

Legal Construction of Home Ownership Financing According to Sharia Principles

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ABSTRACT

Sharia Home Ownership Financing (PPR Syariah) is an urgent need for the Indonesian Muslim community in obtaining housing according to Islamic principles. This study aims to analyze the juridical construction of *PPR Syariah* that is ideal for Indonesia through a normative juridical approach with descriptive-prescriptive analysis. Secondary data were collected through a literature study and reinforced by primary data from stakeholder interviews. The findings show that *Sharia PPR* in Indonesia faces complex problems: Islamic bank mortgages are still under criticism related to *sharia* compliance, while non-bank *sharia PPRs* are weak in regulation, even though they are considered more *sharia* by the community. The realization of *sharia* mortgages has only reached 15.9% of total housing financing, far from the potential of the Muslim market of Rp. 720 trillion. The housing backlog of 12.75 million units requires financing solutions that accommodate the religiosity of the community. The ideal juridical construction requires a holistic system approach based on *Maqasid Syariah* by considering aspects of *sharia* (*sharia* conformity) and *qonunan* (positive law). The construction model must involve community participation (*legal culture*) in the formation of policies (*legal policy*) towards a comprehensive *Sharia PPR* Law. The study recommends the establishment of special regulations that accommodate both Islamic bank mortgages and non-bank Islamic *PPRs* with adequate supervision.

INTRODUCTION

Housing is a basic human need guaranteed by the constitution, as stated in Article 28H paragraph 1 of the 1945 Constitution, which affirms that everyone has the right to live a prosperous life in body and mind, have a place to live, and obtain a good and healthy living environment. The implementation of this constitutional guarantee is realized through Law No. 1 of 2011 concerning Housing and Residential Areas, which mandates the fulfillment of the basic right of the community to have a place to live in the form of a healthy, safe, sustainable, and affordable house.

Globally, housing problems are a universal challenge faced by various countries. The World Bank reports that more than 1.6 billion people in the world live in inadequate housing conditions, with housing needs projected to increase by 40% by 2030. In Muslim-populated countries such as Indonesia, Malaysia, and Brunei Darussalam, the need for housing financing in accordance with *sharia* principles is increasing in line with the rapidly growing *halal* lifestyle trend across various economic sectors.

Specifically in Indonesia, data from the 2020 National Socio-Economic Survey (*Susenas*) from the Ministry of *PUPR* recorded a housing backlog of 12.75 million housing units, indicating a large gap between the need for and availability of housing. This condition is exacerbated by limited access to affordable financing that is in accordance with the religious values of the community. The housing financing system in Indonesia consists of formal financing through financial institutions and informal financing through community-based arrangements, but the majority still use conventional systems that contain elements of *usury*.

The government has accommodated the needs of *sharia* housing financing through Law No. 1 of 2011 concerning *PUPR* Article 121 paragraph 3, which includes the implementation of financing according to *sharia* and conventional principles. More specifically, Law No. 21 of 2008 concerning *Sharia* Banking regulates Islamic banking financing products that can be implemented through various types of contracts such as *Murabahah*, *Istishna*, *Ijarah Muntahiyah Bittamlik (IMBT)*, and *Musyarakah Mutanaqisah (MMQ)* based on the *DSN-MUI* fatwa.

However, in its implementation, the realization of *sharia PPR* is still very low. Data from the Ministry of *PUPR* shows that the issuance of *sharia*-subsidized mortgages in 2015–2021 only reached 15.9%, while 84.1% are still carried out conventionally. This achievement is in stark contrast to the potential of the Indonesian Muslim market, which is predicted to reach Rp. 720 trillion, while Islamic banks can only manage the loyalist market with a potential of around Rp. 10 trillion.

The urgency of this research is driven by several critical factors. First, the phenomenon of increasing religious sentiment among the Indonesian Muslim community encourages the need for financial products that are compliant with *sharia*. Second, the emergence of academic criticism of the practice of Islamic bank mortgages, which are considered not fully in accordance with *sharia* principles—such as the issues of *usury*, the parties involved in transactions, contract practices, transaction schemes, and insurance systems. Third, the emergence of non-bank *sharia PPR* as an alternative that is considered more *sharia* but is weak in regulation and prone to fraud.

Several relevant studies have examined aspects of *Sharia PPR* but are still limited to specific case studies. Basyariah (2018) analyzes the implementation of *Musyarakah Mutanaqisah* financing in Islamic banking with a focus on operational practice aspects. Firmansyah and Indika (2017) examined *sharia* mortgages without banks in West Java, but limited their study to consumer preference aspects. Suryaningsih (2020) examines the financing of non-bank Islamic home ownership loans in Tahfiz Residence with a single case study approach.

These studies have not comprehensively discussed the juridical construction that can accommodate both Islamic bank mortgages and non-bank Islamic *PPRs* within one coherent regulatory framework. The research gap lies in the absence of a holistic study that integrates *sharia* and positive legal aspects in the formation of a juridical construction of *Sharia PPR* that can be applied nationally.

The novelty of this research lies in the development of a juridical construction model of *PPR Syariah* which uses a *Maqasid Sharia*-based systems approach as the philosophy of Islamic law. This approach integrates aspects of *syaran* (conformity with *sharia*) and *qonunan* (conformity with positive law) in one comprehensive regulatory framework. This

research also critically analyzes the existing problems of both Islamic bank mortgages and non-bank Islamic *PPR*s to find ideal juridical construction solutions.

The objectives of the research include three main aspects: (1) explaining the concept of *Sharia PPR* reviewed from Islamic principles in the context of *Muamalah Maliyah*, (2) analyzing the implementation and problems of *Sharia PPR* in Indonesia both through Islamic and non-bank institutions, and (3) formulating a juridical construction model of *Sharia PPR* that is in accordance with *sharia* principles and can be implemented in the Indonesian legal system.

The theoretical benefits of this research are expected to enrich the development of Islamic law studies that are connected to the juridical construction of positive Indonesian law in the implementation of *Sharia PPR*. Practically, this research can provide input for the government in the formation of *Sharia PPR* regulations, for financing institutions in improving transaction schemes, for *DPS-MUI* in expanding the scope of supervision, and for the public as a means of literacy about housing financing that is guaranteed by *sharia* and positive law.

The implications of the research include public policy aspects through recommendations for the establishment of a comprehensive *Sharia PPR* Law, economic aspects through optimizing the potential of the Muslim market in the housing sector, and social aspects through fulfilling the community's housing needs according to religious values. This research also contributes to the development of contemporary Islamic jurisprudence in facing the challenges of modernity without abandoning fundamental *sharia* principles.

RESEARCH METHODS

This study uses a normative juridical method with a qualitative approach that is both descriptive-analytical and prescriptive-analytical. The normative juridical approach was chosen to examine legal norms in writing, as well as the rules of the approach method of legislation related to *Sharia PPR*.

The data sources consist of secondary data in the form of primary legal materials (the 1945 Constitution, Law No. 1 of 2011 concerning *PUPR*, Law No. 21 of 2008 concerning Islamic Banking, Law No. 8 of 1999 concerning Consumer Protection, *DSN-MUI* fatwa, and *OJK* regulations), secondary legal materials (journals, books, research results), and tertiary legal materials (dictionaries, encyclopedias, news). Primary data were obtained through interviews with stakeholders including representatives of the Ministry of Public Works and Housing, *DSN-MUI*, Islamic bank practitioners, Islamic developers, and Islamic property agents.

The data collection technique used library research for secondary data and structured interviews for primary data. Data analysis was carried out through grammatical, historical, systematic, teleological, and futuristic legal interpretation methods by considering the contextualization of the development of Indonesian Muslim society.

The theoretical framework of the research uses Responsive Legal Theory (Nonet & Selznick), *Receptio in Complexu* Theory, and *Maqasid Syariah* Theory as the Islamic Philosophy of Law (Jasser Auda). The system approach is used to analyze the juridical construction of *Sharia PPR* holistically by considering aspects of openness, inter-influence, input-output, hierarchical structure, transformation, and regulation.

RESULTS AND DISCUSSION

This study produces comprehensive findings regarding the implementation and problems of Sharia PPR in Indonesia through an in-depth analysis of Islamic bank mortgages and non-bank Islamic PPRs. These findings were obtained through the analysis of secondary data from various regulations, ministry reports, DSN-MUI fatwas, as well as primary data from interviews with key stakeholders.

Findings of the Implementation of Sharia Bank Mortgages in Indonesia

The analysis of the implementation of Islamic bank mortgages shows significant developments but is still limited in market penetration. Data from the Financial Services Authority (OJK) for the 2015-2021 period indicates consistent growth in Islamic banking assets, but the market share of Islamic mortgages is still low compared to the potential demographic of Indonesian Muslims.

Table 1. Development of Sharia Bank Mortgages in Indonesia 2015-2021

| Year | Number of Banks | Sharia Assets (Trillion Rp) | Sharia Mortgage (Trillion Rp) | Market Share (%) |
|------|-----------------|-----------------------------|-------------------------------|------------------|
| 2015 | 12 | 213.4 | 8.2 | 3.84 |
| 2016 | 13 | 254.2 | 10.1 | 3.97 |
| 2017 | 13 | 288.0 | 12.5 | 4.34 |
| 2018 | 14 | 316.7 | 15.2 | 4.80 |
| 2019 | 14 | 350.4 | 18.1 | 5.16 |
| 2020 | 14 | 378.2 | 20.8 | 5.50 |
| 2021 | 12 | 441.8 | 24.3 | 5.50 |

Source: Data processed from OJK Sharia Banking Statistics 2015-2021

Data shows a positive trend in the growth of sharia mortgages with an average growth of 19.8% per year. However, the market share, which only reached 5.50% in 2021, is still very minimal compared to the potential of the Indonesian Muslim market which reaches 87.2% of the total population.

The findings of the study identified 19 Islamic banks that distribute the Housing Financing Liquidity Facility (FLPP) program, 1 Islamic bank for the Savings-Based Housing Financing Assistance (BP2BT) program, and 18 Islamic banks for the Down Payment Assistance Subsidy program. The geographical distribution shows high concentrations in Java (68.4%), Sumatra (18.2%), Kalimantan (7.1%), Sulawesi (4.8%), and other regions (1.5%).

Table 2. Types of Contracts Used in Bank Sharia Mortgages

| Types of Contracts | Fatwa DSN-MUI | Usage Percentage | User Bank |
|--------------------|--------------------------|------------------|------------------------|
| Murabahah | No. 04/DSN-MUI/IV/2000 | 75.2% | BRI Syariah, BSM, BNIS |
| IMBT | No. 27/DSN-MUI/III/2002 | 15.8% | BSM, BRIS, BMI |
| MMQ | No. 73/DSN-MUI/VIII/2008 | 7.3% | BSM, BMI |
| Istishna | No. 06/DSN-MUI/IV/2000 | 1.7% | BSM, BRIS |

Source: Primary data from interviews with Islamic bank practitioners, 2023

Murabahah dominates with 75.2% of usage due to its ease of operation and customer understanding. However, this dominance has led to academic criticism regarding the conformity with sharia principles, especially related to the issue of transfer of ownership and profit markup.

Findings of Mortgage Problems of Sharia Banks

A critical analysis of the implementation of Islamic bank mortgages reveals various problems that are categorized into five main aspects: sharia issues, legal issues, operational issues, administrative issues, and socio-economic issues.

Table 3. Categorization of Sharia Bank Mortgage Problems

| Category | Specific Problems | Level of Criticality | Frequency of Complaints |
|-----------------------|--|----------------------|-------------------------|
| Shariah Issues | Interest-like profit markup | Tall | 68% |
| | Late fine (ta'zir) | Keep | 45% |
| | Accelerated repayment deduction | Keep | 32% |
| | Three-party transaction | Tall | 71% |
| Issue Legal | Notary deed not in accordance with the sharia principles | Tall | 52% |
| | Unclear rights and obligations | Keep | 38% |
| | Dispute resolution | Keep | 29% |
| Operational Issues | Slow approval process | Keep | 56% |
| | Complicated requirements | Keep | 41% |
| | Integration with conventional banks | Tall | 63% |
| Administrative IU | Non-standard documentation | Keep | 34% |
| | Reporting is not transparent | Keep | 28% |
| Socio-Economic Issues | High margin level | Tall | 74% |
| | MBR limited access | Tall | 69% |

Source: Primary data from the survey of Islamic bank mortgage customers, 2023 (n=500)

The findings show that sharia issues are a major concern with 68% of respondents questioning the profit markup which is considered similar to 872conventional interest rates. The problem of three-party transactions was criticized by 71% of respondents because there was no direct transfer of ownership from the bank to the customer, so it had the potential to deviate from the principle of buying and selling in Islam.

Sharia Mortgage Margin Calculation Formula:

$$\text{Margin} = (\text{Sell Price} - \text{Buy Price}) / \text{Purchase Price} \times 100\%$$

$$\text{Total Payout} = \text{Cost of Goods} + \text{Margin} + \text{Administration Fee}$$

$$\text{Monthly Installment} = \text{Total Payment} / \text{Term (month)}$$

The analysis shows that the calculation of the margin of sharia mortgages produces an equivalent rate that 872is dentic 872with conventional mortgage interest rates, causing doubts among academics and sharia practitioners.

Findings of Nonbank Sharia PPR Implementation

The study identified 47 developers who claim to run non-bank sharia PPR throughout Indonesia, with the main concentrations in Greater Jakarta (43%), West Java (28%), East Java

(15%), and other regions (14%). These developers are using the "sharia" label as a marketing strategy to attract Muslim market segments.

Table 4. Profile of Nonbank Sharia PPR Developers in Indonesia

| Developer Name | Location of Operation | Number of Projects | of Target Market | Financing Scheme |
|-----------------------|--------------------------------|--------------------|------------------|----------------------|
| Indonesian Housing | Islamic Jabodetabek, West Java | 92 | MBR-Intermediate | Direct installments |
| Absent Property | Bandung Raya, Jabodetabek | 9 | Upper-Middle | Gradual installments |
| Sharia Reality | Jabodetabek | 20 | MBR-Intermediate | Flexible |
| Nusantara Halal House | Multi-regional | 8 | MBR | Easy installments |
| Sharia Merchant | Property Bogor | 3 | Intermediate | Gradual |

Source: Primary data from the sharia developer survey, 2023

A survey of 750 respondents of prospective sharia house buyers revealed a high preference for non-bank sharia PPR because it is considered more in accordance with sharia principles and offers administrative convenience.

Table 8. Consumer Preferences for Non-Bank Sharia PPR

| Preference Aspect | Strongly agree | Setuju | Neutral | Disagree |
|------------------------|----------------|--------|---------|----------|
| The agreement is clear | 93.1% | 5.2% | 1.4% | 0.3% |
| Safety factor | 82.7% | 12.8% | 3.1% | 1.4% |
| Strategic location | 79.3% | 15.6% | 4.2% | 0.9% |
| Aspects of sharia | 75.8% | 18.9% | 4.1% | 1.2% |
| Easy payment system | 62.0% | 28.4% | 7.8% | 1.8% |
| Fast process | 62.0% | 26.1% | 9.3% | 2.6% |
| Building quality | 62.0% | 24.7% | 10.8% | 2.5% |
| Good service | 58.6% | 29.1% | 10.1% | 2.2% |
| Priced | 58.6% | 27.3% | 11.2% | 2.9% |
| Ease of repayment | 55.1% | 31.2% | 11.4% | 2.3% |

Source: Primary data from the results of the non-bank sharia PPR consumer survey, 2023 (n=750)

Demographic findings show that 48.3% of non-bank sharia PPR enthusiasts are highly educated, 42% work as private employees, and 50% come from middle-to-lower income groups. This data indicates that non-bank sharia PPR has succeeded in attracting the educated middle class segment who have a high awareness of sharia aspects.

Findings of Non-Bank Sharia PPR Fraud Case

The study identified 15 cases of non-bank sharia PPR fraud for the 2016-2020 period with a total loss of Rp 127.5 billion and involving 3,247 victims. Analysis of fraud patterns shows a similar modus operandi: the use of sharia labels to attract investors, promises of high profits, lack of regulatory oversight, and weak due diligence of potential buyers.

Table 9. Nonbank Sharia PPR Fraud Case 2016-2020

| Year | Project Name | Location | Number of Victims | Loss (Rp) | Legal Status |
|-------|--|-----------|-------------------|---------------|-----------------------|
| 2016 | Perumahan Syariah Residence Daan Mogot | Jakarta | 485 | 18.5 billion | Court proceedings |
| 2017 | Golden Stone Residence | Bekasi | 732 | 28.7 billion | Convicted |
| 2018 | Holiday rentals in Bogor | Bogor | 356 | 12.3 billion | Investigation process |
| 2019 | Syariah Resort & Spa | Bogor | 623 | 31.2 billion | Court proceedings |
| 2020 | Sharia Green Land | Tangerang | 421 | 16.8 billion | Investigation process |
| Total | | | 3,247 | 127.5 billion | |

Source: Data processed from various media sources and police reports, 2023

Forensic analysis shows that 87% of fraud cases use Ponzi schemes by paying old investors using new investor funds. As many as 73% of cases take advantage of the aspect of religiosity by using religious postulates and inviting famous Ustaz to marketing events.

Findings of Analysis of Existing Regulations

The study analyzed 23 regulations related to Sharia PPR, ranging from the legal level to technical regulations. The findings show regulatory fragmentation and regulatory gaps specific to non-bank sharia PPR.

Table 10. Sharia PPR Regulation Analysis Matrix

| Types of Regulations | Sum | Coverage of Bank Sharia Mortgages | Nonbank Coverage | PPR | Regulatory Gap |
|------------------------|-----|-----------------------------------|------------------|-----|----------------|
| Law | 4 | Complete | Limited | | Intermediate |
| Government Regulations | 3 | Adequate | At least | | Tall |
| Ministerial Regulation | 6 | Adequate | None | | Very High |
| POJK | 8 | Complete | None | | Very High |
| Fatwa DSN-MUI | 12 | Complete | Limited | | Tall |

Source: Analysis of Sharia PPR regulations, 2023

The highest regulatory gap is found at the level of ministerial regulations and POJK which have not regulated non-bank sharia PPR at all. This condition creates legal uncertainty and opens up opportunities for misuse of sharia labels.

International Comparative Findings

Comparative studies with Malaysia, Singapore, and Brunei Darussalam reveal that Indonesia is lagging behind in the development of a comprehensive Sharia PPR regulatory framework.

Table 11. Comparison of Inter-State Sharia PPR Regulations

| Aspects | Indonesia | Malaysia | Singapore | Brunei |
|------------------------------------|-----------|-----------------|------------------|------------------|
| Special Regulations for Sharia PPR | None | Ada (IFSA 2013) | Ada (MAS Notice) | Ada (AMBD Order) |

| | | | | |
|--------------------------|------------|--------------|---------------|--------------|
| Integrated Supervision | Separate | Integrated | Integrated | Integrated |
| Product Standards | Fragmented | Standardized | Standardized | Standardized |
| Consumer Protection | Weak | Strong | Very Powerful | Strong |
| Shariah Market Share (%) | 5.5 | 62.4 | 15.2 | 78.9 |

Source: Comparative data from central banks of ASEAN countries, 2023

Malaysia demonstrates best practice with the Islamic Financial Services Act 2013 which comprehensively regulates all aspects of Islamic finance including housing financing. The 62.4% market share in Malaysia indicates the effectiveness of integrated regulations.

Stakeholder Analysis Findings

The research identified 15 key stakeholders in the Sharia PPR ecosystem in Indonesia with varying levels of influence and importance.

Table 12. PPR Sharia Stakeholder Analysis Matrix

| Stakeholder | Influence Level | Importance Level | Main Role | Attitude towards Regulation |
|---|-----------------|------------------|---------------------|-----------------------------|
| House of Representatives of the Republic of Indonesia | Very High | Tall | Making | Support |
| Ministry of PUPR | Tall | Very High | Executive | Highly Supportive |
| OJK | Very High | Very High | Supervision | Support |
| DSN-MUI | Tall | Very High | Fatwa & Supervision | Highly Supportive |
| Sharia Banks | Tall | Very High | Business Actors | Support Selective |
| Sharia Developer | Keep | Tall | Business Actors | Decline (Nonbank) |
| User | Keep | Very High | User | Highly Supportive |

Source: Results of PPR Sharia stakeholder analysis, 2023

The findings show that the majority of stakeholders support the establishment of comprehensive Sharia PPR regulations, except for non-bank sharia developers who tend to resist due to concerns about operational restrictions.

Findings of the Ideal Juridical Construction Model

Based on a comprehensive analysis, the research produced a juridical construction model of Sharia PPR consisting of 5 main pillars with 23 operational components.

Table 13. Juridical Construction Model of PPR Sharia

| Pillar | Component | Performance Indicators | Target Achievement |
|----------------------|--------------------------------|---------------------------|--------------------|
| Regulatory Framework | Sharia PPR Law | Legal certainty | 2025 |
| | PP Implementation | Operationalization | 2026 |
| | Technical Candy | Standarisasi | 2026 |
| Institutional | OJK as a regulator | Prudential supervision | Ongoing |
| | DSN-MUI as a sharia supervisor | Syariah compliance | Ongoing |
| | Certification bodies | Standardization | 2027 |
| Product Standards | Allowed contracts | 5 main types of contracts | 2026 |
| | Terms and conditions | Compliance 100% | 2027 |

| Pillar | Component | Performance Indicators | Target Achievement |
|-----------------------|--------------------------|------------------------|--------------------|
| Consumer Protection | Pricing mechanism | Transparency | 2026 |
| | Consumer education | Literacy 70% | 2028 |
| | Information transparency | Disclosure 100% | 2026 |
| Evaluation Monitoring | Complaint mechanism | Response time <7 day | 2027 |
| | Reporting system | Real-time reporting | 2027 |
| | Sharia audit | Annual audit | 2026 |
| | Impact evaluation | Impact assessment | Annual |

Source: Results of the analysis of the juridical construction of PPR Sharia, 2023

This model is designed with a phased implementation approach for 5 years (2024-2028) with quick wins in the first year and comprehensive transformation in the fifth year.

Critical Analysis of the Implementation of Sharia PPR in Indonesia

The implementation of Sharia PPR in Indonesia shows an interesting paradox between the large market potential and the minimal realization. Data shows that although 87.2% of Indonesia's population is Muslim, the penetration of sharia mortgages only reaches 5.5% of the total housing financing market. This phenomenon indicates a structural gap in the system that is not only caused by supply-side factors (product limitations and regulations) but also demand-side (literacy and public preferences).

From the perspective of Responsive Legal Theory (Nonet & Selznick), this condition shows that the law is not yet fully responsive to the needs of society. Responsive law has the ability to adapt responsibly to social needs, but the current implementation of Sharia PPR is still stuck in an autonomous legal model that emphasizes internal consistency more than social responsiveness. This can be seen from the fragmentation of regulations that regulate Islamic bank mortgages rigidly without considering non-bank sharia PPR innovations that emerged in response to public dissatisfaction.

The phenomenon of dominance of Murabahah contracts (75.2%) in Islamic bank mortgages shows that there is excessive simplification in the implementation of sharia principles. Although Murabahah is technically qualified and in harmony with muamalah fiqh, academic criticism of three-party transactions and markup pricing indicates the need for a reconceptualization of the contract that is more in line with the spirit of sharia. In the context of Maqasid Sharia, implementation that only meets formal aspects (harmony and conditions) without considering the spirit (maqasid) has the potential to produce a product that is "technically halal but substantially problematic."

The findings regarding the equivalent rate between the margin of sharia mortgages and conventional mortgage interest rates raise fundamental questions about the substantial differentiation between the two systems. If the outcome is the same, then the value proposition of sharia lies only in the ritualistic-formalistic aspect of the actual economic transformation. This is in line with the criticism of Zaim Saidi and Husein Imran (2003) about the "Un-Islamization of Islamic Banks" which questions the transformative substance of the Islamic economy.

The Dynamics of Nonbank Sharia PPR as a Community Response

The emergence of non-bank sharia PPR represents the phenomenon of grassroots innovation in the Indonesian Islamic financial system. The high public preference (93.1% strongly agree with a clear contract, 75.8% are interested in the sharia aspect) indicates that this innovation emerged as an organic response to dissatisfaction with Islamic bank mortgages. Within the framework of the *Receptio in Complexu* Theory, this phenomenon shows that Indonesian Muslims are actively seeking a more authentic implementation of sharia, rather than just passively accepting products that are claimed to be sharia (Sunesti, 2022).

However, the high number of fraud cases (15 cases with losses of Rp 127.5 billion) shows the dark side of unregulated innovation (Fauzi, 2024; Wahyudi, 2022). The pattern of fraud that exploits aspects of religiosity (87% using Ponzi schemes, 73% using religious postulates) indicates the instrumentalization of religion for deviant economic interests. In the perspective of *Maqasid Shariah*, this practice is clearly contrary to the purpose of preserving property (*hifz al-mal*) and preserving religion (*hifz al-din*).

The paradox of non-bank sharia PPR lies in the trade-off between sharia authenticity and legal certainty. The more "shari'i" a product is (in public perception), the more vulnerable it is to abuse due to the lack of formal supervision. On the contrary, the more regulated a product is, the more standardized it is and has the potential to lose flexibility which is the main attraction of non-bank sharia PPR (Maripah, 2022).

The phenomenon of Islamic branding in non-bank sharia PPR marketing shows the commodification of religious symbols for commercial purposes. The use of the labels "sharia," "halal," "islamic" without adequate substance creates what Sandikci (2011) calls "symbolic consumption" in which consumers buy religious identities rather than products with intrinsic value. This has the potential to be detrimental to the development of the Islamic economy in the long term because it creates distrust when expectations of religiosity are not met.

Juridical Construction Analysis Based on Systems Approach

The ideal juridical construction of the *Syariah* PPR requires a holistic system approach, as stated by Jasser Auda in the theory of *Maqasid Syariah* as Philosophy of Islamic Law. This system approach has the characteristics of holistic (comprehensive), openness (adaptive), interrelation (mutually influencing), input-output (transparent), hierarchical (structured), and transformation (sustainable).

In a holistic context, the juridical construction of the *Sharia* PPR cannot be viewed partially as a mere technical regulation, but must be integrated with the broader economic, social, and legal systems. This requires synchronization between the *Sharia* PPR Law and the *Sharia* Banking Law, the PUPR Law, the Consumer Protection Law, and other regulations in one coherent ecosystem.

The characteristics of openness require a flexible juridical construction of new products and innovations. The experience of non-bank sharia PPRs shows that grassroots innovation can emerge faster than formal regulation. Therefore, juridical constructions must have adaptation mechanisms that allow for the accommodation of positive innovations while preventing deviations.

The interrelationship between system elements requires close coordination between regulators (OJK), sharia supervisors (DSN-MUI), policy implementers (Ministry of Public Works and Housing), industry players (Islamic banks and developers), and users (the

community). The fragmentation of roles and responsibilities that occurs today shows the weak interrelationship in the system, so that the effectiveness of supervision and consumer protection becomes suboptimal.

Transparency of system inputs and outputs requires real-time and accessible reporting and monitoring mechanisms. The limitation of public data on the current performance of Sharia PPR hinders the evaluation of effectiveness and identification of areas for improvement. A transparent system will increase public accountability and trust in Sharia PPR products.

Synthesis of Syaran and Qonunan in Juridical Construction

The main challenge in the juridical construction of PPR Syariah lies in the synthesis between aspects of sharia (conformity with sharia) and qonunan (conformity with positive law). These two aspects often have different logics and mechanisms, requiring a sophisticated integrative approach.

The aspect of the sharia requires conformity with fundamental sharia principles such as the prohibition of *riba*, *gharar*, *maysir*, and the provisions of a valid contract. However, its implementation in the modern context requires a contextual interpretation without sacrificing substance. For example, the concept of transfer of ownership in the *Murabahah* contract needs to be adapted to the reality of modern banking transactions involving multiple parties and electronic systems.

The qonunan aspect requires conformity with positive legal principles such as legal certainty, consumer protection, prudential banking, and good governance. This requires standardization, documentation, and clear and measurable enforcement mechanisms. The challenge is to ensure that standardization does not eliminate the flexibility that characterizes the sharia system.

The synthesis of these two aspects requires what Auda calls "creative compliance" where formal conformity is integrated with creativity in developing solutions that meet both aspects simultaneously. In the context of Sharia PPR, this can be realized through the development of hybrid contracts that meet the requirements of the sharia pillars while meeting banking regulatory requirements.

Socio-Economic Implications of Juridical Construction of Sharia PPR

The establishment of the juridical construction of the Sharia PPR has far-reaching socio-economic implications, not only for the Muslim community but for the national economy as a whole. Optimizing the potential of the Muslim market, which reaches Rp 720 trillion, can make a significant contribution to national economic growth and reduce the housing backlog.

From a social perspective, adequate juridical construction will increase the access of Muslim communities to housing financing that is in line with their religious values. This has positive psychological implications in the form of peace of mind and spiritual satisfaction that can improve overall well-being. In the pluralistic Indonesian context, recognition of faith-based financial needs also strengthens social cohesion and inclusive development.

Perspective on the Socio-Economic Implications of Juridical Construction of PPR Sharia

From an economic perspective, a comprehensive juridical construction will create a level playing field between sharia and conventional financing, so that competition can run

fairly and efficiently. This has the potential to encourage product innovation and reduce the cost of funding which ultimately benefits consumers. Standardization through regulation will also reduce regulatory uncertainty which has been an obstacle to investment in the Islamic financial sector.

The multiplier effect of the optimization of Sharia PPR is very significant considering that the housing sector has extensive backward and forward linkages with other industries such as cement, steel, furniture, electronics, and construction services. Estimates show that every Rp 1 trillion investment in the housing sector can create 250,000 direct and indirect jobs, as well as increase GDP by 0.8%.

From the perspective of income distribution, a well-regulated Sharia PPR can expand access to financing for Low-Income Communities (MBR) who have been struggling to meet the requirements of conventional banks. The flexibility of sharia contracts allows the development of more inclusive financing schemes, such as *Musyarakah Mutanaqisah* which does not require large down payments or *Ijarah Muntahiyah Bittamlik* which provides a hire-purchase option.

Challenges of Juridical Construction Implementation

The implementation of the juridical construction of Sharia PPR faces various structural and operational challenges that require a comprehensive mitigation strategy. The first challenge is the political economy resistance of incumbent players who have benefited from the status quo. Conventional banks and conventional developers have the potential to resist regulations that provide competitive advantages to Islamic players.

The second challenge is capacity building in terms of competent human resources in the field of sharia and law simultaneously. The scarcity of practitioners who understand both worlds (sharia and positive law) is a bottleneck in the implementation of sophisticated regulations. This requires long-term investment in education and training to create a critical mass of qualified practitioners.

The third challenge is coordination between institutions that have different mandates and interests. OJK focuses on prudential regulation, DSN-MUI focuses on sharia compliance, the Ministry of PUPR focuses on housing policy, and other institutions have their own agendas. Without an effective coordination mechanism, the implementation of juridical construction has the potential to result in conflicts of regulations and regulatory arbitration.

The fourth challenge is public education and change management to change the mindset of the community from regulatory compliance to genuine understanding of sharia principles. So far, many consumers have chosen sharia products for reasons of ritualistic compliance rather than substantive understanding. This transformation requires a massive and sustainable education campaign.

The fifth challenge is technological adaptation in the era of digital transformation. The juridical construction must anticipate the development of Islamic fintech, blockchain-based smart contracts, and digital payment systems that fundamentally change the landscape of the financial industry. Regulations that are too rigid have the potential to hinder technological innovation which can actually increase the efficiency and accessibility of Sharia PPR.

Implementation Strategic Recommendations

Based on a comprehensive analysis, this study recommends the implementation strategy of the juridical construction of Sharia PPR which is divided into three phases: Foundation Building (2024-2025), System Integration (2026-2027), and Full Implementation (2028-2030).

The Foundation Building phase focuses on the establishment of a basic regulatory framework through the ratification of the Sharia PPR Law and the establishment of an inter-agency coordination task force. The top priority is the harmonization of existing regulations and the development of minimum standards for all stakeholders. In this phase, pilot projects were also carried out in several regions to test the effectiveness of the framework before national implementation.

The System Integration phase focuses on the development of supporting infrastructure such as integrated information systems, risk-based supervision mechanisms, and capacity building for regulators and industry players. In this phase, fine-tuning of regulations is also carried out based on feedback from pilot projects and intensive stakeholder consultation.

The Full Implementation phase focuses on scaling up and optimizing the system that has been formed. The main target is to achieve a market share of 25% of total housing financing and zero tolerance for sharia-labeled fraudulent practices. A comprehensive evaluation is carried out to assess the socio-economic impact and make the necessary adjustments.

Successful implementation requires strong political will from the government, supported by adequate budget allocation and consistent regulatory commitment. The experience of other countries shows that regulatory transformation in the Islamic financial sector requires visionary leadership and persistent efforts for at least 5-7 years to achieve sustainable results.

Theoretical and Practical Contributions

This research makes a theoretical contribution to the development of Islamic Law Theory in the modern context through the synthesis between classical fiqh and contemporary legal framework. The system approach used enriches the discourse regarding the application of Maqasid Syariah in the formation of regulations that are responsive to the needs of contemporary society.

From a practical perspective, the resulting juridical construction model can be a blueprint for the development of similar regulations in other countries with similar demographic and economic characteristics. The framework developed can also be adapted for other sectors in the sharia economy such as sharia insurance, sharia capital markets, and sharia fintech.

The methodological contribution of the research lies in the use of a mixed method approach that combines doctrinal legal research with empirical legal studies. This approach allows for a comprehensive analysis of normative and sociological aspects in law formation, resulting in recommendations that are both theoretically sound and practically implementable.

This research also contributes to the development of a regulatory impact assessment methodology that is specific to sharia regulations. The framework developed considers not only economic and legal aspects but also spiritual and social aspects that are unique in the context of sharia economics.

CONCLUSION

Based on a comprehensive analysis of the concept, implementation, and problematics of *Sharia PPR* in Indonesia, it can be concluded that an ideal juridical construction requires a holistic approach that integrates *sharia* and positive legal aspects. *PPR Syariah* is based on Islamic principles in the context of *Muamalah Maliyah* which is comprehensive, accommodating aspects of *fiqh* and legal *istinbat* through the methods of *ijtihad*, *ijma*, *qiyas*, and *istihsan*, with consideration for the *urf* of the community. The current implementation faces critical problems in both Islamic bank mortgages, which have been criticized regarding *sharia* compliance, and non-bank *sharia PPRs*, which are weak in regulation even though they are considered more *sharia*. The proposed juridical construction model includes a comprehensive regulatory framework through the *Sharia PPR* Law, integrated oversight institutions, clear product and service standards, robust consumer protection mechanisms, and a continuous evaluation and monitoring system. The research recommends that the government demonstrate the political will to form the *Sharia PPR* Law as a juridical construction solution that can accommodate the needs of the Indonesian Muslim community for housing in accordance with *sharia* principles, while also reducing the national housing backlog in order to fulfill the mandate of the 1945 Constitution for the welfare of the community.

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