing profits by providing a profit share that exceeds the capital ratio for one party, is based on this opinion so that it is permissible to determine the profit. The imam said that determining profits is legal according to the argument of Athār ‘Alī bin Ṭālib as stated in the book al-Mabsūṭ.²⁶ As follows:

الربح على ما اشترطا والوضيعة على المال

Meaning: "Profits depend on what is determined by both parties and losses depend on assets".

²⁵ Bank Negara Malaysia info: www.bnm.gov.com.my 24 April 2014.

²⁶ Syams al-Dīn al-Sarakhsī (t.t), *al-Mabsūṭ*, Juz II. Beirut: Dār al-Kutub al-Ilmiyyah, hal. 156. *Athār* di dalam kitab *al-Mabsūṭ* di atas juga terdapat dalam kitab *Faṭḥ al-Qādir* dan *Ru’ūs al-Masāil*, namun demikian dalam kitab tersebut *athār* ini dinyatakan sebagai hadits, dalam syarahnya juga diterangkan bahwa hadits tersebut tidak didapati di dalam kitab-kitab hadits dan sebagian ulama menisbakkannya kepada ucapan ‘Alī bin Ṭālib r.a. sehingga menjadi *athār*. Lihat juga Kamāl al-Dīn Muḥammad bin ‘Abd al-Waḥad al-Siwāsī, (t.t), *Faṭḥ al-Qādir*, Juz V. Beirut: Dār al-Fikr, hal. 177.

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In the athār above it is clear that the distribution of profits depends on what has been determined by the two parties involved, in contrast to the situation of wadi'ah (losses), which is based on their assets or capital. If wadi'ah (loss) is based on assets or capital, then syirkah is based on capital and also an agreement agreed upon by both parties before carrying out syirkah or cooperation.

Thus, this athār becomes the legal basis for the Ḥanāfī school of thought that the concept of profit sharing may be based on agreement by the two parties sharing a particular agreement,²⁷ not just on consideration of the capital ratio entered by both parties. Furthermore, Imam Abū Ḥanīfah emphasized that the right to profits was obtained due to provisions that had been mutually agreed upon, thus, one of them was entitled to profits based on what had been determined regarding the distribution of these profits. This is based on the hadith of the Prophet Muhammad as follows:

قال رسول الله المسلمون عند شروطهم

Meaning: "Muslims depend on what they have conditioned (agreed upon)".

The hadith above clearly emphasizes that Muslims may enter into contracts in accordance with certain agreements as long as they do not conflict with the provisions of the Qur'an and Sunnah. In this case, of course it is closely related to the provisions made regarding the distribution of profits in Syirkah al-'Inān. Thus, the Ḥanāfī school of thought takes a decision based on the hadith above that the law determines the distribution of profits on the basis of a mutual agreement, including the agreement to provide profits in excess of

²⁷ Farissa Amelia and Nazaruddin Nazaruddin, "Aktivitas Bisnis Dalam Tinjauan Aspek Hukum Perjanjian," *Al-Hiwalah: Journal Syariah Economic Law* 1, no. 2 (2022): 171–82.

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the capital ratio for one of the co-workers is permissible or legal. Because this does not conflict with the laws of the Qur'an and Sunnah, because there are arguments that support it.

Thus, the concept of profit sharing based on the previous athār is in accordance with the hadith that has been mentioned, that the distribution of profits in syirkah al-inān is not only based on the capital ratio entered by the collaborating parties in syirkah al-inān but may be done on the basis of mutually agreed provisions. between colleagues, including to increase the benefits of one party over another, based on the hadith above, Muslims may determine a mutual agreement in seeking peace or agreement as long as it does not violate the laws contained in the Qur'an and as-Sunnah.

Based on this reference, the Hanāfi school of thought allows the distribution of profits not solely based on the capital ratio provided by both parties in Syirkah al-'Inān, but profits may be distributed based on an agreement made by both parties. Therefore, it is mandatory to agree on sharing profits in excess of the capital ratio for one of the co-workers even though the amount of capital is the same, because this is part of the agreement they have agreed to.

Furthermore, the Hanāfi school of thought states that the provisions that are agreed upon by the musharik in Syirkah al-'Inān to determine the distribution of profits are sometimes in terms of capital, work and guarantees. In the event that the distribution of profits is more than the capital ratio, even though the capital invested by both parties is the same, it can be based on excess work which is a factor for additional profit sharing, because in reality sometimes one party works more, is more skilled at work and is more has

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many roles in generating profits for the company. This fact can be seen in the book al-mabsūṭ as follows:

Then this contract (determining profit) is permissible based on human needs and the requirements required by these conditions because sometimes one party is more skilled than the other party in running a business and he is not willing to be compared with other colleagues and he is entitled to obtain a higher profit. more because of the advantages he has, which other colleagues do not have.²⁸

From the statement above, that in carrying out a Shirkah contract where it is required that one of the parties will obtain more profits based on an agreement regarding a claim in the contract to increase the profits for one of the parties. For the reason that one of the co-workers who runs sharia business is more experienced or has expertise in business and plays more of a role in generating profits, so in this situation he does not agree if the profits are distributed equally, considering that he has advantages in terms of work. the same. Therefore, it is permissible to increase profits for one of your colleagues in exchange for and appreciate the advantages they have, both in terms of their work and their knowledge in business matters.²⁹

Analysis, People's Banks Cawangan Ipoh Perak has applied Imam Ḥanāfi's opinion in the implementation of their products, especially al-Musyārah and al-Muḍārah products. For example, the distribution of profits between customers and People's Banks will be determined based on

²⁸ *Ibid.*, lihat juga Abū Yusūf Ya'kūb bin Ibrāhīm (t.t), *al-Kharāj*, Beirut: Dār al-Ma'rifah, hal. 85.

²⁹ Husnaini, Zulhamdi "Aspek Hukum Perjanjian Dalam Aktivitas Bisnis," *Al-Hiwalah: Journal Syariah Economic Law* 1, no. 1 (2022): 77.

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initial agreement before the customer invests capital in People's Banks,³⁰ not according to the capital ratio as required by Imam al-Syafi'i. The author is also more inclined to accept Imam Abū Ḥanīfah's opinion because the opinion of the Ḥanāfi school of fiqh is more suitable to be implemented in the present era, especially in the practice of cooperation based on Islamic economics.

As the author mentioned at the beginning of this study, not all co-workers have the same capacity, there are parties who have a lot of capital and other parties who have less capital but are more skilled at work, this is unfair for the party with less capital to get a smaller profit ratio than the other party, which has a lot of capital. The reasons for Ḥanāfi fiqh are stronger because they are accompanied by the propositions of naqlī and 'aqlī, in these propositions it is clear that colleagues may agree by specifying in the syirkah al-'inān that one of them may obtain a profit greater than the ratio of their capital due to consideration. certain, both work considerations and the existence of a guarantee for the party to be more proficient in business.

A. KESIMPULAN

Shirkah is a transaction between two or more people who both agree to carry out work with the aim of seeking profits from their cooperation. In the view of scholars, this syirkah is divided into several types; among other things, according to Hanāfi fiqh, syirkah is divided into two large parts, namely syirkah Amlāk, and syirkah 'Uqūd. Syirkah Amlāk is divided into two parts, namely syirkah Ikhtiariyyah and syirkah Ijbariyyah. Meanwhile, syirkah 'Uqūd according to the Hanāfiyyah school of thought is divided into six types, namely

³⁰ Hasil wawancara dengan Mohd. Mawardi bin Sairi, Pegawai Syariah Bahagian Pengawasan Ibu Pejabat People's Banks Kuala Lumpur, pada 4 Mei 2013.

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syirkah amwāl, syirkah 'Amal, syirkah Wujūh, and each part of the syirkah is sometimes syirkah mufāwadah or sometimes syirkah al-'inān.

Syirkah al-'inān is syirkah that is permitted and agreed upon by the majority of ulama. Syirkah al-'inān is two or more colleagues who work together in capital to carry out business with profits and losses that will be shared together. In discussing profits and losses, the ulama divide them into two groups regarding whether or not they are allowed to share profits that are not based on capital but rather by agreeing to a certain agreement.

Imam al-Syāfi'ī stated that it is not permissible to share profits that are not based on the capital ratio between the assets of both parties and the Imam stated that excess profits for one co-worker is not permissible because it contains an element of tyranny towards the other party. Meanwhile, the scholars of the Imam Ḥanafī school of thought stated that it is permissible to give a share of profits in excess of the capital ratio to one of the parties in the syirkah al-'inān, if this has become a mutual agreement between both parties. The Ḥanafīyyah ulama stated that it is permissible to give a share of profits in excess of the capital ratio in syirkah al-'inān, the opinion of these ulama is based on Athār 'Alī bin Abī Ṭālib who stated that it is permissible to determine the profits from a business collaboration.

The author himself concludes that Imam Abū Ḥanīfah's opinion is acceptable because it is in accordance with the text and is more relevant to current conditions. And the author found that People's Banks implemented the concept that had been put forward by the Ḥanafī school of thought, but the terms and themes relating to the profit ratio between customers and banks were only determined by the bank after there was an agreement with the typical customer representatives chosen by the bank and discussions were not carried

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out with all customers. This is the same as stated by Imam Ḥanāfi that before carrying out a collaboration, both parties may make a mutual agreement regarding the distribution of profits. Banks in Malaysia which are based on Islamic law have implemented according to the opinion of Imam Abū Ḥanīfah, especially in distributing profits to colleagues.

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