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Sharia mortgage in Indonesia: A critical inquiry into regulatory adequacy, contractual integrity, and market transformation

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ABSTRACT

This opinion paper critically examines the structural and regulatory architecture of Sharia-compliant mortgage financing, *Kredit Pemilikan Rumah Syariah (KPR Syariah)*, in Indonesia, with particular attention to the normative tensions between classical Islamic jurisprudence and contemporary financial engineering. Drawing on established scholarship in Islamic finance, Indonesian positive law, and institutional economics, this study argues that the existing framework, while formally compliant with *Fatwa Dewan Syariah Nasional—Majelis Ulama Indonesia*, exhibits persistent ambiguities in contractual taxonomy, inadequate consumer protection architecture, and insufficient harmonization with the broader macroprudential objectives of Bank Indonesia and Otoritas Jasa Keuangan (OJK). This study further contends that the dominant *murabahah*-based KPR model, despite its widespread adoption, raises unresolved questions regarding risk distribution, profit margin transparency, and the authentic transfer of *maqasid al-shari'ah* principles into product design to be implemented. The analysis concludes with a normative agenda for reform oriented toward contractual fidelity, regulatory convergence, and genuine financial inclusion.

Keywords: Islamic finance Indonesia; *KPR Syariah*; *maqasid al-shari'ah*; *murabahah*; *musharakah mutanaqisab*; OJK regulation; sharia mortgage

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1. INTRODUCTION

Indonesia occupies a uniquely significant position in the global Islamic finance landscape. As the world's most populous Muslim-majority nation, with approximately 231 million Muslims constituting roughly 87 percent of its population, Indonesia represents both a vast latent demand base and a critical stress test for the operational scalability of sharia-compliant financial institutions (Badan Pusat Statistik, 2021; Otoritas Jasa Keuangan, 2023). Within this context, Sharia-compliant mortgage financing, known domestically as *KPR Syariah*, has emerged as one of the most consequential product categories in the Islamic banking sector, intersecting with fundamental questions of social welfare, housing equity and religious legitimacy.

The housing finance market in Indonesia is significant. Indonesia's housing backlog (backlog *perumahan*) reached an estimated 12.7 million units in 2023, disproportionately affecting low-and middle-income households (Kementerian Pekerjaan Umum dan Perumahan Rakyat, 2023). Against this backdrop, *KPR Syariah* has been positioned not merely as a niche financial product catering to religiously observant consumers but as a structural instrument of national housing policy, integrated into the government's subsidized housing programs such as *the Fasilitas Likuiditas Pembiayaan Perumahan (FLPP)*. The dual mandate of commercial viability and social function creates normative tensions that this study seeks to interrogate.

Despite impressive headline growth figures, the total *KPR Syariah* outstanding portfolio grew by approximately 14.2 percent year-on-year to reach IDR 180.3 trillion in 2022 (Otoritas Jasa Keuangan, 2023). The sector confronts foundational questions that have not been satisfactorily resolved by either regulatory architecture or scholarly literature. The primary concerns are as follows: (1) the authenticity of *murabahah*-based mortgage contracts compared to their conventional counterparts; (2) the adequacy of consumer protection frameworks; (3) the limited diffusion of equity-based alternatives such as *musharakah mutanaqisab*; and (4) the degree to which current product designs genuinely embody the objectives of Islamic law (*maqasid al-shari'ah*).

This paper proceeds as a scholarly opinion piece, synthesizing existing normative and empirical literature to advance a critical perspective on the institutional architecture of *KPR Syariah* in Indonesia. The paper does not purport to present original primary data; rather, it seeks to perform the analytical function of systematically exposing structural weaknesses and advancing reform propositions grounded in Islamic jurisprudence, institutional theory, and comparative regulatory analysis. The remainder of this paper is structured as follows: Section 2 reviews the regulatory and jurisprudential foundations of *KPR Syariah*; Section 3 critically analyzes the dominant *murabahah* contract structure; Section 4 examines alternative contractual forms, particularly *musharakah mutanaqisab*; Section 5 evaluates consumer protection and disclosure frameworks; Section 6 discusses the *maqasid al-shari'ah* dimension; and Section 7 offers concluding reform propositions.

Another reason why *KPR Syariah* warrants sustained scholarly attention lies in the interaction between Indonesia's demographic transformation and the moral economy of home ownership. Urban expansion, changing household formation patterns, rising land prices, and persistent informality in employment shape the real affordability of mortgage products in Colombia. In such an environment, the demand for Shariah-compliant housing finance cannot be explained solely by religiosity. It is also mediated by perceptions of payment certainty, distrust of interest-bearing debt, expectations of fairness in contractual dealings, and the symbolic value of owning a home through a mechanism that is viewed as ethically legitimate. *KPR Syariah* should therefore be understood not only as a banking product but also as an institutional response to a broader aspiration for secure tenure, dignity, and moral reassurance within an increasingly commercialized property market.

Simultaneously, the growth of Islamic mortgage finance has exposed a deeper tension in Indonesia's legal and economic order. The state has promoted Islamic finance as part of financial deepening and industry diversification; however, the operational logic of banking supervision still prioritizes standardization and portfolio expansion in ways that often encourage contractual mimicry rather than genuine innovation. The result is that *KPR Syariah* frequently occupies an uneasy middle

ground: it is expected to satisfy religious expectations, compete with conventional mortgages, and contribute to developmental objectives, all while remaining embedded in a regulatory architecture that was not originally designed around Islamic legal philosophy (Ascarya & Yumanita, 2005; Iqbal & Mirakhor, 2007). This tension helps explain why debates over authenticity, fairness, and legal coherence continue, even as the sector expands.

These dynamics also reveal an unresolved methodological issue in the literature. Much of the existing discussion on Islamic home financing in Indonesia proceeds along two tracks. The first is doctrinal, asking whether a contract satisfies the formal requirements of *fiqh* and the Dewan Syariah Nasional—Majelis Ulama Indonesia fatwas. The second is market-oriented, emphasizing growth, consumer demand and institutional expansion. Both approaches are useful, yet each is incomplete when considered alone. A contract may satisfy the minimum formal conditions while still producing distributive inequities, informational asymmetries, or legal ambiguities in practice. Conversely, a product may achieve commercial success while remaining weak in terms of substantive *maqasid* orientation. Therefore, a more critical inquiry must place legal form, market structure, institutional incentives, and social outcomes in one analytical frame rather than treating them as separate domains.

This article is guided by a central contention: the long-term credibility of *KPR Syariah* in Indonesia depends less on portfolio growth than on whether the sector can develop a financing architecture that is jurisprudentially defensible, regulatory coherent, and socially meaningful. This requires moving beyond celebratory narratives of Islamic finance expansion and confronting difficult questions about who benefits, which risks are shifted, how contractual language is operationalized, and whether the structure advances justice in any meaningful sense. By situating *KPR Syariah* at the intersection of Islamic jurisprudence, regulatory design, and housing policy, this study clarifies why current institutional arrangements remain contested and why reform must address substance rather than nomenclature alone.

2. REGULATORY AND JURISPRUDENTIAL FOUNDATIONS OF *KPR SYARIAH*

The Indonesian Shariah banking sector operates under a multi-layered regulatory framework. At the apex sits Bank Indonesia's and, since 2013, the OJK's prudential supervision mandate. The Dewan Syariah Nasional—Majelis Ulama Indonesia serves as the primary sharia standard-setting body, issuing fatwas that carry formal legal force by virtue of their incorporation into OJK's regulatory instruments (Harahap, 2020). The foundational statutory instrument is Law No. 21 of 2008 on Sharia Banking (Undang-undang Republik Indonesia, 2008), which established a bifurcated banking system and created a legislative basis for the development of Sharia-compliant products.

The primary fatwas governing *KPR Syariah* include DSN-MUI Fatwa No. 04/DSN-MUI/IV,2000 on *murabahah*; Fatwa No. 73/DSN-MUI/XI/2008 on *musharakah mutanaqisab*, and Fatwa No. 77/DSN-MUI/VI/2010 on sale-leaseback (*al-bai' wa al-isti'jār*). These instruments collectively define the permissible contractual architectures for property financing and establish the normative boundaries within which banks must operate (Dewan Syariah Nasional-Majelis Ulama Indonesia, 2000; Dewan Syariah Nasional-Majelis Ulama Indonesia, 2008; Dewan Syariah Nasional-Majelis Ulama Indonesia, 2010). The OJK supplemented these with POJK No. 16/POJK.03/2014, and subsequent prudential circulars addressing loan-to-value ratios, risk weights, and provisioning requirements for Islamic banks.

However, a critical examination of this framework reveals inherent structural tension. The legislative and regulatory infrastructure was substantially modelled on conventional banking law, with Sharia compliance effectively "layered on" through fatwa-based carve-outs rather than being reconceptualized from first principles (Ascarya & Yumanita, 2005; Iqbal & Mirakhor, 2011). This legislative genealogy has enduring practical consequences: the contractual templates employed by sharia banks often closely mirror their conventional analogs in their economic and risk architectures, even while employing different legal nomenclatures.

This structural isomorphism between Sharia and conventional mortgage products is not merely an abstract jurisprudential issue. This has regulatory implications, particularly in the context of Indonesia's commitment to developing a genuinely distinct Islamic financial system, rather than a cosmetic variant of

the conventional system. The OJK's Islamic Finance Roadmap 2023–2027 acknowledges this challenge, calling for greater "authenticity" in Sharia financial product design, but stops short of mandating the structural reforms necessary to achieve it (Otoritas Jasa Keuangan, 2023).

A related difficulty is the uncertain hierarchy between statutory banking law, prudential regulations, and Dewan Syariah Nasional—Majelis Ulama Indonesia fatwas once translated into operational banking documents. In theory, the system appears coherent because the fatwa supplies the Sharia rationale, while OJK and banking law provide enforceable institutional rules. However, this division of labor can obscure responsibility when contractual disputes arise. Banks may argue that a clause is required for prudential reasons, while customers may assume that all provisions in a Sharia contract have also been independently validated as religiously appropriate. This creates a compliance gap in which formal endorsements do not always produce substantive clarity. Therefore, the regulatory framework should not only certify permissibility but also define more precisely which institutions bear interpretive responsibility for contested clauses and enforcement practices.

This issue becomes even more significant when viewed through the lens of legal certainty. Islamic finance depends heavily on confidence that the contract being used is not only lawful but also stable, predictable, and intelligible to all parties. Where the regulatory environment permits wide variation in contractual drafting, documentation sequences, and asset transfer procedures, the resulting diversity may be interpreted as flexibility by banks but as uncertainty by consumers. From a rule-of-law perspective, excessive discretion at the implementation stage can weaken trust in the system, especially when customers lack the bargaining power or specialized knowledge. Therefore, a mature sharia mortgage regime requires greater standardization of core contractual provisions, not to eliminate innovation, but to ensure that innovation takes place within a framework of transparent legal expectations (Undang-undang Republik Indonesia, 2008).

Comparative experience suggests that institutional authenticity cannot be secured by fatwa issuance alone. Islamic finance systems that achieve greater product coherence generally combine Sharia supervision with detailed operational standards, model documentation, and active regulatory review of how contracts function in real transactions. Indonesia has moved in that direction, but the current framework still relies too heavily on the assumption that formal legal recognition will automatically generate substantive conformity. This assumption is weak because, without stronger integration between jurisprudential standards, prudential oversight, and consumer-facing contract design, the sector risks reproducing the very ambiguities it claims to resolve. The regulatory question, then, is not whether *KPR Syariah* is legally permitted in the abstract, but whether the governing architecture is sufficiently robust to preserve contractual integrity once Sharia principles are translated into mass-market financial products.

3. THE *MURABAHAH* MODEL: WIDESPREAD ADOPTION AND ITS DISCONTENTS

Murabahah, a cost-plus sale contract in which the bank discloses its cost and agrees on a profit margin with the customer, accounts for the overwhelming majority of *KPR Syariah* contracts in Indonesia, estimated at approximately 75–80 percent of the outstanding portfolio (Otoritas Jasa Keuangan, 2023). Under the standard *KPR Syariah murabahah* structure, the bank purchases the property from the developer and immediately resells it to the customer at a marked-up price, payable in instalments over a defined tenor. The profit element is determined upfront and fixed for the contract duration, making it structurally distinguishable from conventional floating-rate mortgages.

Proponents of the *murabahah* model provide two primary justifications for its use. First, from a consumer perspective, the fixed-profit structure provides certainty and protects borrowers from the interest rate volatility that characterizes variable-rate conventional mortgages (Usmani, 2002). Second, from an operational perspective, *murabahah* is relatively straightforward to implement within existing banking systems, requiring comparatively modest modifications to credit risk assessment and loan administration processes (El-Gamal, 2006). These practical advantages have contributed to its widespread use.

However, *murabahah*-based *KPR Syariah* has attracted substantial scholarly critique, which this study endorses. The most fundamental objection is that the economic equivalence between a *murabahah* mortgage and a conventional fixed-rate mortgage is not merely approximate but nearly complete. The markup in a *murabahah* contract is typically benchmarked to the conventional interest rate, often the Jakarta Interbank Offered Rate (JIBOR) or the Bank Indonesia Rate, plus a spread, meaning that the "profit margin" is functionally an interest rate by another name (El-Gamal, 2006; Vogel & Hayes, 1998). This practice has been implicitly acknowledged by regulators and scholars but has not been systematically addressed yet.

The second critique concerns the question of genuine ownership transfers. Classical Hanafi and Shafi'i jurisprudence, which inform the DSN-MUI's rulings, require that in a *murabahah* sale, the bank must have genuine possession (*qabd*) of the asset before reselling it to the customer, thereby accepting a real commercial risk for at least a brief period (Ibn Qudama, as cited in Iqbal & Mirakhor, 2011). In practice, Indonesian Shariah banks typically use a "back-to-back" arrangement in which the property is acquired and immediately transferred to the customer, often on the same day and through the same notarial instrument. The question of whether this constitutes a genuine assumption of ownership risk, and thus a bona fide sale, or a mere legal fiction is legitimate and unresolved (Rosly & Bakar, 2003; Haron & Azmi, 2009).

Third, the issue of early settlement penalties in *murabahah* contracts deserves more attention. Unlike conventional loans, Sharia principles generally prohibit the imposition of financial penalties for early repayment because the markup is a feature of the sale price rather than an ongoing interest obligation. However, some Indonesian Shariah banks have incorporated "administration fees" or "servicing charges" triggered by early settlement, effectively replicating the economic function of prepayment penalties (Harahap, 2020). This practice is normatively questionable and illustrates the broader pattern of form-over-substance compliance.

Another important concern relates to the concentration of risk on customers despite the rhetoric of ethical finance. In many *murabahah* arrangements, the bank's commercial exposure is sharply limited after the resale is executed, whereas the customer remains responsible for long-term payment obligations regardless of future changes in household income, property market conditions or macroeconomic stress. This asymmetry does not automatically invalidate the contract, but it does weaken the claim that *murabahah* meaningfully departs from debt-based finance in substantive economic terms. If the bank's return is largely insulated while the customer absorbs most of the downside risk, then the normative distance between Islamic mortgage finance and conventional secured lending becomes much narrower than the terminology of sale-based contracting suggests (El-Gamal, 2006; Vogel & Hayes, 1998).

The prevalence of *murabahah* also shapes institutional incentives in ways that may crowd out innovative forms of Islamic housing finance. Because the contract is operationally familiar, relatively easy to standardize, and well-aligned with existing banking information systems, banks have little short-term incentive to transition toward structures that involve more active asset management or co-ownership complexity. Over time, this creates path dependence: the market grows around the easiest instrument rather than the most compelling one. This dependence is not trivial. Once documentation templates, staff training, risk models, and consumer expectations are built around *murabahah*, alternative contracts face higher entry barriers, even if they are theoretically superior from a Sharia perspective. In this sense, dominance becomes self-reinforcing and institutionally conservative.

Many consumers choose *KPR Syariah* because they believe it is categorically different from interest-based lending; however, the practical resemblance between the two models can generate disappointment once borrowers encounter the pricing logic, enforcement structure, or contractual complexity of the product. This gap between expectations and operational reality carries reputational risks for the Islamic banking industry. If customers conclude that Sharia compliance is largely semantic, trust in the sector may erode even when contracts remain formally valid. Therefore, the long-term problem is not only legal but also sociological: a system that repeatedly promises ethical distinction without delivering visibly different outcomes may undermine its own legitimacy. *Murabahah's* continued

dominance should thus be judged not merely by market share but by its capacity to sustain public confidence in the distinctiveness of Islamic finance.

4. MUSHARAKAH MUTANAQISAH: A MORE AUTHENTIC ALTERNATIVE?

Musharakah mutanaqisab (diminishing partnership) is a conceptually more coherent alternative to *murabahab* for property financing from an Islamic perspective. Under this structure, the bank and customer co-own the property from inception, with the customer's equity share increasing over time as it purchases tranches of the bank's shares through periodic payments. Simultaneously, the customer pays rent to the bank for the portion it does not yet own, a rental component that reflects the legitimate return on the bank's invested capital rather than an interest charge on a loan (Meera & Razak, 2005).

The *musharakah mutanaqisab* model embodies several features that align more authentically with Islamic economic principles. First, the bank bears a genuine commercial risk as a co-owner of the property, sharing potential capital losses if the property value declines. This risk-sharing dimension (*al-ghunm bil-ghurm*) is central to Islamic finance theory and distinguishes true Islamic financial arrangements from mere interest-bearing transactions with a Shariah veneer (Chapra, 2000). Second, the rental component is subject to periodic renegotiations based on prevailing market rentals, creating a more genuine link between financial returns and underlying economic assets. Third, the structure encourages genuine partnerships between financiers and customers, consistent with the Qur'anic injunction against hoarding wealth and exploiting people's needs.

However, the adoption of *musharakah mutanaqisab* in Indonesia remains marginal because of several factors. As of 2022, it accounted for less than five percent of the total KPR *Syariah* portfolio (Otoritas Jasa Keuangan, 2023). This limited uptake reflects several structural impediments that require careful analyses. The first is regulatory complexity: co-ownership structures require more sophisticated documentation, title registration arrangements, and risk management frameworks than simple sale contracts, imposing higher compliance costs on banks (Meera & Razak, 2005). The second is tax asymmetry: under Indonesian tax law, the periodic purchase of equity tranches may attract additional stamp duty or property transfer taxes, creating an artificial competitive disadvantage relative to *murabahab* financing. Third, consumer comprehension: Indonesian mortgage consumers, particularly in the middle-to-lower income segments, are more comfortable with the instalment-payment paradigm of *murabahab* than with the conceptually more complex co-ownership model.

This study argues that the marginalization of *musharakah mutanaqisab* is primarily a structural and regulatory phenomenon rather than an intrinsic market failure, and that targeted policy interventions, particularly tax neutralization and simplified regulatory templates, could substantially improve its competitive position. Malaysia's experience, where *musharakah mutanaqisab* home financing products have achieved meaningful market penetration following supportive regulatory changes, provides comparative evidence for this proposition (Razak & Taib, 2011).

From a theoretical standpoint, *musharakah mutanaqisab* offers a richer conception of financing because it links the legal form more closely to economic substance. The bank's return is derived from ownership participation and rental entitlement rather than from the delayed payment of a sale price marked up. This distinction is important because Islamic finance is not solely concerned with eliminating *riba* in a narrow textual sense; it is also concerned with aligning return to risk and ensuring that financial gain remains connected to identifiable assets and productive relationships. In that regard, *musharakah mutanaqisab* is often presented as more faithful to the spirit of Islamic commercial law than *murabahab*, since it institutionalizes gradual transfer, shared exposure, and a clearer asset-based justification for profit (Chapra, 2000; Meera & Razak, 2005).

However, its underutilization in Indonesia illustrates a recurring paradox in Islamic finance: the contracts most praised in theory are often the hardest to scale in practice. Partnership-based models demand sophisticated governance because they require clarity on maintenance obligations, insurance allocation, ownership registration, and exit mechanics. They also require a regulatory culture willing to accommodate complexity rather than reduce all products to the administrative logic of the debt. In the

absence of such accommodations, banks rationally favor simpler structures, even if they are weaker from a jurisprudential or distributive standpoint. The problem, then, is not that *musharakah mutanaqisab* lacks merit, but that the institutional environment has not been sufficiently redesigned to reward its use in Islamic banking. This makes reform a matter of ecosystem design rather than simply product promotion.

There is also a wider developmental argument for encouraging the diminishing of partnership structures. In principle, co-ownership models can cultivate a more participatory relationship between the financier and the household, potentially opening up space for more flexible repayment pathways or socially responsive housing programs. Although such outcomes should not be assumed automatically, the contract at least provides a framework within which inclusion and fairness can be operationalized more credibly than in a purely debt-like arrangement. In Indonesia, where housing needs are extensive and consumer vulnerability is significant, the strategic value of *musharakah mutanaqisab* lies not only in doctrinal authenticity but also in its potential to anchor a more genuinely developmental model of Islamic housing finance. This potential will remain unrealized unless legal, tax, and administrative obstacles are directly confronted.

5. CONSUMER PROTECTION AND DISCLOSURE FRAMEWORKS

The consumer protection dimension of *KPR Syariah* regulation in Indonesia presents a significant gap in the existing framework of the program. OJK Regulation No. 1/POJK.07/2013 on Consumer Protection in the Financial Services Sector establishes the general principles of transparency, fair treatment, and complaint resolution; however, its application to the specificities of Sharia mortgage contracts is insufficiently elaborated (Otoritas Jasa Keuangan, 2013). This study identified three areas of concern.

The first concerns profit rate (margin) disclosure. In a conventional mortgage, the effective annual percentage rate (APR) is a standardized disclosure metric that enables consumers to make informed decisions. In *KPR Syariah murabahah* contracts, there is no equivalent mandatory disclosure of an "effective profit rate" that would allow consumers to compare the total cost of financing across competing Shariah banks or against conventional alternatives. This information asymmetry disadvantages consumers and impedes the formation of competitive markets (Warsame, 2009; El-Gamal, 2006).

The second concern is the legibility of Shariah contract documents. *KPR Syariah* contracts in Indonesia are typically lengthy and technical instruments that combine elements of Indonesian civil law, banking regulations and Islamic jurisprudence. Consumer surveys suggest that a substantial majority of *KPR Syariah* customers do not fully understand the contractual terms they have agreed to, particularly the implications of clause structures governing property insurance (takaful), default remedies, and profit rate adjustment mechanisms. This comprehension deficit undermines the informed consent requirement, which is fundamental to the validity of Islamic contracts (Vogel and Hayes, 1998).

The third concerns the adequacy of sharia dispute resolution mechanisms. When disputes arise from *KPR Syariah* contracts, consumers may bring claims before the Badan Arbitrase Syariah Nasional (BASYARNAS) or general courts, which have jurisdiction over Sharia banking disputes following the Constitutional Court's 2013 ruling. However, the Sharia arbitration system suffers from limited institutional capacity, low public awareness, and a shortage of arbitrators with expertise in Islamic jurisprudence and commercial law (Harahap, 2020). Thus, the effective resolution of consumer grievances depends disproportionately on the internal complaint-handling capacities of individual banks, which are subject to obvious conflicts of interest.

Another problem is that consumer protection in *KPR Syariah* is often framed as a general banking issue rather than as a matter requiring Sharia-specific safeguards. This is inadequate because Islamic mortgage contracts impose distinct interpretive burdens on consumers. Borrowers do not simply evaluate price and tenor; they are also asked to trust that the contract's religious legitimacy corresponds with its legal and economic operation. When these dimensions are not translated into plain, comprehensible language, consumers may consent to terms they do not truly understand while believing

that the label “*sharia*” itself guarantees fairness. In this context, transparency must mean more than just disclosure volume. It must include intelligibility, comparability, and a realistic opportunity for consumers to grasp how obligations, risks, and remedies are structured in contracts.

This issue is particularly acute at the point of sale. Property financing decisions are often made under conditions of time pressure, unequal expertise, and strong emotional motivation related to homeownership. Under such circumstances, even formally complete disclosures may fail to produce meaningful informed consent. Therefore, a robust protection regime would require standardized summary sheets, plain-language explanations of key clauses, and clear illustrations of the total cost of financing under different scenarios, including default or early settlement. Such measures are common-sense safeguards, but they also have a deeper normative value within Islamic contract theory, which places considerable weight on mutual understanding, the absence of deception, and the elimination of *gharar* arising from uncertainty or obscurity (Usmani, 2002; Vogel & Hayes, 1998).

Stronger consumer protection can also improve market discipline. When pricing structures and contractual implications are easier to compare, banks face pressure to compete on substance rather than branding. This is particularly important in the Sharia segment, where religious symbolism can sometimes mask weak disclosure practices or discourage critical questioning by consumers. Therefore, better protection is not hostile to Islamic finance; it is necessary for its credibility. If the sector seeks to present itself as an ethically superior alternative, it must hold itself to a higher standard of transparency than the conventional market, not merely an equivalent one. OJK’s general consumer protection rules provide a foundation, but they require sharper implementation in the specific context of long-term, complex, and religiously framed housing financing.

6. MAQASID AL-SHARI'AH AND THE PURPOSE OF ISLAMIC MORTGAGE FINANCE

Any critical assessment of *KPR Syariah* must ultimately be grounded in a consideration of *maqasid al-shari'ah*, the higher objectives of Islamic law. The classical formulation, associated with al-Ghazali and refined by al-Shatibi, identifies five essential objectives: the preservation of religion (*din*), life (*nafs*), intellect (*'aql*), progeny (*nasl*), and property (*mal*) (al-Shatibi, as cited in Chapra, 2000). Contemporary scholars, notably Chapra (2000) and Iqbal and Mirakhor (2011), extended this framework to the economic domain, arguing that Islamic financial institutions should be evaluated not only by their formal Sharia compliance but also by their contribution to socioeconomic justice, financial inclusion, and sustainable development.

When applied to *KPR Syariah*, this *maqasid*-oriented framework yields sobering results. The preservation of property (*hifz al-mal*) would seem to favor accessible and affordable housing finance for all segments of the population, including low-income households currently underserved by both conventional and Sharia banking systems. However, the evidence suggests that *KPR Syariah* products are predominantly accessed by middle-to-upper income segments, with the subsidized *FLPP* program, which channels *KPR Syariah* financing to lower-income households, constrained by annual budgetary allocations that fall far short of the latent demand (Kementerian Pekerjaan Umum dan Perumahan Rakyat, 2023).

The preservation of progeny (*hifz al-nasl*) and life (*hifz al-nafs*) intersects with housing finance through the provision of secure family shelters, a fundamental human need recognized across virtually all normative frameworks. The persistent housing backlog and the structural inaccessibility of formal mortgage finance to a large proportion of the Indonesian population represent failures not only of market efficiency but also of Islamic social justice. An Islamic financial system that is technically Sharia-compliant but structurally excludes the majority of the population for whom it ostensibly exists fails the *maqasid* test meaningfully.

Therefore, this study argues, consistent with the growing literature on *maqasid*-based evaluation of Islamic finance (Laldin & Furqani, 2013; Dusuki & Abdullah, 2007), that the assessment of *KPR Syariah*'s legitimacy and success cannot be confined to a formal contractual analysis. It must also encompass distributional outcomes, affordability, market penetration among underserved populations, and

contribute to the broader social goal of providing adequate housing for all Indonesian citizens. Regulatory frameworks and product design standards should be explicitly evaluated against *the maqasid* criteria.

A *maqasid*-based assessment also requires attention to the distribution of access. A financial product may satisfy formal contractual requirements but still fail to advance justice if it remains concentrated among relatively secure income groups. This concern is highly relevant in Indonesia, where large segments of the population remain outside stable formal employment and, therefore, outside the risk thresholds that banks find acceptable. If *KPR Syariah* is serious about embodying *hifz al-mal* and promoting welfare, its evaluative framework must ask not only whether transactions avoid prohibited elements but also whether the overall system expands meaningful access to decent housing for those with the greatest need. In other words, inclusion is not a secondary policy bonus; it is part of the normative test of Islamic financial legitimacy (Chapra, 2000; Dusuki & Abdullah, 2007).

The *maqasid* perspective also shifts the focus from contract-by-contract legality to system-level consequences. A mortgage sector may be formally Sharia-compliant while still reproducing urban exclusion, speculative pricing pressures, or excessive burdens on households with unstable incomes. From this perspective, the success of *KPR Syariah* cannot be measured solely by asset growth, portfolio quality or institutional expansion. It must also be measured by whether it contributes to a more secure family life, more equitable patterns of ownership, and more humane relations between financiers and consumers. This broader lens is important because *maqasid* is not satisfied by symbolic differentiation alone; it asks whether the legal form of finance serves human flourishing. This is a more demanding standard but also a more meaningful one for evaluating Islamic mortgage products.

The *maqasid*-oriented approach has implications for regulatory metrics. If Islamic financial institutions are to be judged partly by their social purpose, then supervisory frameworks should incorporate indicators that capture affordability, outreach to underserved groups, dispute patterns, and the actual burden of repayment over time. Such an approach would help move Islamic finance assessment away from a narrow fixation on formal compliance toward a fuller understanding of public value. For *KPR Syariah*, this means recognizing that legality, profitability, and social justice are interconnected rather than sequential concerns. The *maqasid* framework does not eliminate the need for sound banking practices; rather, it insists that soundness be evaluated in light of the moral ends that distinguish Islamic finance from conventional finance in the first place (Laldin & Furqani, 2013; Iqbal & Mirakhor, 2007).

7. CONCLUSION: TOWARD A REFORM AGENDA FOR *KPR SYARIAH*

This study advances a critical analysis of *KPR Syariah* in Indonesia across five dimensions: regulatory foundations, the *murabahah* contract model, *musharakah mutanaqisah* alternatives, consumer protection, and *the maqasid al-shari'ah* alignment. The overarching conclusion is that while the sector has achieved impressive quantitative growth, it confronts fundamental qualitative challenges that cannot be resolved by incremental regulatory adjustments alone. A more ambitious reform agenda is required to address these issues in the future.

First, the regulatory framework must move beyond formal Shariah compliance toward substantive authenticity. The OJK and DSN-MUI should jointly develop enhanced product standards that address the benchmarking of *murabahah* profit margins to interest rates, the genuine assumption of ownership risk in *murabahah* structures, and harmonization of early settlement policies across the industry. This reform would bring Indonesian Sharia mortgage products closer to the authentic risk-sharing paradigm envisaged by the Islamic finance theory.

Second, tax and regulatory impediments to *the adoption of musharakah mutanaqisah* should be systematically dismantled. Coordination between the OJK, Ministry of Finance, and National Land Agency (BPN) to create a tax-neutral environment for co-ownership structures would remove the most significant structural barrier to the expansion of equity-based mortgage financing. Legislative or

regulatory clarification of the title registration process for *musharakah mutanaqisab* contracts would reduce operational complexity and legal uncertainty.

Third, consumer protection standards must be substantially upgraded. The OJK should mandate the disclosure of an effective total cost of financing metric for all *KPR Syariah* products, enable genuine comparability across institutions, and require that key contractual terms be explained in simple language at the point of sale. Investment in financial literacy programs targeting Shariah mortgage products should be recognized as a regulatory imperative, not merely a corporate social responsibility.

Fourth, the dispute resolution architecture must be strengthened. BASYARNAS should be adequately resourced to handle Shariah banking disputes efficiently and with appropriate expertise. The development of a mandatory internal dispute resolution protocol for Shariah banks, subject to OJK oversight, would provide consumers with accessible first recourse before formal arbitration.

Fifth, the *maqasid al-shari'ah* dimension should be formally integrated into the OJK assessment framework for Islamic financial institutions. Key performance indicators related to financial inclusion, housing affordability, and equitable access to *KPR Syariah* products should be developed and published to enable public accountability for the sector's social performance alongside its financial metrics.

The realization of these reforms will require sustained political will, inter-agency coordination, and a genuine commitment among industry participants to the principle that Islamic finance is not merely conventional finance with an Arabic lexicon, but a fundamentally distinct approach to the organization of economic life grounded in justice, equity, and the common good. Indonesia, with its scale, regulatory capacity, and increasingly sophisticated Islamic finance industry, is uniquely positioned to demonstrate that a higher standard is achievable.

Ethical Approval

Not Applicable

Informed Consent Statement

Not Applicable

Disclosure Statement

The Author declare no conflicts of interest.

Data Availability Statement

The data presented in this study are available upon request from the corresponding author.

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Notes on Contributors

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