

# LEGAL ANALYSIS OF ISLAMIC ECONOMIC LAW ON HYBRID CONTRACTS IN ISLAMIC FINANCIAL INSTITUTION PRODUCTS

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**Abstract:** This article is intended to philosophically analyze the existence of hybrid contracts or *al-'uqûd al-murakkabah* (complex contracts) or multi-contracts. The research focuses on the opinions of hadith scholars and *fiqh muamalah* (Islamic commercial jurisprudence), as well as their applications in Islamic financial institutions. This is crucial because a single contract form cannot adequately respond to the current financial conditions. Transactions are always dynamic and influenced by the financial industry at national, regional, and international levels. This research is a qualitative-literature study with a philosophical-normative approach. It analyzes the hadith texts and scholars' views philosophically, then juxtaposes the ideal-philosophical aspect with the reality in Islamic banking. The study concludes that, first, the Sharia economic law analysis of hadith related to the hybrid contract model explains the prohibition of *bai'ataini fi bai'atin* (two sales and purchases in one), the prohibition of *shafqataini fi shafqatin* (two agreements in one), and the prohibition of *bay'* and *salaf* (sales agreement and advance payment for goods). Second, the construction of the hybrid model in Islamic banking aims to develop *al-'uqûd al-mutaqâbilah* (conditional contracts) and *al-'uqûd al-Mujtami'ah* (similar contracts), implemented in housing financing.

**Keywords:** : Sharia Economic Law; Hybrid Contract; Islamic Financial Institutions

**Abstract:** Artikel ini dimaksudkan untuk menganalisis secara filosofis tentang adanya akad hibrid atau *al-'uqûd al-murakkabah* atau multi akad. Penelitian terfokus pada opini ulama hadis dan *fiqh muamalah*, serta penerapannya dalam Lembaga Keuangan Islam. Ini penting karena bentuknya satu akad saja tidak dapat merespons kondisi keuangan saat ini Transaksi selalu bergerak dan dipengaruhi oleh industri keuangan baik secara nasional, regional, dan internasional. Penelitian ini merupakan penelitian kualitatif-kepastakaan dengan pendekatan filosofis-normatif. Penelitian ini menganalisis teks hadis dan pandangan ulama secara filosofis, kemudian mempertemukan sisi ideal-filosofis dengan sisi realita pada perbankan syariah. Penelitian ini menyimpulkan bahwa, pertama, analisis hukum ekonomi syariah terhadap hadis terkait model akad hibrid menjelaskan tentang larangan *bai'ataini fi bai'atin* (dua penjualan dan pembelian di jual), larangan *shafqataini fi shafqatin* (dua perjanjian dalam perjanjian) dan larangan *bay'* dan *salaf* (jual beli). perjanjian dan pemesanan barang). Kedua, akad konstruksi Model hibrid dalam perbankan Islam bertujuan untuk mengembangkan *al-'uqûd al-mutaqâbilah* (kontrak tergantung atau bersyarat) dan *al-'uqûd al-Mujtami'ah* (kontrak serupa), yang dilaksanakan dalam Pembiayaan Perumahan.

**Keywords:** Hukum Ekonomi Syariah; Kontrak Hibrid; Lembaga Keuangan Syariah



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## Introduction

"Interest (riba) is recognized as a profit instrument in financial institutions, agreed upon as forbidden according to Sharia.<sup>1</sup> In Islamic financial institutions, the muamalah contract takes its place as a mechanism and alternative instrument to gain profits. The migration process of muamalah contracts, initially of a personal nature, transforms into an institutional one as these contracts are adopted and adapted by financial institutions<sup>2</sup>. Financial transactions create their own complexity faced by practitioners in financial institutions. This complexity becomes more pronounced in the era of modern financial technology transactions, which require contract designs in not only singular but multiple forms, known as hybrid contracts (in English) or *al-'uqûd al-murakkabah* (in Arabic) or multi-contracts (in Indonesian). Singular contracts are no longer sufficient to respond to contemporary financial transactions that are dynamic and influenced by the financial industry at national, regional, and international levels.<sup>3</sup>

According to Dr. Mabid Al-Jarhi, former Director of Islamic Bank Development (IDB), the current combination of contracts is considered unavoidable. However, the challenge faced is that Sharia economic literature in Indonesia, in particular, has long held the theory that Sharia does not allow two contracts in a single transaction (two-in-one). In fact, the prohibition of two-in-one contracts only applies to three specific cases mentioned in

hadiths related to the prohibition of hybrid contract usage. These three cases are mentioned in hadiths containing three prohibitions: (1) the prohibition of *bai'ataini fi bai'atin*; (2) the prohibition of *shafqataini fi shafqatin*, and (3) the prohibition of *bay' and salaf*.<sup>4</sup>

These hadiths are always referenced by scholars, Sharia consultants, and bankers regarding the prohibition of two-in-one contracts in a transaction. However, this prohibition is limited to specific cases only. Even the first hadith (*bai'ataini fi bai'atin*) and the second (*shafqataini fi shafqatin*) have similar meanings, although their wordings differ. The meaning of the hadith *shafqataini fi shafqatin* is *bay'ataini fi bay'atin*. The prohibition of two-in-one should not be extended to other irrelevant issues and should be relevant according to its context. Unfortunately, this prohibition has been generalized to all contracts, so every contract containing two or more agreements is considered contrary to Sharia.<sup>5</sup>

Therefore, an approach using *mushthalah* hadith science and several Sharia hadith books as confirmatory references is needed so that the valid meaning of hadith narratives (*matan*) can be revealed. This effort is aimed at finding a permissible construction of multi-contracts and its development in Islamic financial institutions is considered not contradictory to authoritative sources (hadiths).

By using the theory presented by Abdullah bin Muhammad bin Abdullah al-'Imrani, Nazih Hammad, Alauddin Za'tary, and Sulaiman Aba al-Khoil (t.t), the author will discuss hybrid contracts (*al-'uqûd al-murakkabah* or multi-contracts). Abdullah

<sup>1</sup> Jamaluddin Jamaluddin, "Konsep Dasar Muamalah & Etika Jual Beli (Al-Ba'i) Perspektif Islam," *Jurnal Pemikiran Keislaman* 28, no. 2 (2017), <https://doi.org/10.33367/tribakti.v28i2.485>.

<sup>2</sup> Khayu Inayah, Abdul Hamid, and Nur Afifah, "Al-Uqud Al-Murakkabah Pada Transaksi Online Dengan Sistem Gofood Dalam Perspektif Fikih Muamalah," *El Hisbah: Journal of Islamic Economic Law* 1, no. 2 (2021), [https://doi.org/10.28918/el\\_hisbah.v1i2.4506](https://doi.org/10.28918/el_hisbah.v1i2.4506).

<sup>3</sup> Atep Setiadi, "Implementation of the Concept of Al-'Uqûd Al-Murakkabah on Sharia Financial Institutions," *Journal of Economic Studies* 1, no. 1 (2017), <https://doi.org/10.32506/joes.v1i1.6>.

<sup>4</sup> Ali Amin Isfandiar, "ANALISIS FIQH MUAMALAH TENTANG HYBRID CONTRACT MODEL DAN PENERAPANNYA PADA LEMBAGA KEUANGAN SYARIAH," *JURNAL PENELITIAN* 10, no. 2 (2014), <https://doi.org/10.28918/jupe.v10i2.361>.

<sup>5</sup> Siti Lutfiyah, "Penerapan Konsep Al-Uqud Al-Murakkabah Atau Hybrid Contract Pada Lembaga Keuangan Syariah," *Jurnal Ilmiah Multidisiplin* 2, no. 2 (2023).

bin Muhammad bin Abdullah al-'Imrani, adapted from his doctoral dissertation, became one of the pioneering works studying *al-'uqud al-murakkabah*, delving into *al-'uqud al-murakkabah* with a fiqh approach and its application in contemporary fiqh. According to him, the majority of Hanafi scholars and some scholars from the Maliki, Shafi'i, and Hanbali schools believe that hybrid contract law is valid and permissible according to Islamic law. Scholars who permit it argue that the fundamental law of contracts is permissible and valid unless there is legal evidence prohibiting or annulling it. This is except when combining two contracts results in usury or resembles usury, such as combining qardh with another contract, as the hadith prohibits combining the sale of qardh. Similarly, combining installment sales and cash sales in one transaction.

Sulaiman Aba al-Khoil, in his introduction to his writing on *Al-'aqd al-murakkab (al-'uqud al-murakkabah)*, refers to three important works as references: Abdullah al-'Imrâni, *Al-'uqud al-Mâliyah al-murakkabah: Dirâsah Fiqhiyyah Ta'shîliyah wa Tathbîqiyyah*, Nazih Hammad, *Al-'uqud al-murakkabah fî al-Fiqh al-Islâmy*, and Hasan Syadzali, *Ijtima' al-'uqud al-Mukhtalifah fi' aqd wahid*. The discussion in this article is dominated by a fiqh approach. Nuances of comparing fiqh schools with a combination of quotes from official sources are also used. When compared to its three predecessors, Sulaiman's writing often refers to these two works.

In addition to the theory of hybrid contracts, the terminology theory is also used as an instrument in the transformation of instruments used in the Sharia financial system from a modified muamalah contract model as a substitute for instruments used in the conventional financial system, namely interest. In the context of financial institutions, instruments carry the meaning of tools as intermediaries binding financial institutions and customers related to financial rights (returns) and obligations.

Research on hybrid contracts has been conducted by previous researchers, such as

research by Susamto,<sup>6</sup> Murtadho,<sup>7</sup> Aryanti Yosi,<sup>8</sup> and Siti Kholijah.<sup>9</sup> Despite the many previous studies, there has been no research on hybrid contracts that analyze, in a philosophically comparative manner, the opinions of hadith scholars and scholars of muamalah fiqh. This article aims to philosophically analyze the existence of hybrid contracts or *al-'uqud al-murakkabah* or multi-contracts. The research focuses on the opinions of hadith scholars and muamalah fiqh, as well as their application in Islamic Financial Institutions. This is important because a single contract form cannot respond to current financial conditions. Transactions are always dynamic and influenced by the financial industry at national, regional, and international levels."

### Method

This research is a qualitative study that focuses on Sharia Economic Law literature regarding hadiths and the model of hybrid contracts, as well as the construction of institutional models of hybrid contracts in Islamic finance. Islamic financial institutions are the central focus of this research, being products of Sharia banking that utilize a combination of contracts. The primary data source is obtained using a literature review method to address the Philosophy of Mixed Contract Models in Hadiths and Sharia Economic Law.

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<sup>6</sup> Burhanuddin Susamto, "TINGKAT PENGGUNAAN MULTI AKAD DALAM FATWA DEWAN SYARI'AH NASIONAL-MAJELIS ULAMA INDONESIA (DSN-MUI)," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 11, no. 1 (2016), <https://doi.org/10.19105/al-ihkam.v11i1.862>.

<sup>7</sup> Ali Murtadho, "MODEL APLIKASI FIKIH MUAMALAH PADA FORMULASI HYBRID CONTRACT," *Al-Ahkam* 23, no. 2 (2013), <https://doi.org/10.21580/ahkam.2013.23.2.19>.

<sup>8</sup> Yosi Aryanti, "MULTI AKAD (AL-UQUD AL-MURAKKABAH) DI PERBANKAN SYARIAH PERSPEKTIF FIQH MUAMALAH," *JURIS (Jurnal Ilmiah Syariah)* 15, no. 2 (2017), <https://doi.org/10.31958/juris.v15i2.498>.

<sup>9</sup> Siti Kholijah, "Akad Murakkab Dalam Produk Keuangan Syariah," *Jurnal BAABU AL-ILMI: Ekonomi Dan Perbankan Syariah* 5, no. 1 (2020), <https://doi.org/10.29300/ba.v5i1.3122>.

Secondary data sources are gathered through a survey of documentary literature, including books, journals, internet publications, both internal materials from Sharia financial institutions (brochures, reports, etc.) and external materials as reading materials. As this is a literature-based study supported by information from various competent parties in the field, the analysis begins with the method of analyzing hadith texts and the perspectives of scholars in the field of muamalah fiqh (philosophical). The philosophical perspectives are then synchronized with their application in Islamic financial institutions, aiming to identify any synthesis gaps by aligning the philosophical (ideal) side with the real-world (actual) side adopted by Sharia financial institutions

## Literature Review

### Hybrid Contracts

Hybrid contracts are literally defined as contracts formed by different contracts. Meanwhile, in Indonesian, hybrid contracts are referred to as "multiakad." In Indonesian, "multi" means (1) many; more than one; more than two; (2) double. Therefore, "multiakad" means many contracts or more than one.<sup>10</sup>

In the fiqh terminology, the term "multiakad" is a translation of its Arabic counterpart, which is "*al-'uqûd al-murakkabah*," meaning compound contracts. "*Al-'uqûd al-murakkabah*" consists of two words, "*al-'uqûd*" (plural of 'aqd) and "*al-murakkabah*." 'Aqd has been specifically explained earlier, while the word "*al-murakkabah*" (*murakkab*) etymologically means al-jam'u, which is to gather or collect. The term "*murakkab*" itself comes from the word "*rakkaba-yurakkibu-tarkiban*," which means placing something on top of something else, creating a pile with something on top and something below.<sup>11</sup>

<sup>10</sup> Shofy Liza Nurul Arafah, "MULTI AKAD (HYBRID CONTRACT) INOVASI PRODUK LEMBAGA KEUANGAN SYARIAH," *EKSISBANK: Ekonomi Syariah Dan Bisnis Perbankan* 2, no. 2 (2018), <https://doi.org/10.37726/ee.v2i2.52>.

<sup>11</sup> Abdul Wahab and Ilma Mahdiya, "Identifikasi Konsep Al-'Uqud Al-Murakkabah

"*Al-'aqd al-murakkab*" is an agreement between two parties to execute a contract containing two or more akad (such as buying and selling with lease, lease, gift, wakalah, qardh, muzara'ah, sahrاف/money exchange, partnership, mudharabah, and so on). Consequently, all the legal consequences of the demanded agreement, as well as all the rights and obligations produced, are considered as a unified whole that cannot be separated. Abdullah al-'Imrâni further defines "*Al-'aqd al-Murakkab*" as a collection of several material akad contained in it based on a contract (either collectively or reciprocally), so that all the rights and obligations resulting from it are considered as legal consequences of an agreement.<sup>12</sup>

As for the types of hybrid or multi-contracts according to Al-'Imrani, they are divided into five types: "*al-'uqûd al-mutaqâbilah*," "*al-'uqûd al-mujtami'ah*," "*al-'uqûd al-mutanâqidhah wa al-mutadhâdah wa al-mutanâfiyah*," "*al-'uqûd al-mukhtalifah*," and "*al-'uqûd al-mutajânisah*." According to him, the first two types, "*al-'uqûd al-mutaqâbilah*" and "*al-'uqûd al-mujtami'ah*," are commonly used multi-akad. Here is an explanation of the five types of multi-contracts:

1. **Conditional Agreement/Contract (*al-'uqûd al-mutaqâbilah*):** "*Taqâbul*" linguistically means facing each other. "*Al-'uqud al-Mutaqâbilah*" is a multi-akad that is a response to the first two contracts, which form the basis of the perfection of the first contract in the improvement of the second contract through reciprocity. In other words, one akad depends on another.<sup>13</sup>
2. **Joint Agreement (*al-'uqûd al-mujtami'ah*):** "*Al-'uqûd al-mujtami'ah*" is

Dan Al-'Uqud Al-Muta'Addidah Dalam Muamalah Kontemporer," *Islamadina: Jurnal Pemikiran Islam*, 2020, <https://doi.org/10.30595/islamadina.voio.5329>.

<sup>12</sup> Lutfi Sahal, "'Al-'Uqud Al-Murakkabah' Atau 'Hybrid Contracts,'" *AT-TARADHI Jurnal Studi Ekonomi* 6, no. 2 (2015).

<sup>13</sup> Isfandiar, "ANALISIS FIQH MUAMALAH TENTANG HYBRID CONTRACT MODEL DAN PENERAPANNYA PADA LEMBAGA KEUANGAN SYARIAH."



a combination of multi-akad in one contract, where two or more contracts are combined into one contract.<sup>14</sup>

3. **Contradictory Agreement (*al-'uqûd al-mutanâqidhah wa al-mutadhâdah wa al-mutanâfiyah*):** These three terms, *mutanâqidhah*, *mutadhâdah*, and *mutanâfiyah*, share the commonality that all three contain the aim of differentiation. However, each of these terms has different implications. *Mutanâqidhah* implies the opposite, for example, someone says something and then says something opposite to the first. Meanwhile, the etymological meaning of *mutadhâdah* is two things that cannot be combined at the same time, such as night and day. The meaning of *mutanâfiyah* is to deny, the opposite of building.
4. **Different Contracts (*al-'uqûd al-mukhtalifah*):** Multi akad mukhtalifah refers to the combination of two or more contracts that have different legal consequences between the two contracts or some of them. For example, the difference in legal consequences in a sales agreement and lease contract, where the lease agreement requires a time condition, while the sales agreement applies the opposite. Another example is *ijârah* and *salam* contracts. In *salam*, the *salam* price must be delivered at the time of the akad (*fi al-majlis*), while in *ijârah*, the rent price does not have to be delivered at the time of the akad.
5. **Similar Contracts (*al-'uqûd al-mutajânisah*):** "*Al-'uqûd al-murakkabah al-mutajânisah*" is an akad that can be collected in one akad without any influence on its legal and legal consequences. This type of multi contract can consist of one type of contract such as a sales agreement or several types such as a sales contract and lease contract. This type of multi akad can also be formed from two similar or different legal akad.

## Results and Discussion

### Hybrid Contract Agreement and Its Application in Islamic Financial Institutions

This text discusses the concept of "*akad*" in Islamic law and its transformation into "*irtibâth al-ijab bi al-qabûl*" (attachment or the relationship between agreement and acceptance), such as in agreements for buying and selling, marriage, and the like. According to the principles of Islamic jurisprudence (*qawâ'id al-fiqh*), "*al-'aqd*" is the connection of parts of transactions in a Sharia-compliant manner with an offer (*ijab*) and acceptance (*qabûl*). Alternatively, "*al-'aqd*" represents the commitment or agreement of two parties intending to do something. Thus, "*al-'aqd*" is an expression of the binding agreement and acceptance.

Basya explains the term, often mentioned in Islamic law, as follows: an "*akad*" (agreement) is "a proposed agreement by one party with the consent of the other party that gives rise to legal consequences concerning the object of the agreement." In summary, a contract is a meeting of agreement and acceptance as statements of intent from two or more parties, resulting in legal consequences for the subject matter.

The text also elaborates on the understanding that an "*akad*" is a relationship or meeting of agreement and acceptance resulting in legal consequences. Secondly, a contract is a legal act of the parties, as "*akad*" represents a meeting of the representative agreement of one party and the gift expressing the intention of the other party. Thirdly, the purpose of an "*akad*" is to generate legal consequences.

The objectives of "*akad*" can be categorized into five, namely:

1. Transfer of ownership with or without consideration (*at-tamlík*).
2. Performing work (*al-'amal*).
3. Participating in a partnership (*al-ishtirák*).
4. Implementing delegation (*al-tafwîdh*).
5. Carrying out guarantee (*al-tautsîq*).<sup>15</sup>

<sup>14</sup> Isfandiar.

<sup>15</sup> Titin Suprihatin, "The Analysis Of Hibryd Contract Validity In The Fatwa Of The National Sharia Board Of Indonesian Ulema Council

In implementing "*akad*," there are four elements that must be fulfilled, each with its own conditions:

1. The subject of the "*akad*" (the parties entering into the "*akad*" or *al-'āqidain*).
  - The subject of the "*akad*" must meet two conditions: (1) there must be several parties, and (2) they must have a legal competence level known as "*tamyiz*" or "*al-ahliyyah*" (qualification), meaning the ability of someone to understand and act according to Sharia law or suitability to accept rights and obligations recognized by Sharia law.<sup>16</sup>
2. Statements of the parties (*shighat al-'aqd*).
  - The statements of intent from the parties are often referred to as "*shighat al-'aqd*," consisting of agreement and acceptance. These represent permission (consent). "*Shighat al-'aqd*" entails (1) the existence of alignment between agreement and acceptance, marking the convergence of intent resulting in an agreement, and (2) the attainment of a unified agreement of intent (agreement) in a single assembly.<sup>17</sup>
3. The object of the "*akad*" (*mahal al-'aqd*).
  - The object of the "*akad*" is the subject for which the "*akad*" is made, and the legal consequences of the contract apply. The object of the contract can be a thing, the benefit of a thing, a service or work, or anything not contrary to Sharia, with conditions such as: (1) the object

must be deliverable or executable, (2) the contract object must be specific or determinable, and (3) the contract object must be transactable according to Sharia.

4. The purpose of the "*akad*" (*maudhu' al-'aqd*).
  - The purpose of the "*akad*" is to realize the primary legal consequences of the "*akad*." This purpose is the main legal consequence that arises from an agreement. It is a consequence of the fundamental law that has become the intention and goal that the parties want to achieve through the "*akad*."

The text concludes by discussing the simplified implementation of muamalah contracts in Islamic financial institutions. It emphasizes the need to formulate characteristics that align with Sharia, mapping the distribution of muamalah contracts to products already in place for conventional financial institutions. The goal is to ensure that the products are declared halal and Sharia-compliant, with mechanisms in place for adopting and adapting muamalah contracts in Islamic financial institutions.<sup>18</sup>

### Hybrid Contracts in Sharia Economic Law.

The evolution of muamalah contracts from initially being personal to institutional due to their adoption by financial institutions has created a complexity faced by observers and practitioners in financial institutions. This complexity has become more apparent in the modern era as financial transactions have grown more intricate, necessitating the design of contracts (*akad*) not only in a singular form but combining several contracts, commonly known as hybrid contracts in English or *al-'uqūd al-murakkabah* in Arabic, or multiakad

Concerning Rahn," *Amwaluna: Jurnal Ekonomi Dan Keuangan Syariah* 6, no. 1 (2022), <https://doi.org/10.29313/amwaluna.v6i1.8944>.

<sup>16</sup> Inayah, Hamid, and Afifah, "Al-Uqud Al-Murakkabah Pada Transaksi Online Dengan Sistem Gofood Dalam Perspektif Fikih Muamalah."

<sup>17</sup> Dery Ariswanto, "ANALISIS SYARAT IN'IQAD DARI 'AQIDAIN DAN SHIGHAT DALAM PEMBENTUKAN SEBUAH AKAD SYARIAH," *Tahkim (Jurnal Peradaban Dan Hukum Islam)* 4, no. 1 (March 2021): 59–78, <https://doi.org/10.29313/TAHKIM.V4I1.7072>.

<sup>18</sup> Asra Febriani, "Hybrid Contract Menurut Perspektif Hukum Ekonomi Syariah," *Proceeding of Dirundeng International Conference on Islamic Studies (DICIS 2021)*, 2021.

in Indonesian.<sup>19</sup>

The issue of hybrid contracts arises from the Sharia theory that does not permit two contracts in one transaction (two in one). However, the prohibition of two-in-one is limited to three specific cases mentioned in the Hadiths of Prophet Muhammad SAW. These three prohibitions include the prohibition of bay' and salaf, the prohibition of *bai'ataini fi bai'atin*, and the prohibition of *shafqataini fi shafqatin*.<sup>20</sup>

All contracts containing elements of sale and purchase are forbidden to be combined with *qairdh* in a single transaction, for example, between *ijarah* and *qardh*, *salam* and *qardh*, *sharf* and *qardh*, and so on.<sup>21</sup> Although the combination of *qardh* and sale is prohibited, Abdullah al-Imrâni argues that it is not always forbidden. The combination of these two contracts is permissible as long as there are no conditions or intentions to inflate the price through *qardh*. For instance, lending money to someone and then selling something to them at a later date, even if it falls within the *qardh* period, is legally permissible.<sup>22</sup>

Any multi-akad leading to haram, such as *riba*, is considered haram even if the contracts constructing it are permissible. The amalgamation of several contracts, while individually permissible, becomes prohibited if it leads to unlawful consequences. This is evident in multi-akad involving *salaf* and sale contracts, as previously explained, where Prophet Muhammad prohibited dual contracts between sale and purchase and *salaf*. This

prohibition is to prevent falling into the forbidden realm of usurious transactions. Most scholars discourage the practice of multi-akad, such as combining sale contracts (*mu'awadhah*) with loans (*qardh*) if necessary. If such multi-contract transactions occur unintentionally, they are allowed because the absence of intentional involvement in usurious *qardh* makes it permissible.<sup>23</sup>

In another aspect, the view of contemporary muamalah jurisprudence regarding the legal status of multi-contracts may not necessarily align with the legal status of the contracts constructing them. For example, contracts such as *bai'* and *salaf* that are explicitly declared haram by Prophet SAW. However, if these two contracts stand alone, each is considered permissible. Marrying two sisters is also prohibited, but marrying them one by one (if unmarried) is allowed. In other words, the legality of multi-contracts cannot be solely determined by the legality of the individual contracts. The contracts constructing them may be permissible when standing alone, but combining them in a single transaction may render them impermissible. As stated by al-Syâtiby, "Research on Islamic law indicates that the legal consequences of a collection (akad) are not the same as when the contract stands alone."<sup>24</sup>

In conclusion, the legal status of multi-contracts is not necessarily identical to the legal status of the contracts constructing them. In other words, the legal status of constructive contracts does not automatically become the legal status of multi-contracts. While many contracts may be prohibited, the principle of multi-contracts may still be allowed. The legality of multi-contracts is affirmed by the legality of many contracts constructing them, meaning every transaction that combines several contracts is deemed permissible as long as

<sup>19</sup> Lamtana Lamtana and Vemmy Mayditri, "Penerapan Prinsip Syariah Pada Akad Rahn Di Lembaga Pegadaian Syariah," *Jurnal Pendidikan Dan Kewirausahaan* 10, no. 2 (2022), <https://doi.org/10.47668/pkwu.v10i2.397>.

<sup>20</sup> Isfandiar, "ANALISIS FIQH MUAMALAH TENTANG HYBRID CONTRACT MODEL DAN PENERAPANNYA PADA LEMBAGA KEUANGAN SYARIAH."

<sup>21</sup> Nurul Arafah, "MULTI AKAD (HYBRID CONTRACT) INOVASI PRODUK LEMBAGA KEUANGAN SYARIAH."

<sup>22</sup> Lamtana and Mayditri, "Penerapan Prinsip Syariah Pada Akad Rahn Di Lembaga Pegadaian Syariah."

<sup>23</sup> Wahab and Mahdiya, "Identifikasi Konsep Al-'Uqud Al-Murakkabah Dan Al-'Uqud Al-Muta'Addidah Dalam Muamalah Kontemporer."

<sup>24</sup> Ijang Jamaludin, "Hibrid Kontrak Menurut Hukum Ekonomi Syariah," *Journal of Economic Studies* 1, no. 1 (2017).

the contracts constructing it are permissible. This provision provides an opportunity to create transaction models containing multi-contracts. This rule applies generally, and some Hadiths and other texts that prohibit multi-contracts are exceptions. These exception rules cannot be applied to all muamalah practices involving multiple contracts.<sup>25</sup>

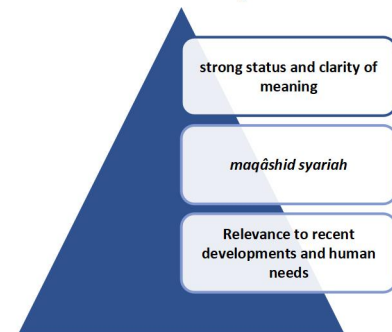
Regarding the legal status of multi-contracts, scholars hold differing opinions, especially concerning their fundamental legal status. This difference revolves around whether multi-contracts are valid and allowed or void and prohibited. Scholars are divided into two opinions: allowing and prohibiting. The majority of Hanafi scholars, some Maliki scholars, Shafi'i scholars, and Hanbali scholars believe that the legal status of multi-contracts is valid and permissible according to Islamic law. Those who permit it argue that as long as the individual contracts are permissible and valid, not prohibited or invalidated by any legal evidence, then combining them is also allowed.<sup>26</sup>

In terms of its relevance to contemporary needs, renewal and the invention of contracts are essential. Modern developments demonstrate many muamalah practices and financial transactions that were not practiced during the time of the Prophet and are not explicitly mentioned in religious law. The need for new transaction contracts becomes a necessity with human growth and the advancement of science and technology. Malikiyah and Ibn Taymiyyah argue that multi-contracts are a permissible and recommended solution as long as they are beneficial and not prohibited by religion. The original law is the application of the conditions of the entire contract without conflicting with religion and benefiting

humanity.

From the above explanation, the following conclusions can be drawn through the methods of *muqâranah* and *tarjih*, indicating that the first opinion is stronger and more fitting with the development of the times compared to the second opinion. This conclusion is based on several considerations:

Chart 1. Considerations of hybrid contract



1. *The evidence used in the first opinion has a strong status and clarity of meaning.* The arguments supporting the first opinion are founded on robust evidence with clear meanings.
2. *Compatibility with the objectives of Sharia (maqâshid syariah), namely the existence of ease in muamalah, lightening the burden, and providing opportunities for innovation.* The first opinion aligns well with the goals of Sharia, emphasizing the importance of facilitating transactions, reducing burdens, and fostering opportunities for innovation.
3. *Relevance to recent developments and human needs regarding modern transactions and contracts.* The first opinion is more relevant to current developments and addresses the evolving requirements of individuals in terms of modern transactions and contracts.

The permissibility of multi-contracts based on the principle that the original law of the contract is permissible, and the justification of the legality of multi-contracts must consider the religious provisions that limit them. In other words, although multi-contracts are permissible, there are boundaries that should not be violated.

<sup>25</sup> Selamat Hartanto and Devid Frastiawan Amir Sup, "Konsep Hybrid Contract Di Indonesia Dalam Perspektif Fatwa DSN-MUI," *Journal of Islamic Economics and Finance Studies* 3, no. 1 (2022), <https://doi.org/10.47700/jiefes.v3i1.4277>.

<sup>26</sup> Jamaludin, "Hibrid Kontrak Menurut Hukum Ekonomi Syariah."



These limitations serve as a guide for multi-contracts to avoid engaging in forbidden muamalah practices. The constraints explained in the previous section act as limits for the practice of multi-contracts that cannot be surpassed.

### Conclusion

The conclusion of this article is concluded with the first conclusion, the contemporary fiqh muamalah perspective on hadith regarding the model of hybrid contracts, focusing on the editorial content regarding the prohibitions of *bai'ataini fi bai'atin* (two sales in one sale), *shafqataini fi shafqatin* (two contracts in one contract), and the prohibition of bay' and salaf (sale and advance booking contracts).

Here are the controversies:

**First, Controversy over the first hadith editorial:** It focuses on contracts that create ambiguity in pricing and lead to usury. This opinion interprets that someone sells something on an installment basis, with the condition that the buyer must resell it to the seller at a lower price in cash. Contracts like this are considered problematic and involve usury, even though there is no sale and purchase contract in the transaction.

**Second, Controversy over the second hadith editorial:** It focuses on the need for clarity in separating contracts. The clarity of the relationship between *ijab* (offer) and *qabûl* (acceptance) is crucial. There is a provision that contracts must be made regarding one of two things: the substance (goods or objects) or services (benefits).

**Third, Controversy over the third hadith editorial:** It focuses on the combination of sale and salaf (advance booking contracts) or salaf (loan). The first salaf indicates the sale of bonds (futures), while the second salaf indicates a combination of sale and *qardh* (loan agreement). Both involve the construction of hybrid contract models in Islamic banks, leaning towards (1) the construction of *al-'uqûd al-mutaqâbilah* (dependent or conditional contracts), which are multi-contracts in the form of a second contract that responds to the first. The perfection of the first contract depends on the perfection

of the second contract through a reciprocal process. This construction is applied to *al-'uqûd al-murakkabah al-mutajânisah* (similar contracts), which are contracts that can be claimed in one contract without affecting its legal consequences. This type of multi-contract can consist of one type of contract or several types. Multi-contracts of this type can also be formed from two contracts that have the same or different legal implications.

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