



FINANCE BY SHARING AT ISLAMIC BANKS / REVIEW METHODOLOGY AND FUTURISTIC VISION

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Article history:	Abstract:
Received 13 th October 2022 Accepted: 13 th November 2022 Published: 24 th December 2022	<p>Musharaka is one of the Islamic financing forms that an Islamic bank, wherever it is, is not free from dealing with, and this formula transforms the bank from a lender waiting for interest from (the borrower) to a partner who shares the result of the work (profit or loss), and thus the bank will be keen to study the project more seriously, Participation projects can contribute effectively to the development of the country's economy.</p> <p>This study aimed to present and discuss one of the most important Islamic financing formulas, and the most widely used one (after Murabaha) in most countries of the world, which is the "musharaka" financing formula. applied.</p> <p>The problem of the study is the importance of the partnership financing formula, but it still occupies the second place (after Murabaha) in the methods of financing investors adopted by most Islamic banks. The following question emerges from this problem: - How can we develop the Musharakah financing system to be more used in Islamic banks?</p> <p>The researchers used the analytical descriptive approach in presenting the problem, reviewing the jurisprudential opinions, and analyzing the reality in order to reach useful suggestions.</p> <p>The researchers concluded that partnership financing is one of the well-known financing formulas that are in force in all Islamic banks, there is a weakness in some of its practices, there are obstacles related to customers and others to the work environment of these banks, and the researchers recommend a number of suggestions: increasing reliance on technology in developing services in banks Islamic banking, trying to renew Islamic banking products currently in force, the necessity of sufficient knowledge of the law for workers in the jurisprudence of Islamic transactions, raising the efficiency of workers in Islamic banks to face global competition, exchanging experiences between Islamic banks by establishing a joint database.</p>

Keywords: Musharaka, Islamic financing formulas, Islamic banks, the future of Musharaka

Introduction

Since Islamic banks appeared in the seventies of the last century, they are constantly growing and expanding, and their presence and branches were not limited to Arab and Islamic countries, but rather extended and spread in most countries of the world, and became a difficult number in the world of finance and banking. Its difference with commercial banks was not limited to the issue of its rejection of interest (usury), but rather it was distinguished from it by various banking products such as speculation, participation, Istisna'a... and others. This has been confirmed by many studies and researches, and the partnership financing system is considered one of the most important financing

formulas adopted by Islamic banks in the medium and long Islamic in financing of forms basic the of one is It term.³ banks, because it transforms the bank from a usurer (lends money) and expects interest, into a financial institution that participates with the investor in the project. or loss at the agreed rates⁴. The research was divided into two main sections, the first section was devoted to the definition of participation, then we touched on the legality and conditions of participation in addition to the practical steps to apply it. In turn, it is divided into a negotiation company and an Al-Anan company, and we concluded in the end that the Al-Anan company is the ideal and appropriate form for application in Islamic banks. We also touched on the main types of participation, which are permanent and temporary, and mentioned the characteristics of each.

In the second topic, we touched on the future view of participation, where the development proposals that were received in the literature related to the subject were reviewed. Relates to the Islamic bank and its workforce, and what is related to procedures and laws. The research concluded with a set of conclusions and recommendations.

Research problem

Despite the importance of the partnership financing formula, it still occupies the second place (after Murabaha) in the investor financing methods adopted by most Islamic banks. The following question emerges from this problem: How can we develop the Musharakah financing system to be more used in Islamic banks?

Research importance

The research derives its importance from the importance of Islamic financing methods, which demand is no longer confined to Islamic countries, but has proven successful even in European countries.

Research aim

The main objective of this research is to clarify the aspects (theoretical and practical) of the -Musharaka contract and to present and discuss one of the most important Islamic financing formulas, and the most widely used one (after Murabaha) in most countries of the world, which is the Musharaka financing formula.

Taking an oriental look at the future of participation and the modifications that can be made to its working - .mechanism, in order to expand its application

Research hypotheses

The researchers assume the following:

Musharaka is more effective in banking life when developing mechanisms and tools of work in the form o f Musharaka financing.

Research Methodology

The researchers used the analytical descriptive approach in presenting the problem, reviewing the jurisprudential opinions, and analyzing the reality in order to reach useful suggestions.

Previous studies

1- Study by Hosni AbdelpZiz Yahya,2009, entitled: Islamic Formulas for Working Capital Investment

It dealt with the definition of working capital and its management policies, sources and methods of financing in the traditional and Islamic system, so that it touched on the concept of working capital financially, economically, traditionally and Islamicly, in addition to highlighting the difference between the tools on which each of the two systems is based and through which the process takes place. financing. In the end, the study reached a set of results, the most important of which are the following points: (1) Traditional and Islamic thought share the concept of working capital so that they consider the latter as a purely technical and economic concept. (2) Traditional finance differs from Islamic finance in terms of methods. The traditional system relies on the liquid cash tool mainly and on participation and Murabaha to a small extent, while the Islamic one relies on both cash and largely on "Murabaha and installment" commodities.

2- Study by Saadi Mahmoud Erziqat,2018, entitled: Islamic Banks in Palestine Problems, Challenges and Solutions

The study aimed to clarify the reality of the Palestinian banking system and its present, with a description of the experience of Islamic banks in Palestine and its development to the problems and challenges of Islamic banks in Palestine, to finally address solutions and proposals for the latter and future expectations for it. Among the most

³Zaqawi Amal, Partnership Contract In Islamic Banking, Master Thesis, specializing in Business Law, Faculty of Law, University of Algiers 1, 2011, p. 3.

⁴Abdul Rahman, Nur Hasnida. "The role of Islamic banks in enhancing SMEs' access to financing via Musharakah financing." Journal of Islamic Finance 6.1 (2017): 042-050

important results reached in the study: (1) The reason behind the instability of the Palestinian banking system is due to the political circumstances, specifically to the event of 1948 (the emigration of the Palestinians and their exodus from their homes). (2) The Palestinian Monetary Authority enjoys full powers like any central bank, with the exception of issuing and managing currency. (3) The most important internal problems impeding the performance of Palestinian banks are represented in the human cadres (lack of competence), the nature of banking work and the small amount of capital, in addition to granting them financing in one way (murabaha).

3- Study by Samir Harban.2015, entitled: Forms and Methods of Participation Financing for Small and Medium Enterprises to Achieve Sustainable Development

The study aimed to show the methods of financing institutions in both its medium and small forms according to the partnership formula in order to achieve sustainable development. It started with an introduction to financing in which both traditional financing and alternative financing were defined in Islamic banks. Disadvantages, advantages and risks of partnership financing, and the researcher presented a set of financing formulas at the Islamic Banking Group.

The advantage of this study

Previous studies dealt with the partnership financing formula from various aspects, and this study shares with previous studies that it is a modest scientific contribution to partnership research. Increase customer attraction.

Research contents

The first topic: a systematic review / discusses the reality of participation

The second topic: presents future prospects for participation

The research falls into two main parts:

The first topic / systematic review

1.1. The nature of Musharaka

Participation in the language is: "the source of shirk that involves shirk, and shirk, and shirk is by breaking the shin and sukoon al-ra', and the shin may open and break the ra', and the first is more eloquent, and it comes in the sense of confusion, and from it mixing the two parties says we joined in the meaning of sharing, and it has The two parties participated and shared, and one partnered with the other, and the plural was shirk and shirk, and so-and-so participated: I became his partner. and more ⁵

:As for participation as a jurisprudential term, each school of thought has its say in that, as follows

According to the Hanbalis: "It is a meeting in a benefit or disposal, and a meeting in a benefit is a participation of two or more in an eye that they inherited or bought, while the consensus in disposal is the participation of two or more by mixing their money and trading in it

".According to the Hanafis: "It is a contract between the participants in the capital and the profit -

According to the Malikis: "The owners of two or more funds contracted to trade in them, that is, in both funds together

According to the Shaafa'is: "The truth is established for two or more on the one hand⁶ .

Musharakah is also defined as: "an agreement between the Islamic bank and the customer to contribute to the capital in an equal or varying proportion in the establishment of new projects or the development of existing projects or in the ownership of real estate or movable assets on a permanent or diminishing basis so that the customer buys the share of the Islamic bank in an increasing number, and Participation in the profit generated by the project, real estate, or asset takes place according to the terms of the partnership agreement, while participation in the loss takes place according to the share of the participant in the capital. The profit is distributed between them according to agreed ratios, while the loss is borne by both parties according to the proportion of their participation in the capital ⁷.

1.2 Legality of Participation

The legitimacy of participation has been proven in the Qur'an and Sunnah, as well as in consensus, and we explain that in the following:

1) The legality of participation in the Qur'an: There are many verses in the Qur'an that indicate the legality of the partnership contract, among which we mention the Almighty's saying: ((If they are more than that, then they are partners in the inheritance after a will bequeathed)) ⁹High Most the God that is verse the from evidence the And ⁸

⁵Doha Historical Dictionary of Language <https://www.dohadictionary.org>

⁶Doha Historical Dictionary of Language <https://www.dohadictionary.org>

⁷ Adela, H. (2018). The impact of Musharakah financing on the monetary policy in the Islamic economy. Review of Economics and Political Science

⁸The Holy Quran, Surat Al-Nisa, verse 12.

⁹The Holy Quran, Surat Al-Rum, Verse 28.

made the heirs to the wholeness if they are more than one of the brothers participating in the third, so this indicates the legitimacy of the partnership in general. Except for those who believe and do righteous deeds, and they are few.) The evidence here is that the Prophet¹⁰ of God David, peace be upon him, approved the partnership between them and did not deny it, but rather denied the injustice and transgression between the partners, which indicates the validity of the origin of the partnership between the creatures by the evidence of the utterance¹¹.

2) The legality of participation in the Sunnah: The legality of participation was proven in several places in the honorable Sunnah of the Prophet, according to Abu Hurairah, may God be pleased with him, who said: The Messenger of God, may God's prayers and peace be upon him, said: (God Almighty says: I am the third of the two partners as long as one of them does not betray, and if he betrays him I came out from between them) (narrated by Ibn Dawood). Which indicates the permissibility of the company, but rather indicates its desirability in the sentence. And on the authority of Al-Saib, may God be pleased with him, the Messenger of God, may God's prayers and peace be upon him, said: (I was my partner in the Jahiliyyah, so I was the best partner. The point of evidence in the hadeeth is that the looser came to the Prophet, may God's prayers and peace be upon him, reminding him of his partnership with him in the pre-Islamic era, and the Prophet did not denounce him, so this indicates that partnership is a praiseworthy matter that is not reprehensible, otherwise the Prophet, may God's prayers and peace be upon him, would not have been silent about it. Likewise, what Al-Bukhari included on the authority of Abu Al-Minhal said: I and a partner of mine bought something hand in hand - that is, we take and give - and on credit - that is, for a term. He greeted him about that and said: (Whatever was from hand to hand, his helmet, and whatever was bad, then leave it) (Bukhari narrated it).¹²

3) The legitimacy of participating in the consensus: The nation in general and Muslim scholars in particular have agreed on the legality of types of companies and the disagreement between them in some of its rulings¹³.

1.3 Characteristics of the Musharaka Contract

The partnership contract has a set of characteristics, which we mention as follows:

- The idea of agency (or joint representation): that is, each partner is responsible for the results of his actions for both parties, so in a figurative sense he is considered an agent for the other party.
- The prevalence of ownership: the funds between the two companies are mixed (it is not possible to sort them) as long as the work exists, so the ownership between them is mutual.
- Participation in the outcome of the work (profit or loss) according to the text of the contract, as the contract is the law of the contracting parties¹⁴.

1.4 Types of the Musharaka

¹⁵: Financing formulas by participation in Islamic banks The company is divided into main and sub-sections as follows

.The pornography company. (2) King Company. (3) Contract company (1)

:The divisions of companies can be illustrated through the following diagram

¹⁰The Holy Quran, Surah S, verse 24.

¹¹Al-Qurtubi, Muhammad bin Ahmad bin Abi Bakr, Al-Jami' Ahkam Al-Qur'an, investigated by Hamdi bin Abd Al-Majid Al-Salafi, Dar Al-Shaab, Cairo, 1372 AH, p. 179

¹²Ibn Battal, Abu Al-Hassan Ali bin Khalaf bin Abdul-Malik, Explanation of Sahih Al-Bukhari, Al-Rushd Bookshop, Saudi Arabia, Riyadh, 2003, 2nd edition.

¹³Ahmed Safar, Islamic Banks: Operations, Risk Management And the Relations with Central and Conventional Banks, Union of Arab Banks, Beirut, Lebanon, 2005, 167.

¹⁴Shihab Ahmed Saeed Al-Azazi, Islamic Banks Department, Dar Al-Nafees for Publishing and Distribution, 1st edition, Jordan, 2011, p. 31.

¹⁵ Farooq, M., & Ahmed, MMM (2013). Musharakah financing: Experience of Pakistani banks. World Applied Sciences Journal, 21(2), 181-189.

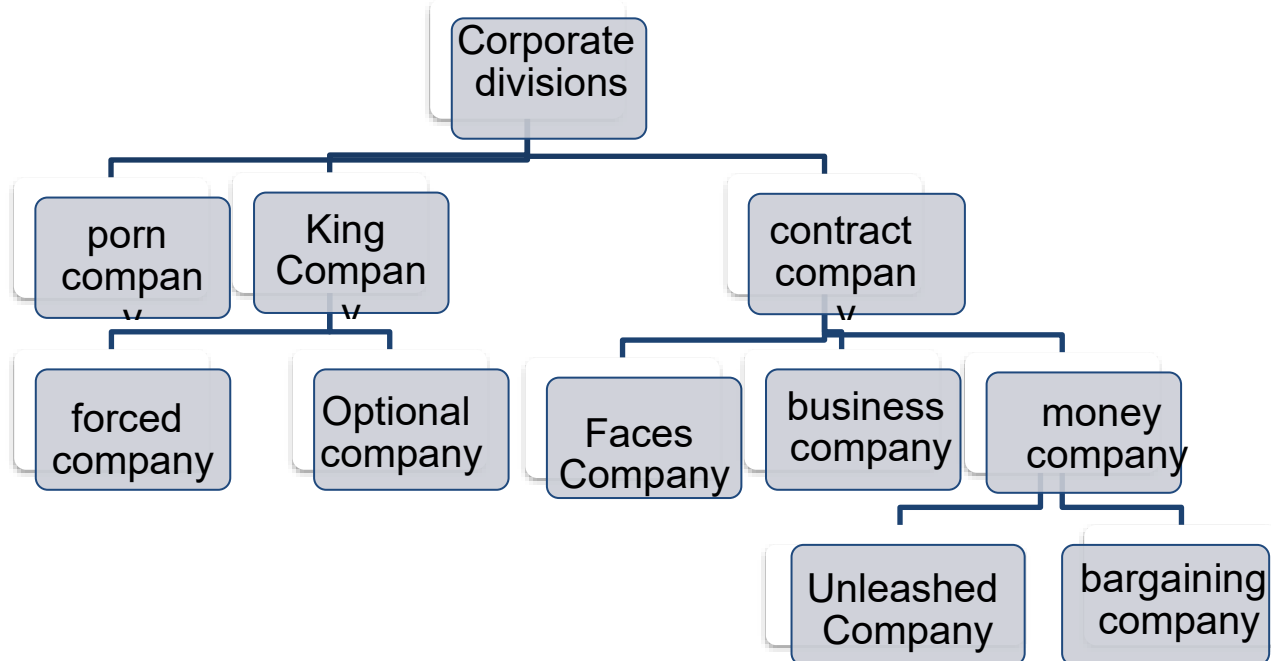


Figure 1 Types of companies

Source: Investment by Participation in Islamic Banks by Ahmed Mohamed Mahmoud Nasr, a publication issued by the General Council for Islamic Banks and Financial Institutions, Bahrain, p. 33

1. The porn company

Permissibility in positive law defines ownership in general or things in general. And it means the participation of all people in the rights of ownership of permissible things that are basically not owned by anyone. And the origin of the shirk of permissibility is in the Almighty's saying: ((It is He who created for you all that is on the earth, then He directed Himself to the heavens, then He made them seven heavens, and He is All-Knowing of all things)) (Al-Baqara, verse 29).

Likewise, in His saying: ((And He subjected to you whatever is in the heavens and the earth, all of it. Indeed, in that are signs for morons who reflect) (Surah Al-Maida, verse 96).

The pornography company dealt with public permissible things that belong to everyone, and Sharia analyzed their use and consumption, which are:

- Water: It is represented by the water of the seas, rivers, and valleys of villages and cities, and the water of wells in the land, which is not owned by anyone.
- Grass: It is meant by herbs and weeds that grow on land that is not owned by anyone, as well as plants that emerge from the land on their own in the owned land, unless they are cut by a person.
- Fire: It means the firewood that people burn and everything that is useful for heating and light.
- Minerals: It is represented by oil, stones, sulfur, marble, emeralds and other minerals that are not cut off.
- Public utilities: These are those that individuals are allowed to possess, such as places of worship, parks, government schools, and others¹⁶.

2. Al-Malik Company (Al-Ain Company):

It is when two or more persons own an object or property that has a financial value without a contract. Neither of the two partners may dispose of the share of the other without his permission, because neither of them has guardianship over the share of the other. And the basis for the king's partnership is the Almighty's saying: ((And if he does not have a son and his parents have heirs, then one-third is due to him)) (An-Nisa', verse 11). I mean, the rest is for the mother, as this is a property company. And he also said: ((And know that whatever you gain, a fifth of it is for God and for the Messenger and for relatives, orphans and the needy)) (Al-Anfal 41). It means: And the four-fifths are for the winners, and this is the sharing of the five between those mentioned in the verse, and the partnership between the winners in the remaining fifths.

¹⁶ Farooq, & Ahmed, (2013), ibid

Sections of the King Company: The King Company is divided into two parts: a voluntary company and a compulsory company. The following is a breakdown of that:

a. The optional company: It is the one that arises when two or more own a property because of one of the reasons for ownership, such as buying it together or donating it to them, or mixing their money without the intention of trading.

B. Compulsory company: It is the result of an inheritance or a will, or from the mixing of two funds without the will of their owners, a mixing that cannot separate them¹⁷.

Al-Malik Company Terms and Conditions: Al-Malik Company has many terms and conditions that are specified as follows:

Disposition of both partners: Partners in the King's Company may not dispose of the share of their partner without the permission of their partner.

- Permission of partners to sell the company's property: All participants may sell their share to their partner or to someone other than his partner without his permission.

Usufruct: It is not permissible for a co-owner to benefit from the joint property without the permission of his co-owner.

- If the co-owner needs alimony and one of the two partners refuses, then it is divided if it is divisible, but the money is divided so that the other partner fixes his money, and if it is not divisible, he is forced to abstain from alimony.

- The ownership partnership ends with the division of assets or the division of benefits¹⁸.

3. The contract company

It is the company that arises between two or more people based on a legitimate or legal contract and based on their desire and will and on their own initiative.

The evidence is that the verse commands the fulfillment of contracts, which is a general term that includes every contract between a person and his Lord. Or between man and man, and these companies are divided into three sections

A. Funds Company: It is based on the provision of (two or more persons), each person provides an amount of money, these funds are mixed to create a new capital, and it is several sections¹⁹.

A.1 The bargaining company: It is the company that operates on the basis of equality between the two partners in money, disposal and debt. And it was called that because each of the partners delegates the matter of disposing of the company to its owner at all disposition (1). (2) money. (3) Warranty. (4) Profit.²⁰

A.2. Al-Anan Company: The Al-Anan Company is one of the most important forms of companies because of its advantages and the options it provides to the investor. We review this company as follows:²¹

It is a contract between two people that they share in the money and the profit, but without the condition of equality in money, disposal or profit. That is, the profit goes to each partner according to his share in the capital. Each partner has the right to act in the interest of the company and by proxy on behalf of his partners, but after obtaining permission to do so

The following is a table in which a comparison was made between the bargaining company and the Al-Anan company²².

Table No. 2 Comparison between the bargaining company and the Al-Anan company

	The face of comparison	Bargaining company	Al-Anan company
1	Consensus on its permissibility	There is no consensus on its permissibility	There is consensus on its permissibility

¹⁷ Zafarullah, Zairani, Nuarrual, Selamah, Asmadi, Abdullah, Muhammad Nasir and Ab Malek (2013). Challenges in the Application of Mudarabah and Musharakah Concepts in the Islamic Finance Industry in Malaysia. International Shari'ah Research Academy for Islamic Finance, Kuala Lumpur, Malaysia.

¹⁸ Al-Zayadat, Abdel Hafeez, The Business Company and Its Rulings in Islamic Jurisprudence, 2008, p. 51.

¹⁹ Al-Ahkam Al-Adliya Journal, Al-Adabiya Press, Beirut, Lebanon, 2004, p. 186.

²⁰ Ahmed Mohamed Mahmoud Nassar Jurisprudence of Participation in Islamic Banks A bulletin issued by the General Council for Islamic Banks and Financial Institutions, Bahrain, pg. 39.

²¹ Ahmed Mohamed Mahmoud Nassar, previous source.

²² Sadique, (2008). FINANCING MICRO AND MEDIUM SIZED ENTERPRISES THROUGH DECREASING PARTNERSHIP (MUSHĀRAKAH MUTANĀQISAH): REFINING SHARĪ'AH AND BANKING ASPECTS FOR ENHANCED APPLICABILITY, Islamic Finance for Micro and Medium Enterprises, 53.

2	capital The	requires equality between the two partners.	It does not require equality between the two partners
3	The field of work	general commerce	only commerce and others
4	profit	requires equality in profit Equality	in profit is not required
5	loss	according to the share of each partner	according to the share of each partner
6	Eligibility	The capacity of the sponsorship is that he is free and sane	The capacity of agency only
7	Permission to act	The absolute right to act from both partners.	The partner is restricted by the partner's permission

Source: Ahmed Mohamed Mahmoud Nassar, Jurisprudence of Participation in Islamic Banks, a bulletin issued by the General Council for Islamic Banks and Financial Institutions, Bahrain, pg. 39

Business companies (body): Another form of company is the business or business company. We will discuss its .4 :most important conditions as follows

Definition of business companies: It means an agreement between two or more business owners, or the opening of . a small project or shop through which they offer useful business to customers. It is also called the body company²³

:Terms and conditions of the business company: The business company governs a number of conditions, as follows Determining the percentage of profit: The percentage of profit (or loss) should be determined in advance, and one - of the parties should not guarantee part of the loss (or profit), and the two parties should abide by the works and duties assigned to them in the contract. If one of the parties fails in his duties, he must compensate the other party²⁴

Face comp .5

:Below we review the concept of the Faces Company and its most important conditions

Definition of Al-Wujooh Company: It is a purchase without paying a price, in other words, a purchase "on trust" with a . promise to pay the price later, and this happens if the two parties or one of them are known to be trustworthy²⁵

It is when two people share what they buy with their status in the eyes of the people, so that each of them can be bought with a deferred payment (on credit), and the purchaser is for them, and if they sell, the surplus of the two purchases is between them. Personal consideration is the reason for the existence of this company because people trust them, so they buy at a deferred price and sell at an immediate price, and pay what they owe of deferred prices .from this price, and the rest is divided between them according to the agreement

It is necessary to determine the percentage of endurance, that is, the percentage of profit and loss distribution, and - this contract is binding on both parties, and this formula is compatible with the true Sharia, so the believers are in .²⁶ their contracts

:In the following table, we compare the property company and the contract company

	The face of comparison	King Company	contract company
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²³Sharia Standard No. 12, Company (Participation) and Modern Companies, p. 325, Accounting and Auditing Organization for Islamic Financial Institutions, 2017 edition, sponsored by SABB Bank.

²⁴Wael Oraibat, Islamic Banks and Economic Institutions, Dar Al Thaqafa for Publishing and Distribution, 1st edition, Jordan, 2006, p. 34.

²⁵ Abdullah bin Masoud Al-Mahboubi Sadr Al-Sharia, Explanation of Prevention, Amman, Al-Warraaq Foundation for Publishing and Distribution, 1st Edition, Part 1-3, 2006, pp. 278-283.

²⁶Ibrahim Abdel-Hamid, introductory edition of the Encyclopedia of Jurisprudence, the subject of the company, 1997, p. 42.

1-	how tion	The partnership took place with a purchase contract from the two people from the owner of the property, and it did not arise with a contract between them, so that the exchange takes place between two properties owned by two .people, each separately	It is established by a contract between the two partners, and it follows that each partner has entered into a consensual exchange regarding what belonged to each partner from the subject of partnership, so that each partner owned half or any other percentage of what belonged to the other .partner
2-	Allow to act	It is required that the permission of each of them be for the other to act	It is not required
3-	Purpose and purposes	Purpose and purpose of profit and investment	Its place is only money, without agreeing to invest it in a joint venture
4-	necessity	The company of the contract is a contract that is not necessary, and in other doctrines it is necessary, and it is only described as .necessary or not	The ownership company is not described as binding, due to the absence of the relationship between the two ownership partners, as it is described as binding .or not
5-	importance and efficiency	The contract company is the one on which the economic activities are based	Doomed to termination to facilitate the disposal

Source: Ahmed Mohamed Mahmoud Nassar, Jurisprudence of Participation in Islamic Banks, a bulletin issued by the General Council for Islamic Banks and Financial Institutions, Bahrain, pp. 41-42.

By presenting the various forms of companies in Islamic jurisprudence and the characteristics related to each of these companies, we conclude that the Al-Anan company is the best form of companies because of the characteristics and features that make it applicable in Islamic banks, and among the most important forms: permanent participation and diminishing participation.

1.5 Forms of financing by participation in Islamic banks

The partnership formula is considered one of the important areas of investment in Islamic banks. Without a doubt, participation in funds and their conversion in earning and investment operations are important forms of investing and developing funds. According to this formula, the Islamic bank turns into a partner for the customer, not just a financier. They are of two types: fixed participation and temporary participation²⁷

1.5.1. fixed share (permanent)

This type of financing is based on participation on the bank’s participation in providing some of the project’s capital, which entails that it be a partner in the ownership of the project and then in its management and supervision, and a partner in all the profits that this project produces, according to the contribution to the capital between the bank and the customer And according to the rules governing the terms of the contract. In this type of financing, all parties have a fixed share in the project until its term expires, the company ends, or the period specified in the agreement expires. Fixed partnership can be defined as: the bank’s participation with the customer in the capital, and this type of financing by participation applies to the pattern of the Al-Anan company in Islamic jurisprudence, and the Al-Anan company is legitimate by the consensus of the jurists.

²⁷ Amir Abdul Latif Mashhour, Investment in the Islamic Economy, Madbouly Press, Cairo, 1991, p. 287.

Fixed Post Forms

a) Continuous fixed participation

In which the bank participates with one or more other parties without specifying a period for the company, and the bank is a partner in the project as long as it exists and operates. These legal forms do not contradict Islamic law

b) Temporary Fixed Participation (End)

:In which the bank participates with the customer in a specific {contracting, import, activity...} deal, such as Fixed participation (ends with the end of the deal), for example, opening a documentary credit for the purchase of goods

.Fixed partnership (ending with the end of the process), for example, ends with the end of the contracting -

Fixed Musharakah ending at the end of the cycle: i.e. activating working capital financing, for example, a specific crop²⁸ cycle that ends with the end of the crop cycle, or with the end of one production cycle

fixed post (which ends with the end of the activity) -

Fixed terms of participation

Money and labor are a partnership between the two contracting parties, whereby both the bank and the partner (1) provide a shareholding percentage in the project

The project is initiated in order to invest the money according to the agreement, and the project may achieve a (2) positive or negative result

The share of each person from both parties is a known part of the profits achieved, and not a specific percentage (3) specific to the amount of the capital

An agreement between the bank and the customer on a predetermined percentage of the profit²⁹ (4)

Part of the profit is determined for those who manage the project, and the rest of the profits are distributed (5) according to the amount of their contribution to the capital, and if a loss occurs, then the two parties bear it

For fixed participation (its practical steps)

Permanent participation represents one of the long- or medium-term investment or financing methods for the Islamic bank, and it consists of two steps

:The first step: commitment to participate in the capital of a legitimate project according to the following

The approval begins with the permanent participation within a signature by the bank and the partner stating the amount of participation in relation to the capital or work by the participants, and the method of distribution of profit and loss, liquidation and other items of the company

Accordingly, each party shall provide the pledged capital or work in return for the participation of the Islamic Bank in giving expertise and advice to the project

.The bank must include the project it deals with that is committed to the Sharia rules of dealing -

The second step: the division of profits and losses shall be according to the ratios specified between them, and the liquidation of profits and losses shall be at the end of each fiscal year after deducting expenses, fees and wages for the purpose of managing the company³⁰.

1.5.2 Diminishing Musharakah Financing Formula

definition in language

Musharakah: It is an exaggerated formula on the weight of a reactor that refers to the multiplicity of parties, and it is derived from the verb shirk, and shirk is the hunter's rope and what is put to catch the bird³¹ and the company is most of the way and the middle of it, and the plural is shirk, and shirk is disbelief, and so-and-so joined God, so he is a polytheist and a polytheist, that is, he made a partner in his possession and the partner He is the participant. And the company and the company: it is the mixing of the two partners, and we joined each other³²

And the decreasing: on the weight of the reactive, derived from the verb decrease, and the decrease is the loss in luck, and the decrease means weakness. And the decrease is the going after the completion and the decrease: a

²⁸Muhammad Adnan bin Al-Dhaif, The Developmental Role of the Integration of Islamic Financial Institutions, a dissertation for obtaining a PhD in Economics, University of Muhammad Kheidar, Biskra, 2016, p. 86.

²⁹ Jalal Wafaa Al-Badri Muhammadin, Islamic Banks, A Comparative Study of Systems with the State of Kuwait and Other Countries, Letters of the Industrial Bank of Kuwait No. 84, Kuwait, 2006, pp. 81-86.

³⁰ Mustafa Kamal Al-Sayed Tayel, The Investment Decision in Islamic Banks, Ghobashi Press, Tanta, Egypt, 1999, p. 193.

³¹Al-Sahih al-Jawhari 4/1593, article (shirk), Lisan al-Arab Ibn Manzoor 10/448, article (shirk), Lexicon of Language Measures by Ibn Faris 3/256, article (shirk).

³²Al-Bukhari, in: Sahihah 2/882, in: The Book of Partnership, Chapter on Evaluating Things Between Partners with a Fair Value, No. (2359). And Muslim, in: Sahihah 2/1139, in: Kitab al-Ataq, No. (1501).

name for the filth that is gone from the lacking. And the defect in the sense of the defect, and its detraction: it was taken from him, and the buyer reduced the price, that is, he degraded it³³.

And the end: it is from the end, it is said: the thing was forbidden, and it ended and ended, that is, it reached its end, and the end and the end: the end of everything, and I am glad that this company has reached its end with ownership. And the king: what the hand possesses of money, and the king contains the thing and the ability to tyranny with it

Definition in terms

It is one of the types of partnership, according to which the right is given by one of the partners to another partner to exist in its place of ownership according to one payment or in several installments according to the terms of the agreement between them, until this project becomes, after a certain period, the property of one of the parties, with regard to the words of diminishing participation and participation ending in ownership, The diminishing Musharakah represents the participating party with part of the capital, as the Musharakah gradually decreases whenever an amount of the provided capital is recovered, with regard to Musharakah ending with ownership, so it is represented by the other partner to whom ownership is transferred, as the project eventually owns when it is able to return the capital to the other party and forwarded to the second party³⁴

Thus, the diminishing partnership is an undertaking by two or more parties who share a specific capital, according to which the share of one of the parties is transferred to the other party gradually until the ownership is completely transferred according to agreed terms.

Types of diminishing participation

The first picture: The bank agrees with the client to determine the share of each of them in the capital and to determine its conditions as well, according to the project that will be the subject of the partnership. It is noted on this formula that it is closer to the traditional company, in which the bank finances in part, and the partnership is liquidated after its termination in an independent contract, by carrying out One of the parties, the bank or the customer, sells his share to the other or to any third party by mutual consent. Therefore, as long as the capital is provided by the two parties and the ownership is transferred from one of the two partners to the other at the end of .the period, this keeps it from adapting it to the company ending with ownership

The second picture: that the bank agrees with the partner on the basis that the bank obtains a relative share of the net income actually achieved, with the bank's right to obtain a part of the revenue agreed upon, so that that part is allocated to repaying the original funding provided by the bank, i.e. the revenue is divided into three parts 1- A share for the bank as a return on financing, -2 a share for the partner as a return, 3- and a share for repaying the bank's financing.

The third picture: The share of each of the bank and the customer is determined in the form of common shares or stakes that represent the total value of the thing that is the subject of the partnership (real estate, for example). A certain number every year, so that the shares in the bank's possession are decreasing until the client owns the entire shares, so that he has the sole ownership of the property without another partner³⁵.

Diminishing sharing controls

Diminishing partnership is legitimate, as it adheres to the general provisions of companies, and takes into account the following conditions:

- a. Non-compliance with one of the two parties buying the share of the other party at the same value as the share when the company was established, because this is a guarantee of the partner for the share of his partner. Rather, the price of selling the share should be determined at the market value on the day of sale, or according to what was agreed upon upon sale.
- B. It is not required that one of the parties bear the costs of insurance or maintenance and all expenses, but it is borne on the share base by the amount of the shares.
- c. It is not permissible to stipulate a lump sum of the profits, but it is according to the percentage of participation in the capital.
- D. Neither party has the right to recover the contribution (financing)made. has it ³⁶

Practical steps and conditions for diminishing participation³⁷

³³Lexicon of the Language of Jurisprudence, Muhammad Rawas Qalaji, pg.

³⁴Ibtisam Saed, The Role of Islamic Finance Mechanisms in Raising the Financing Efficiency of the Banking System, Ph.D. thesis, specializing in Money and Finance, Mohamed Kheidar University, Biskra, 2017, p. 79.

³⁵ Aisha Al-Sharqawi Al-Malqi, Islamic Banks, An Experience between Jurisprudence, Law and Application, Arab Culture Center, Casablanca, Morocco, 2000, p. 378.

³⁶ Ismail Shendi, Diminishing Participation, a scientific paper presented to the Islamic Economics and Banking Conference, Hebron University, Palestine, 2009, p. 3

Diminishing musharakah in Islamic banks goes through the following steps:

- The client submits a request to the Islamic bank for diminishing participation in an investment project, along with a study of the economic feasibility of the project and some documents related to the project.
- Studying the application and the economic feasibility by the finance officer in the bank and verifying the information and documents provided.

Ensure that the project complies with the goals, objectives and financing conditions applicable in the bank.

.Transferring the application to the General Administration after its approval

In the event that the bank approves the financing, the customer is notified of the approval and the required conditions and documents

After the final approval of financing is completed, the contract of diminishing partnership ending in ownership is organized according to the terms agreed upon with the customer (such as selling his share, part or all of the capital)

A debit account card is opened in the customer's name with the bank, and with regard to the initial expenses, they must be paid from the customer's own funds

After the project is completed and ready, the process of exploiting it is within the authority of the bank, according to the terms of the partnership contract concluded with the customer

The revenues received from the project are distributed between the bank and the customer who owns the project, according to

Conditions of the contract of diminishing participation.

- After the value of the principal financing provided by the bank is paid from the customer's share of the received revenues, and no obligation of the bank remains on the customer, the final liquidation of the project takes place, as the bank's participation ends and the project becomes for the customer as of that date

The following figure briefly illustrates these steps.

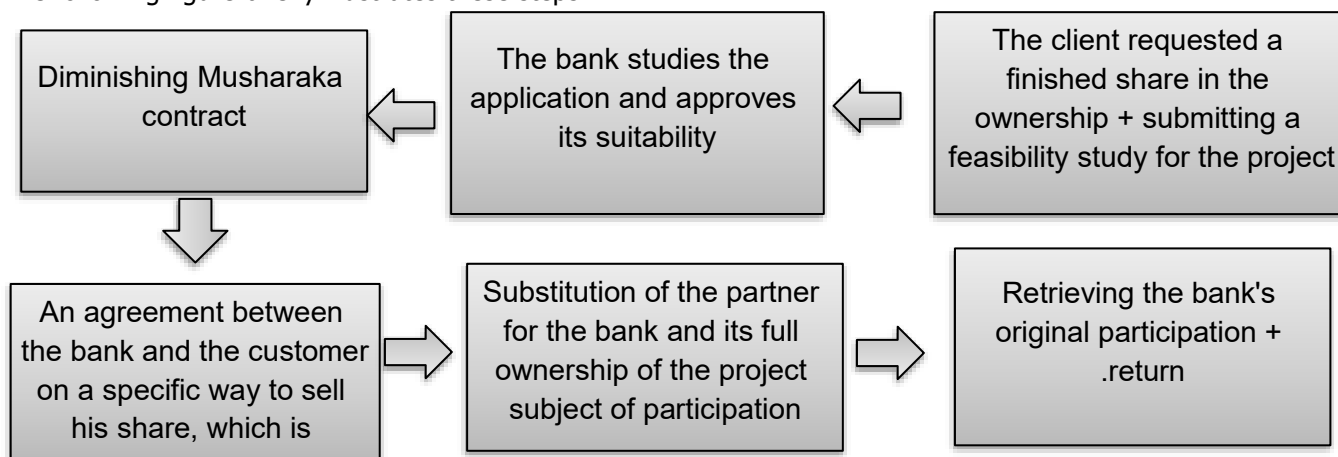


Figure 2: Steps of diminishing participation

Source: Prepared by the two researchers based on the above sources.

The second topic / future prospects for participation / future vision

In this topic, we discuss the possibility of developing mechanisms of work in the form of participation, which would improve the Islamic banking work and help to exploit the forms of participation in Islamic finance, in a way that contributes to the development of Islamic banking in general. The presentation will be sequential as follows:

First: Developing mechanisms related to customers and dealers. Second: Developing the work environment, its human and supervisory cadres.

Third: Developing organizational structures. Fourth: Developing mechanisms to diversify sources of funds. Fifth: Developing accounting treatments. Sixth: The clarity of the relationship between the Islamic Bank and the Central Bank. Seventh: Reducing the multiplicity of legal opinions. Eighth: other developments.

First: Developing customer-related mechanisms

This challenge is one of the most difficult challenges that may face the development process, as it is linked to many cultures and convictions prevailing among customers, and it may be difficult for customers to accept that you share in the full profits and losses away from comparison with interest rates in the market, which requires some time and in order to deal with Customers have this thinking, and in this regard we can take the following steps:

³⁷Abdul Sattar Abu Ghuddah, Diminishing Participation and Its Sharia Controls, Journal of the Islamic Fiqh Academy, Issue 15, Muscat, Oman, 2004, p. 390.

- Selection of the client wishing to obtain financing in the forms of partnerships based on the confidence he enjoys, which is the basis for dealing in the Islamic bank.
- Selection of clients who have competence and experience in dealing with banks for a long time, and who have distinguished banking records in terms of commitment to paying their dues and being disciplined within their specified deadlines. The bank can also propose to these clients their participation in investment projects.
- Trying to choose the big client instead of directing financing to the small and medium enterprises sector so that it is possible to expand with this category of clients in partnership formats with real participation in profit and loss, because they have sufficient experience, trade name and successful experiences, and it is not hidden from us the high risks of this segment of clients. As it deals with investments that can be described as huge, so selection processes, feasibility studies, and credit studies are extremely important to avoid these risks and view their credit records, and this can be achieved by raising awareness and education about the nature of the work of Islamic banks³⁸.

Second: Developing the work environment, its human and supervisory cadres

Islamic banks can overcome the various obstacles related to their work environment or human staff and even the supervisory authorities that hinder their work by controlling banking activities, i. . Also forming permanent committees to develop Islamic banking laws. And the creation of a supreme legal body to unify jurisprudential opinions.

Third: Developing organizational structures

The human cadre working in Islamic banks should be developed, i.e. relying on a qualified cadre in terms of :accounting and Sharia, and this is done through

Establishing specialized training centers with international expertise, to train the staff according to the latest - .standards

.Selection of employees according to the correct criteria -

Vocational training at the bank level, which acquires the necessary expertise at the technical and legal - .levels, and that this training must be continuous throughout the job

A fair and proper evaluation of the level of employees, which depends on how to achieve the goals set from - the beginning

Follow the correct management rules in terms of the policy of morally encouraging the human cadre to - develop talents and capabilities and achieve excellence and leadership³⁹ .

Fourth: Developing mechanisms to diversify sources of funds

The Islamic industry must move from the stage of imitation and imitation to the stage of innovation and development, and move from the stage of products that conform to Islamic law to the stage of products based on the law, which is a basic stage that requires innovation and creativity. This is what makes Islamic banks need to develop new methods to achieve success in providing long-term financial resources that develop the social and economic goals of⁴⁰ :development. In order to achieve this, we propose the following

.The bank's capital must be sufficient to finance development projects

The need for the Islamic bank to try to take the experience from the traditional banks that offered medium and - long-term deposit certificates by making the Islamic bank to offer new long-term investment certificates, such as "participation sukuk" in order to obtain agreement between employment and sources of funds, and compatibility in . the work of the long-term Islamic development bank

And also the issuance of various types of investment sukuk, similar to long-term certificates of deposit, such as sukuk of diminishing participation ending in ownership, sukuk of permanent participation, sukuk of speculation, and others.

These financial instruments that are based on partnerships, i.e. on the basis of ownership in most of them, must be characterized by liquidity and trading at the prices of the forces of demand and supply. This matter depends on an active Islamic financial market for trading these instruments, and this is what we notice is currently absent⁴¹.

Fifth: Developing accounting treatments

The Accounting and Auditing Organization for Islamic Institutions made great efforts to formulate accounting standards for the most important financing formulas, but this was not accompanied by any parallel efforts by Islamic .banks within the regulatory body to implement accounting and auditing standards for Islamic financial institutions

³⁸Ahmed Muhyiddin Ahmed, the application of speculation and fixed and diminishing participation in bank financing, a working paper presented to the Fourth Conference of the Sharia Boards of Islamic Financial Institutions, Bahrain, 2004, p. 31.

³⁹Suleiman Nasser, Abdel Hamid Boucherma, Requirements for the Development of Islamic Banking in Algeria, an article published in the Researcher Magazine, No. 7, 2009-2010.

⁴⁰Rashid Derghal, The Role of Banks in Mobilizing Financial Resources for Development, an unpublished master's thesis at Haj Lakhdar University, Sharia Department 2001, p. 73.

⁴¹Abdalla, MGE (1999), Partnership (Musharakah): A New Option for Financing Small Enterprises. Arab Law Quarterly, 14(3), 257-267.

The standards issued by specialized international organizations such as the IFSB (Malaysia) should be adhered to, which sets rules of caution and caution that are compatible with international standards on the one hand, and the .privacy of business in Islamic banks on the other hand

The participation of Islamic banks (accounting and auditing staff) in business workshops on a regular basis to present .the accounting problems they are exposed to, and to come up with a practical application of the mechanisms
Some of these standards are still very short and brief, so that more detail is needed on the problems that Islamic - banks are exposed to in their accounting treatment ⁴².

Sixth: Clarity of the relationship between the Islamic Bank and the Central Bank

Central banks are responsible for monetary policy in any country in the world, and the central bank has conditions and requirements that it requires from all banks. Therefore, the relationship between Islamic banks and the central bank should be structured in a way that distinguishes their specificity and difference from :commercial banks, and this happens from several points, including

Legal reserves: The Central Bank requires commercial banks to withhold certain amounts (a percentage of (1 loans). These amounts are withheld as a legal reserve, in order to ensure that debts are repaid in the event that creditors demand their money back. The same percentage should not be requested from Islamic banks because they do not work on the principle of lending and interest, but rather work on the principle of participation and sharing in profits and losses⁴³.

Supporting Islamic banks: Central banks should support Islamic banks by lending them when necessary (2 .(external or internal crises), as a form of support and stabilizing them in society

Liquidity ratio: Liquidity ratios can be extracted by dividing current assets (cash, which can be easily (3 converted into cash) by current liabilities (which are obligations to be paid within a fiscal year). Pay their money - if necessary⁴⁴.

Capital adequacy ratio: Basel II decisions determined the capital adequacy ratio according to a global (4 standard that most international banks have become committed to. This measure requires dividing the capital owned by the assets, in order to know the coverage rate. Therefore, the best solution is for banks to adopt, in general, the capital adequacy standard issued in Basel II decisions ⁴⁵.

Seventh: Reducing the multiplicity of legal opinions: This obstacle can be overcome through two main :points

Centralization of reference, in other words, it is necessary to unify the legal body that issues legal fatwas in each - country that is chosen according to criteria and controls that grant scientific competence in economics and law, as well as the distinctive personal characteristic, and it is suggested that the institution include a number of bankers in addition to jurists and economists, Its availability shall be in an organized manner linked to the Central Bank of each country, and the decisions it issues are necessary for Islamic banks, provided that each bank has a Sharia supervision department that has a role in reviewing and monitoring all the operations carried out to ensure their compliance with .the provisions of Sharia and the decisions issued by the Board

The selection of the members of the board must be in accordance with Sharia standards and their familiarity and - knowledge of aspects of Islamic banking business, and not only in terms of jurisprudence ⁴⁶.

Eighth: other developments

We suggest the following a set of mechanisms that would overcome the obstacles facing Islamic banks related to: automated systems, product development, conflict between jurisprudence and law, the problem of financial and .economic globalization, as well as poor coordination and cooperation between Islamic banks

Developing technological systems: Most of the partnerships' operations are works that were mostly handled (1 manually, which increases human error and leads to delays in the completion of operations and multiplicity of works.

:This obstacle obliges Islamic banks to

Modifying or developing automated systems that are compatible with the Islamic banking product, the method of - .calculating profits and liquidation operations

Forming appropriate work teams that are characterized by experience, knowledge and full knowledge of banking - .and Sharia operations

.Applying the latest technological methods in banking management

.Creating programs for the transfer of information, competencies and consultations -

Coordination between the Knowledge Bank and the research and studies programs between these banks - ⁴⁷.

⁴² Accounting, Auditing and Controls Standards for Islamic Financial Institutions, issued in 2008, Bahrain.

⁴³Bakr Rehan: Central Bank supervision of Islamic banks, from the Internet site: www.arablawino.com

⁴⁴Mahmoud Sahnoun, Zankari Miloud: Justifications and mechanisms for the Algerian banking system's openness to Islamic banking, 2019, p.: 18.

⁴⁵Suleiman Nasser, The Relationship of Islamic Banks to Central Banks in Light of Modern International Changes, Al-Riyam Library, Algeria, 2006, p. 175.

⁴⁶Farooq, & Ahmed, (2013), ibis.

2) Developing the mechanisms of Islamic banking products: The lack of the Islamic product is one of the things that cannot be denied, and this deficiency is evident in many formulas and products, which led to poor application of the participation formula, and for this it is necessary to have a team specialized in improving the product in all Islamic banks to work with the sectors To finance companies and the treasury on the one hand, and the legal authorities on the other hand.

3) Reducing the conflict between jurisprudence and law: commitment must be emphasized to a greater degree with the rules of Islamic law, by expanding the circle of business with investment formulas that are not related to any suspicion related to their legitimacy on the one hand, and on the other hand, the competent authorities must enact laws that take into account the privacy of the work of these banks and its principles.

4) Raising the level of Islamic banks to international level: Islamic banks in the era of financial and economic globalization are called upon to work on forming a large banking entity with high efficiency that is able to face high competition by merging and reviewing most of the banking business that cannot cover the return on the cost of capital. Invested in and banking globalization is on the side of Islamic banks because it is within the field of the trade economy and intends to open up to the markets, which gives a major role to banks in competition.

5) Enhancing cooperation and coordination between Islamic banks: Islamic banks should go to work, to a large extent, to ensure cooperation and coordination between Islamic banks, in a way that leads to banks relying on each other, especially with regard to providing liquidity, and in a way that avoids deficit or surplus. It has and generates the full and efficient use of the bank's resources, and this is under the supervision of Islamic central banks⁴⁸.

Conclusions

From what was presented previously, the researchers conclude the following

- 1) Musharakah financing is one of the well-known Islamic financing formulas, and it is applicable in all Islamic banks
- 2) There is a weakness in some of their practices, and this is due to a number of obstacles facing the work of these banks
- 3) There are obstacles related to the dealers and other obstacles to the work environment of these banks, their human cadres and their supervisory authorities, in addition to other obstacles
- 4) The two researchers proposed a number of mechanisms and tools that would promote Islamic banking in general, and then develop reliance on the partnership financing formula in particular, and this proves the validity of the hypothesis

Recommendations

The researchers recommend that the following measures should be taken

- 1) Increasing reliance on technology, and benefiting from technological developments in developing Islamic banking service
- 2) Not stopping at the Islamic banking products currently in force, and trying to continuously renew them
- 3) It is preferable for those working in the jurisprudence of Islamic dealings to be familiar with the law, in order to reduce the conflict between them
- 4) Work to raise the efficiency of employees in Islamic banks, in order to confront the intense global competition in the banking sector
- 5) Creating a joint database that serves the exchange of experiences between Islamic banks

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