

# Unveiling Partnership Culture in Sharia Banking Regulations

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## ARTICLE INFO

### Article history:

Received May 27, 2024

Revised June 19, 2024

Accepted December 06, 2024

Available online December 11, 2024

### Keywords:

Partnership, Culture, Sharia Banking, Regulation

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Available online at:

<https://doi.org/10.35905/banco.v6i2.9096>

## ABSTRACT

**Purpose** – This study investigates whether the regulatory framework governing Sharia banks effectively enforces their distinctive characteristics and fulfills the objectives of maqashid sharia, amid concerns about their perceived similarity to conventional banks.

**Method** – Using a normative legal approach, the research employs qualitative descriptive methods to analyze primary legal frameworks and validate findings through secondary sources.

**Findings** – The study finds that Indonesia pioneered the concept of Islamic banking in the 1970s, requiring financial intermediation based on a profit-sharing system in accordance with Sharia principles. Despite these mandates, some Sharia banks continue to adopt practices resembling conventional banking markup schemes.

**Practical implications** – The findings highlight the need for legal reforms to reinforce Sharia banks' adherence to their foundational principles, thereby promoting a genuine partnership culture based on the principle of taawun (mutual cooperation).

**Originality/value** – This research underscores the gap between regulatory mandates and practical implementation, offering insights into how legal adjustments can align Sharia banking practices more closely with their philosophical roots

## A. Introduction

Islamic banking presents a unique model that emphasizes partnership, profit-and-loss sharing, and adherence to Islamic principles, setting it apart from conventional banking. In contrast to the debtor-creditor relationships in conventional banks, Islamic banks operate under risk-sharing contracts such as *musharakah* and *mudharabah*, which foster equity and collaboration. However, public perception often conflates the two systems due to similarities in operational practices, particularly in financing schemes like *murabahah*. This misunderstanding undermines the distinctiveness of Islamic banking as a values-based financial model aligned with maqashid sharia. Furthermore, many stakeholders remain unaware of the ethical foundations of Islamic banking, such as avoiding gharar (uncertainty), maisir (gambling), and riba (interest). These misconceptions highlight the need to evaluate how regulations and practices can reinforce the principles that differentiate Islamic banks. Bridging this gap is essential to strengthening the unique identity of Islamic banking in Indonesia.

Law No. 21 of 2008 provides the primary legal foundation for Islamic banking in Indonesia, yet challenges in its implementation persist. One of the most pressing issues is the tendency of Islamic banks to adopt conventional practices that conflict with maqashid sharia. For instance, markup-based schemes in *murabahah* contracts often resemble interest-based systems, drawing criticism from scholars and practitioners alike. Additionally, the legal uncertainty surrounding Islamic derivatives limits their potential as risk mitigation tools, which conventional banks widely utilize. Previous studies have largely focused on the financial performance and operational frameworks of Islamic banks, overlooking the regulatory impact on partnership culture. This creates a gap in the literature that necessitates a deeper exploration of how regulations can distinguish Islamic banking practices from conventional ones. Addressing this gap is vital to ensuring that Islamic banks align with their ethical and social objectives.

On a global scale, Islamic banking holds the potential to serve as a socially and environmentally sustainable financial model. However, its success depends on robust and coherent regulatory frameworks that ensure compliance with maqashid sharia. These principles—justice (*adl*), balance (*tawazun*), and social welfare (*maslahah*)—should underpin every aspect of Islamic banking operations. Unfortunately, real-world practices often deviate from these principles, particularly in fostering a partnership culture. Many operational aspects of Islamic banks have shifted towards transactional relationships that mimic conventional banking. This divergence not only weakens the ethical foundation of Islamic banking but also reduces its appeal as a credible alternative. Therefore, a more comprehensive approach is needed to evaluate how regulations influence the development of partnership culture within Islamic banking.

This research aims to assess the effectiveness of Islamic banking regulations in promoting a partnership culture rooted in *taawun* (mutual cooperation). Using a normative legal approach, the study analyzes the alignment of regulatory frameworks with maqashid sharia principles. Primary data are drawn from Indonesian laws and regulations governing Islamic banking, while secondary data include scholarly literature and prior research. The methodology also incorporates critical legal analysis to identify weaknesses in regulatory implementation and propose reforms. The study bridges the gap between regulatory analysis and practical implementation, offering insights to strengthen the unique identity of Islamic banking. By addressing the regulatory challenges, the research contributes to the sustainable development of Islamic banking as an ethical financial intermediary.

The findings of this research are expected to provide actionable recommendations for legal reforms that reinforce partnership culture in Islamic banking. These reforms include eliminating conventional mimicry practices that conflict with maqashid sharia and enhancing the institutional capacity of Islamic banks to meet modern societal needs without compromising their ethical identity. By fostering a partnership culture based on justice, transparency, and cooperation, Islamic banking can play a more significant role in ethical financial intermediation. Ultimately, more effective regulations and consistent operational practices aligned with maqashid sharia will ensure

the sustainable growth of Islamic banking. This research offers a foundation for further discussions on the relevance and impact of Islamic banking in evolving socio-economic contexts

## B. Method

Legal research in the field of Islamic banking and finance is also complex, and specialists in that field are experts in different fields. Analyzing the sharia issues is particularly challenging. The type of this research is library research using a normative legal approach. The source of data from collecting positive laws of sharia banks and verifying the form of scientific evidence from previous studies that have relevance and similarities to support the problems. This method hopefully can analyze and measure partnerships in the regulation of sharia banks, a qualitative descriptive method is used. This method as much as possible to evaluate data in-depth, interpreting looking for connectivity and relevance. (Riyanti & Reski, 2022). Minkkinen explains that the pure theory of law is not only to afford theoretical frameworks for decision-makers and lawyers on how to interpret the law; the only purpose of the pure theory of law is to recognize legal norms and to define them scientifically. In that way, the objects of research are also identified in a scientific method. Critical legal analysis of Islamic banking and finance law is a valuable methodological tool to find solutions and remedies to different laws. Other than that, It is also appropriate to consider that the primary goals of Islamic banking and finance are different from the goals of its conventional counterparts legal researchers need to familiarize themselves with new techniques and skills, especially data analysis and mixed methods. It can produce high-quality research. The goal of this research is actually to implement multidisciplinary approaches also capture information that can be beneficial to other researchers or that suggests additional future research. (Kadi, 2022).

## C. Research Methods

Conducting legal research in Islamic banking and finance poses significant challenges due to the multidisciplinary nature of the field, which spans law, economics, and theology. This research employs a normative legal approach to examine the regulatory frameworks governing Islamic banking, focusing on their alignment with maqashid sharia principles. A qualitative descriptive method is utilized to analyze legal texts, such as laws, regulations, and fatwas, alongside scholarly literature. This method aims to assess the effectiveness of regulatory frameworks in fostering partnership culture while identifying gaps that hinder their implementation.

Primary data for this study consist of statutory provisions, including Law No. 21 of 2008 on Islamic Banking, relevant Bank Indonesia regulations, and fatwas from the National Sharia Council. Secondary data are derived from academic publications, case studies, and prior research on Islamic banking practices. The combination of these data sources enables a comprehensive evaluation of the legal structures and their impact on operational practices. This study also integrates critical legal analysis to uncover inconsistencies and propose actionable reforms.

According to Minkkinen's pure theory of law, legal research should provide a robust framework for interpreting laws while scientifically defining legal norms. In this context, the study adopts a systematic approach to identify connections between legal norms and the operational realities of Islamic banking. The methodology emphasizes the need to align regulatory practices with the maqashid sharia principles of justice (*adl*), equity (*ibsan*), and mutual benefit

(*maslahah*). These principles form the foundation for evaluating how Islamic banking regulations support or undermine the partnership culture.

Furthermore, this research acknowledges the importance of incorporating multidisciplinary approaches to enhance the depth of analysis. Techniques such as comparative analysis and mixed-method evaluations are applied to contextualize findings within broader socio-economic and legal frameworks. This approach ensures that the study's outcomes are not only theoretically rigorous but also practically relevant for policymakers, practitioners, and academics. By bridging legal theory with empirical evidence, the methodology aims to provide actionable insights into improving Islamic banking regulations.

The ultimate goal of this research is to propose reforms that strengthen the alignment between regulatory frameworks and maqashid sharia principles. These reforms are intended to address the challenges posed by conventional mimicry practices and enhance the institutional capacity of Islamic banks. By doing so, this study contributes to the development of a more robust and ethical Islamic banking system, ensuring that its operations reflect the core values of partnership and mutual cooperation

## **D. Results**

### **1. Legal substance and culture of Sharia Bank**

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The development of Sharia banking in Indonesia reflects a continuous effort to align legal frameworks with maqashid sharia principles. Legal substance, as part of the larger social system, emphasizes the importance of harmonizing laws with societal values. From the establishment of Law No. 7 of 1992 to Law No. 21 of 2008, significant strides have been made to institutionalize Sharia banking within Indonesia's financial system. However, the integration of Sharia principles in practice remains uneven. For instance, while regulations prohibit interest-based transactions, the implementation of markup-based contracts such as murabahah often mirrors conventional banking practices, diluting the unique identity of Sharia banking.

The partnership culture inherent in Sharia banking is intended to foster equity and collaboration between banks and customers. Yet, challenges persist in ensuring compliance with these values. Legal enforcement alone is insufficient; it must be complemented by cultural shifts that promote transparency, accountability, and mutual trust. As highlighted by Friedman, the effectiveness of a legal system depends on its ability to create harmonization within society. For Sharia banking, this entails embedding a culture of compliance that aligns operational practices with the principles of justice (*adl*) and benefit (*maslahah*). Substance system is an integral part of the larger social system by Lawrence M. Friedman & Stewart Macaulay. Consist of an asset of rules, procedures, and activities of officials sealed off and isolated from the rest of society (Ali, 2009). Friedman & S.Macaulay said to see the legal system as an integral part of the larger social system, rather than as an asset of rules, procedures, and activities of officials sealed off and isolated from the rest of society. Enforcement is not a matter of its own in the implementation, but it involves different aspects and factors. Law enforcement is not only related to the law itself, but also to humans, both

law enforcers, and society. The success of is an indicator of the ability of the law to create "harmonization" among members of the community, and when harmonization is realized, then the realization of the idea of justice, as well as peace which always gives birth to benefits for society as a totality (Ali, 2009).

From a legal point of view, the obligation regulation is the right step to be taken, which will be effectively enforced through compliance with practices, and will lead to the achievement of legal success. How an application is made must be answered by analysis of the legal substance, structure and culture above. The legal culture itself is a collection of ideas, attitudes, beliefs, values, hopes and opinions in the public sphere concerning law. In order to meet the needs of religion, Sharia banking law is also a significant tool. (Nopriansyah, Munajat, and Mujib 2022). Conceptually core and meaning of the rule of the law span the hierarchy of values in the context of steady and manifest attitudes act as the final stage of the value chain elaboration to create (Latifah & Haq, 2023) maintain and sustain social peace alive (Handayani, 2012).

Tabel 1. Regulations Governing Sharia Banking

Regulation	Concerning	Partnership Values
<b>Law Number 7 of 1992</b>	Concerning Banking, acknowledging profit-sharing banking, government regulation (PP) No. 72 of 1992 concerning Banks based on the principle of profit sharing. This PP emphasizes that commercial banks or people's credit banks whose business activities are solely based on the profit-sharing principle are not allowed to carry out activities that are not based on the profit-sharing principle. In 1992 there was the introduction of the Dual Banking System, where the mobility of public funds could be widely absorbed, especially in areas that conventional banks could not reach.	✓
<b>Law Number 10 of 1998</b>	Concerning amendments to Law Number 7 of 1992 concerning Banking. This law also BI recognizes the existence of Islamic banks. In addition, conventional banks are also allowed to open sharia units. Technically, sharia banking operations are based on Law Number 10 of 1998 which was an amendment due to the banking crisis. In 1998, the government issued the October Policy Package (PAKTO) which contained the liberalization of the banking industry in Indonesia.	✓
<b>Law No. 28 of 1999</b>	Concerning BI can set monetary policy using sharia principles, BI is responsible for the regulation and supervision of sharia banking, BI has a team of researchers and sharia banking arrangements. In 1999, the establishment of BUS was also started, the opening of a sharia branch office for the first time. The government issued Government Regulation	✓

	Number 17 of 1999 concerning the Indonesian Bank Restructuring Agency, while sharia banking services have not yet been regulated in it.	
<b>BI makes and stipulates Islamic banking institutional regulation</b>	In 2000, operational regulations for Islamic bank institutions were issued. BI makes and stipulates Islamic banking institutional regulations for the development of PUAS & SWBI. The opening of a bank operational license opens financing opportunities for business development based on the partnership principle, not a formal relationship between debtors and creditors as found in conventional banks. In 2001, BPS was born.	✓
<b>Fatwa No: 04/DSN-MUI/IV/2000</b>	In 2003 a fatwa was issued by the MUI fatwa Commission. The decision of the MUI Fatwa Commission stipulates bank and financial institution interest as usury. The national fiqh institution DSN (National Sharia Council) under the MUI, also allows <i>murabahah</i> contracts, placing them in their fatwa no: 04/DSN-MUI/IV/2000. This DSN fatwa serves as an umbrella and guideline for Islamic banking in carrying out <i>murabahah</i> contracts. DSN in its fatwa No: 04/DSN-MUI/IV/2000, regarding <i>Murabahah</i> states: Banks buy goods needed by customers on behalf of the bank itself, and these purchases must be legal and riba-free.	✓
<b>Law No. 3 of 2004</b>	concerning changes to Law no. 23 of 1999 concerning Bank Indonesia, this law has now been strengthened by subsequent law.	✓
<b>on Articles 6, 7, 10, 13, 14 and 15 Law Number 10 of 1998 concerning amendments to Law Number 7 of 1992</b>	Special operational rules are required for Islamic banks to function properly. In this regard, Bank Indonesia as the central bank has issued several regulations that serve as the operational basis for Islamic banks in carrying out their functions as financial intermediaries that regulate the business activities of banks in Indonesia in general based on Articles 6, 7, 10, 13, 14 and 15 Law Number 10 of 1998 concerning amendments to Law Number 7 of 1992 which regulates banking. Specifically, regarding business activities that can be carried out by Islamic banks, this provision was later refined and confirmed in Bank Indonesia Regulation No. 6/24/PBI/2004 concerning commercial banks conducting business activities based on sharia principles	✓
<b>Bank Indonesia Regulation No. 6/17/PBI/2004</b>	Bank Indonesia Regulation No. 6/17/PBI/2004 concerning BPRs that carry out business activities based on sharia principles. Based on Article 39 of Bank Indonesia Regulation No. 6/24/PBI/2004 and Article 36 of Bank Indonesia Regulation No. 6/17/PBI/2004, Sharia Commercial Banks and Sharia People's Financing Banks are prohibited from conducting conventional business activities or converting to a traditional banks.	✓

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**Law no. 21 of 2008**

Following Law no. 21 of 2008, the prohibition of Islamic banks was expanded in Articles 24 and 25 of the Law. Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking (State Gazette of the Republic of Indonesia of 2008 Number 94, Supplement to the State Gazette of the Republic of Indonesia Number 4867), 2008). In Indonesia, there is Law Number 7 of 1992 concerning Banking as amended by Law Number 10 of 1998. However, the provisions concerning Islamic banking in this law are very limited so they cannot answer the uniqueness and specificity of Islamic banking. The law only provides a vague indication of the possibility of banks providing profit-sharing banking facilities. With the enactment of Law Number 21 of 2008 concerning Sharia Banking, sharia compliance is regulated, the authority of which lies with the Indonesian Ulema Council (MUI) and submitted through the Sharia Supervisory Board (DPS), which must be formed in every sharia bank and sharia business unit. . Monitoring the implementation of MUI fatwas into Bank Indonesia Regulations (PBI). Internally, Bank Indonesia has formed a Sharia Banking Committee consisting of representatives from Bank Indonesia, the Ministry of Religion, and various elements of society. According to Article 1 paragraph (1) of the Sharia Banking Law No. 21 of 2008, the legal substance of Islamic Banking is everything related to Islamic Banks and Islamic Business Units, including institutions, business activities, methods, and processes in carrying out their business.

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**Government  
Regulation Law No.  
6 of 2009**

Concerning Bank Indonesia.

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**Constitutional Court  
through a decision  
Number: 93/PUU-  
X/2012**

Our belief in the application of sharia law in the economy has been supported by the application of sharia law in other fields such as the resolution of sharia economic disputes which have been firm in their settlement as Article 55 paragraph 2 of Law Number 21 of 2008 concerning Sharia Banking has been annulled by the Constitutional Court through a decision Number: 93/PUU-X/2012 ending the dualism (choice of forum) for sharia economic dispute resolution between the religious court and the general court. A good sharia economic theory and system, of course, must put an end to doubts over dispute resolution.

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**Source:** Banking Regulation

The idea of establishing an Islamic Bank has emerged since the 1970s where the idea emerged and was discussed at a national seminar on Indonesia with the Middle East, as well as at an international seminar organized by the Institute for the Study of Social Sciences (LSIK) and the Bhineka Tunggal Ika foundation in 1976. Research in the framework of this establishment has also

been carried out but there are obstacles where the legal umbrella is appropriate to cover the operations of Sharia Bank. Meanwhile, if it is adjusted to Law No. 14 of 1967 concerning banking at that time it becomes less appropriate, apart from avoiding polemics, it is part of an Islamic state. The initiative to establish Islamic banks in Indonesia emerged again in 1990. On 18-20 August 1990, the Indonesian Ulema Council held a 'Bank and Banking Interest Workshop' in Bogor, West Java. The results of the workshop were then discussed in more depth at the Fourth National Conference of the Indonesian Ulema Council in Jakarta on 22-25 August 1990 to form a working team for the establishment of Islamic banks in Indonesia.

## **E. DISCUSSION**

### **1. Evolution of Indonesia Banking Regulation**

This study shows that Indonesia has had an idea of establishing an Islamic bank since the 1970s and has been leading sharia mandates for Sharia Banks to carry out as financial intermediaries with profit sharing. As a value of their using the sharia principle has been creating and encouraging partnership culture. Also realized through a series of processes in establishing a sharia bank with the sharia principle including an accommodating partnership culture.

Law can continue moving, changing, and following the dynamics of human life, not a scheme that is final (limited scheme). (Ambarwati, 2022) Strengthening the existence of sharia banking institutions can through banking law policies by purifying sharia banking law. Refining the aspect of institutional, sharia banking already got legal recognition as a sharia-based bank. The latest enactment of Law Number 21 of 2008 concerning sharia banking marks the journey of the Indonesian sharia banking industry into the purification stage. There are 3 discussed materials consist, first, dual banking system purification through spin-off provisions of the sharia business unit, Second, competent authority to control sharia compliance principles, and then the mechanism of dispute resolution. Article 1 paragraph 10 (Law Number 21 of 2008, 2008) defines a Sharia business unit as a work unit from the head office of a conventional commercial bank that functions as the main office of an office or unit that carries out based on sharia principles. The research found based on the reality explained above, the Indonesian Sharia Banking Association once suggested that the government reconsider the implementation of mandatory spin-off provisions in 2023 because it is constrained by capital aspect. Sharia business unit still wants the existence to be maintained. This status results in the mixing of sharia and conventional management. These practices desire and aspiration to formulate specific regulations regarding sharia banking through its representatives in the legislative that can separate them from the existing banking laws. (Atsani, 2022)

Conventional Sharia Banking and Banking are regulated in the National Legal System. Where Indonesia is based on a civil law system where the legal source is formal in the form of laws and regulations, customs, and jurisprudence. Islamic banking is an entity that raises funds from the community in the form of financing or other words carrying out financial intermediation functions

and social functions. Islamic banks carry out their business activities based on sharia principles. Fulfillment of Islamic values is one of the fundamental aspects that differentiates Islamic banking from conventional banking. (Mubtadi & Adinugraha, 2022)

The compliance culture is the value of behavior and actions that support the creation of Islamic bank compliance. It is mean the application of Islamic principles in policies, regulations, systems, and procedures as well as business activities carried out by Islamic banks. As a manifestation of the fulfillment of all sharia principles in an institution that has the form, characteristics, integrity, and credibility of a sharia bank. 5 principles in the implementation of GCG contained in Bank Indonesia Regulation No.11/33 /PBI/2009 as well as guidelines issued by the National Committee on Governance Policy (KNKG) consist; first, transparency and easily accessible information in a timely, adequate, clear and comparable manner to stakeholders and the public that conduct an objective business, professional manner and protect the interests of consumers. Second, accountability looks at the clarity of functions in the organization the authority must be accountable for their performance by taking into account shareholders, customers, and other interests, a bank can manage in a healthy, measured professionally. Then, responsibility means compliance with statutory regulations and internal bank regulations including the responsibility to society and the environment to gain recognition as a good corporate citizen and as guarantee the maintenance of the continuity long term business. The next principle is independence contains objectivity in carrying out its duties and obligations. The last, fairness pays attention to the interests of shareholders, consumers, and other interests following the proportions of each party concerned. (Mubtadi & Adinugraha, 2022)

Bank Indonesia wants to realize modern Islamic banking, which presents applicative forms of the Islamic economic concept that are formulated wisely, universally, and open to all Indonesian people. Regulation can be the solution in the current context of the problems being faced by the Indonesian nation. Only in this way, efforts to develop an Islamic banking system will always be seen and accepted by all Indonesian people as part of the solution to various problems in the country. Sharia banking financial market development strategy, among others, are as follows: First, implementing a new vision of sharia banking development in phase I of 2008 to build an understanding of sharia banking as Beyond Banking. Second, positioning, differentiation, and branding of sharia bank. The new positioning of Islamic banks as banking that is mutually beneficial for both parties, aspects of differentiation with competitive advantages with various products and schemes, transparency, competence in finance and ethics, information technology that is always up-to-date and user-friendly, and the presence of Islamic financial investment experts adequate. Fourth, product development programs. Fifth, service quality supported by competent human resources and improvement programs and the provision of information technology so able to satisfy and is able to communicate Islamic bank products and services to customers correctly and clearly, while still complying with sharia principles; Lastly hat sharia banks can optimally socialization and education programs.

Including Sharia banks, the laws and regulations in Indonesia regulate the issue of guarantees in the context of implementing the prudential principle that banking institutions must apply. On this law a conventional Banks that will make changes to activities business to become a Sharia Bank must: adjust the articles of association; meet capital requirements; adjust the requirements of the Board of Directors and the Board of Commissioners; establish DPS; and present initial financial statements as a Bank Sharia. Conventional Banks that have received permission to change business activities to become a mandatory Sharia Bank carry out business activities based on the Principles of Sharia no later than 60 (sixty) days from the date, the permit for change of business activity was granted Financial Services Authority Regulation Number 64/Pojk.03/2016 Concerning Changes In Conventional Bank's Business Activities Become A Sharia Bank. In addition, the use of sharia bank services is also still limited in certain areas, not yet able to reach all levels of society. In this case, not a few use consideration faraway access to banking. Although now sharia banking has also become a merger where the market share can be increasingly added and can be expanded in the range of the market with the development of the continued of E-Mobile Banking service which has now felt the ease of access. These regulations are the rules in Law No. 7 of 1992 concerning Banking as amended by Law No. 10 of 1998, Law No. 21 of 2008 concerning Sharia banking, Regulations from Bank Indonesia, and the Civil Code. Other concerning asset quality of Islamic Commercial Banks and Sharia Business Units also shows the obligation to apply the prudential principle have been regulated on the Regulation of the Financial Services Authority (POJK) No. 16/POJK.03/2014.

The historical development of Sharia banking regulations highlights a gradual shift towards a more structured and inclusive financial system. From the introduction of profit-sharing banking in 1992 to the establishment of comprehensive regulatory frameworks in 2008, Indonesia has made significant progress. However, the dual banking system continues to pose challenges, particularly in maintaining the distinct identity of Sharia banks.

Table 1 illustrates the evolution of regulations concerning Sharia banking in Indonesia. Each regulatory milestone reflects efforts to embed partnership values within the financial system. Despite these achievements, practical implementation often falls short due to insufficient enforcement and cultural barriers. Strengthening the regulatory framework through targeted reforms can bridge these gaps, ensuring that Sharia banking remains true to its principles of justice, equity, and collaboration.

This study reveals that while Sharia banking regulations provide a strong foundation for partnership culture, their practical application requires significant improvement. Legal reforms should address the imitation of conventional banking practices and promote genuine adherence to maqashid sharia. Additionally, the integration of compliance culture and enhanced governance mechanisms can strengthen public trust and operational effectiveness.

By aligning regulatory frameworks with maqashid sharia, Sharia banking can serve as a model for ethical and sustainable finance. This research highlights the importance of continuous legal

evolution to meet the dynamic needs of society. The findings underscore the need for a collaborative approach involving regulators, practitioners, and academics to ensure that Sharia banking fulfills its potential as a values-driven financial intermediar

This study highlights the critical role of regulatory frameworks in shaping the partnership culture of Sharia banking in Indonesia. The findings reveal that, while existing laws provide a robust foundation, practical implementation often deviates from maqashid sharia principles such as justice (ADL), benefit (MASLAHAH), and collaboration (TAAWUN). Markup-based schemes in MURABAHAH contracts, for example, resemble conventional interest-based systems, undermining the integrity of Sharia banking. Additionally, the lack of transparency in certain financing mechanisms, such as MUDHARABAH, poses challenges to fostering trust and compliance. The dual banking system exacerbates these issues by blending conventional and Sharia principles, creating confusion among stakeholders. Despite these challenges, the study underscores the potential of Sharia banking to embody ethical finance if its operational practices align more closely with its foundational principles. This alignment requires targeted legal reforms and cultural shifts to address gaps in governance and operational integrity.

The findings are consistent with Lawrence Friedman's legal system theory, which emphasizes the interplay between legal substance, structure, and culture. In the context of Sharia banking, the legal substance, represented by regulations, must be supported by a culture of compliance and a structure that facilitates partnership-based transactions. The principle of HIFZH AL-MAAL (protection of wealth) aligns with Friedman's notion of harmonization, highlighting the importance of integrating Sharia principles into operational practices. However, the study also demonstrates that regulatory enforcement alone is insufficient; cultural transformation is essential to bridge the gap between theory and practice. Minkkinen's pure theory of law further supports this, emphasizing the need for scientific frameworks to define and interpret legal norms. By applying these frameworks, this research elucidates the critical factors influencing the effectiveness of Sharia banking regulations. This theoretical lens highlights the necessity of embedding maqashid sharia into both regulatory design and practical implementation.

The findings build on previous studies that identify operational and governance challenges in Sharia banking, such as those by Moertiono et al. (2021) and Trimulato et al. (2023). Similar to these studies, this research confirms that regulatory gaps and conventional mimicry hinder the realization of Sharia banking's unique identity. However, this study extends the discussion by critically analyzing how these issues impact the maqashid sharia principles of justice and benefit. Unlike prior research, which primarily focuses on financial performance, this study emphasizes the cultural and structural dimensions of Sharia banking. Furthermore, the findings corroborate Rini's (2019) assertion that compliance with Islamic Corporate Governance remains underdeveloped. This study contributes to this body of knowledge by identifying specific regulatory and cultural reforms needed to address these gaps. By situating its findings within the broader discourse, this research provides a comprehensive understanding of the factors affecting Sharia banking's effectiveness.

This research introduces a novel perspective by connecting regulatory frameworks with the cultural and operational practices of Sharia banking. Unlike previous studies, it emphasizes the role of compliance culture as a critical factor in aligning operations with maqashid sharia. The analysis of partnership culture, particularly in the context of **MUSHARAKAH** and **MUDHARABAH**, provides new insights into the operational challenges faced by Sharia banks. Additionally, the study identifies the dual banking system as a significant barrier to fostering a distinct identity for Sharia banking. This perspective sheds light on the unintended consequences of blending conventional and Sharia practices within the same regulatory environment. The use of critical legal analysis further distinguishes this research, offering actionable recommendations for reform. By addressing these unique dimensions, the study contributes original insights to the field of Islamic finance and banking.

The findings have significant implications for policymakers, practitioners, and academics in the field of Islamic banking and finance. Policymakers must prioritize legal reforms that eliminate conventional mimicry and reinforce maqashid sharia principles in regulatory frameworks. Practitioners should focus on fostering a compliance culture that aligns with the ethical and operational values of Sharia banking. Additionally, the integration of transparency mechanisms in contracts such as **MUDHARABAH** can enhance trust and accountability. Academics can build on this research by exploring the intersection of legal systems and cultural practices in Islamic finance. The findings also highlight the potential of Sharia banking to contribute to Sustainable Development Goals (SDGs) through its emphasis on equity and collaboration. Lastly, addressing governance challenges can strengthen Sharia banking's credibility and competitiveness in global markets. By bridging regulatory gaps and operational weaknesses, the study offers a pathway for Sharia banking to fulfill its role as a values-driven financial intermediary.

## 2. Partnership Culture of Sharia Bank

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The uniqueness of this bank is in the system that forms the bank's operational basis, namely the profit-sharing system and loss (interest). Sharia banks also allow *shirkah*, which means partnership or company. An Equity Partnership can be financed using contracts based on Profit or Loss Sharing arrangements and they mainly take two broad forms; Trust Financing and Partnership as indicated below: (Lubogo, 2022)

Trust financing: the bank provides the entire capital needed to finance a project, and the customer provides the expertise, management, and labor. The profits from the project are shared by both parties on a pre-agreed (fixed ratio) basis. However, in case of losses, the entire loss is borne by the bank.

Partnership, similar to joint venture agreements, in which a bank and an entrepreneur jointly contribute capital and manage the business project. Any profit or loss from the project is shared following a predetermined ratio and distributed between them at an agreed ratio. The bank would ordinarily terminate the joint venture gradually after a certain period or upon the fulfillment of a certain condition.

All these modes of “Sharing” or partnership are termed as “*shirkah*” in the terminology of Islamic Fiqh, every partner has a right to terminate the *musharakah* at any time after giving his partner a notice to this effect, whereby the *musharakah* will come to an end. And if any one of the partners dies during the currency of *musharakah*, the contract of *musharakah* with him stands terminated. If any one of the partners becomes insane or otherwise becomes incapable of effecting commercial transactions, the *musharakah* stands terminated.

Based on the partnership culture within the customer, in banking practice generally, traffic jams often occur the customer's obligation to pay installments. They are not successful in fulfilling the mission of Islamic banking, for sharing the risk with the debtor when low risk and nature short term. Some of the principal criticisms of other contracts in sharia banks, like *Murabahah*, there are also mark-up schemes for practices in Islamic financial institutions. Imitation mark-up schemes conventional banking by disguising profits through play words and other *hiyal* (tricks). What's more, when the purchased asset is made as a guarantee and the bank can also ask the client to provide a certain guarantee. The combination of fixed advantages and guarantees ensures that the risks borne by the bank are very small. The urgency point in muamalah is an element of benefit. The transaction is allowed, does not cause disputes, and has become a habit of the community. However several practices in sharia banks practice as imitation mark-up schemes conventional banking must be solved with legal reform to find out the position of sharia banks as partners with the taawun principle.

Not to be uncommon a few customers manipulate financial reports and even carelessly convey their mistakes in not recording company cash flow. Other research show even more complicated when the assistance carried out by the BMT found additional assets owned by members that were not reached by the surveyor during the financing feasibility assessment. Managed business risk by considering implementing the summaries of the findings for researchers to management as the first or primary line of contact with daily operations. Then, the Legal, Compliance, and Risk departments serve as the backup. Last, Internal Audit serves as the defense as an independent examiner of the bank's risk management effectiveness.(Nurdiani, 2022)

### **3. A progressive law and *maqashid sharia***

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Furthermore, one of the practices is Sharia banks will offer *mudhârabah* financing to those who apply for financing and are declared eligible and qualified in the screening process for the feasibility of the financing. They are declared eligible after going through the feasibility analysis process. Everything that contains the protection of these five things is called *maslahah*, and anything that makes the five things disappear is called *mafsadah*. Hence, in the *mudhârabah* contract on sharia financing in sharia banking will benefit because it is a manifestation of *hifz al-mâl* (guarding property) by the existence of collateral.(Hidayatullah & Fadillah, 2022) Even though, some practices also found there is no transparency, regarding the allocation of the use of funds and the cash flow of the trade being carried out and also the obligations of the members of the business capital *mudharabah* financing.(Agustianto & Alfafa, 2021)

Legal renewal means interpreted as the spirit in the law to make the related legal system better, more just, and beneficial and have legal certainty.(Ambarwati, 2022) Islamic law discoveries motivate and practice Islamic law with confidence and sincerity, without coercion.(Atsani, 2022) Formulating the legal standing of a bank product from a fiqh perspective can actualize reaching *maqashid sharia*. *Maqashid sharia* must underlie the following stages of ijihad consisting of text interpretation to the essential purpose of Islamic law is a benefit. Example begin from the formulation of a fiqh perspective, tarjih various fiqh opinions, and the establishment and application of the law on a banking product or activity.(Saputra & Hilabi, 2022) One of the alternatives can be used to provide fresh air and legal certainty to Muslims regarding the many existing problems, including in the field of *muamalah*.(Noor, 2021) *Fathi ad-Darayni* principle is that the laws were not made for the law itself but for the benefit. To maintain human benefit and avoid *mafsadat* in this world and hereafter. The benefits as the goals of this sharia include five things: religion, soul, mind, lineage, and property. This goal is to be achieved through taklif, whose implementation depends on the reasoning of the primary legal sources, i.e., the Qur'an and Hadith etc.(Hidayatullah & Fadillah, 2022)

As a value of sharia bank activities using sharia principles have been creating and encouraging partnership culture. However several practices in sharia banks practice must be solved with legal reform. To accommodate and address these developments to find out the solution to the culture problem in sharia bank. Allowing concern about the position of sharia banks as partners with the *taawun* principle within fiqh and also to find out some principles on Islamic law to reach *maqashid sharia*.

## F. Conclusion

This research highlights the critical role of regulatory frameworks in shaping the partnership culture of Sharia banking in Indonesia. While laws such as Law No. 21 of 2008 provide a strong foundation, their practical implementation often deviates from *maqashid sharia* principles, particularly justice (*adl*), benefit (*maslahah*), and collaboration (*taawun*). The persistence of conventional mimicry, such as markup-based schemes in *murabahah* contracts, undermines the distinct identity of Sharia banking. Additionally, issues such as lack of transparency in *mudharabah* contracts and dual banking practices exacerbate public mistrust. These findings emphasize the need for comprehensive reforms to address gaps in governance and cultural compliance, ensuring that operational practices align with the ethical and social objectives of Sharia banking.

This study contributes to the literature by offering a critical analysis of how legal substance, structure, and culture interact within the Sharia banking system. By connecting regulatory frameworks with *maqashid sharia*, the research underscores the importance of embedding Islamic values into operational practices. The use of critical legal analysis provides new insights into the challenges and opportunities for fostering a partnership culture in Sharia banking. Furthermore, the study bridges gaps in previous research by focusing on the intersection of compliance culture

and legal frameworks, providing actionable recommendations for strengthening Sharia banking's unique identity.

The findings lead to several actionable recommendations. Policymakers must eliminate conventional mimicry practices and reinforce maqashid sharia principles in regulatory design. Sharia banks should strengthen governance structures, enhance transparency in financing contracts like mudharabah, and adopt a robust compliance culture to foster trust and operational integrity. Public education campaigns and employee training programs are essential for improving the understanding and implementation of Sharia principles. Furthermore, leveraging financial technology (FinTech) can enhance the accessibility and efficiency of Sharia banking services. Aligning Sharia banking with Sustainable Development Goals (SDGs) offers additional opportunities to position it as a model for ethical and sustainable finance.

Future research could explore comparative analyses of regulatory effectiveness in different jurisdictions or examine governance models such as Islamic Corporate Governance (ICG) and their impact on public trust. Studies on cultural influences, FinTech integration, and the economic impact of Sharia banking could provide valuable insights into its broader role in society. Additionally, research on customer behavior and the development of Sharia-compliant financial instruments, such as Islamic derivatives, could address operational challenges and expand market reach. These areas of exploration would deepen our understanding of how Sharia banking can evolve to meet modern societal and economic needs.

By addressing these critical areas, Sharia banking has the potential to emerge as a sustainable, ethical, and globally competitive financial intermediary. Strengthening its regulatory framework, governance structures, and cultural compliance will ensure its alignment with maqashid sharia, paving the way for sustainable growth and meaningful societal impact

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