

Unraveling Gharar Practices: A Literature Study on Islamic Economic Transactions in the Global

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ARTICLE INFO

Article history:

Received Oct 08, 2024

Revised Oct 18, 2024

Accepted Oct 18, 2024

Available online Dec 15, 2024

Keywords:

Gharar, Transactions, and Islamic Economy



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Published by UIN Suska Riau

ABSTRACT

The purpose of this research is to review the literature on global Islamic economic transactions related to the aspect of Gharar, which is defined as uncertainty that can lead to ambiguity and injustice in contracts. The articles reviewed in this study consist of ten articles related to Gharar published between 2013 and 2024. Empirically and descriptively, each selected article has been searched using a series of keywords and specific keywords. Google Scholar serves as a supporting database, while Scopus and Web of Science (WoS) are the primary sources for this research. The research findings indicate that there are still many gharar transactions occurring in economic transactions, both in Islamic financial institutions and among individuals.

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INTRODUCTION

Economics is a social science discipline. In economics, the main questions are what to produce, how to make, and for whom to produce. Every economic system has a unique solution to this problem. There are various ways to think about how these questions are answered or how these functions are used. Moral factors in human life are neglected by the current economic system, which displays arrogance, dishonesty, and distrust (Alahouel, 2020). For example, fraud and corruption are still major problems in our economic life. They cannot be eliminated because they all form a vicious circle. It is proposed that Islamic economics is a better alternative to the existing economic concepts and systems. Based on traditional Islamic sources, this suggests several moral and institutional changes that aim to improve the current financial system (Mohd, 2024).

Humans conduct transactions to transfer ownership to meet their economic needs. In the world of business and economics, transactions are based on partnerships and mutual assistance. Transactions must not be based on fairness and willingness and must not contain actions that could harm one of the parties (Nurinayah, 2023). Islamic teachings emphasize the importance of upholding the values of justice in the Islamic economic system and serve as fundamental principles for economic operations. To achieve equitable welfare in society, every economic activity must be good and not cause harm to oneself or others. It is not permitted to engage in economic activities that involve *gharar*, gambling, or usury, as well as taking the rights of others unjustly (Suzuki, 2013).

Observing the practice of *gharar* in contemporary global transactions is indeed an interesting matter. *Gharar* transactions are increasing because various types of transactions are becoming more complex with the advancement of technology. In addition to the risks or uncertainties, the prohibition of *gharar* is also related to consuming property and harming others. Therefore, this paper first highlights *gharar*, the types of *gharar*, *gharar*, and risk, prohibited contracts containing elements of *gharar*, and how these matters can be involved in Islamic banking and financial transactions (Alam, 2017).

METHODOLOGY

This study uses a literature review. The data source uses research results consisting of ten articles related to *Gharar* published between 2013 and 2024. Empirically and descriptively, each selected article has been searched using a series of keywords and specific keywords. Google Scholar serves as a supporting database, while Scopus and Web of Science (WoS) are the primary sources for this research.

RESULTS AND DISCUSSION

There is no difference between *gharar* in transactions prohibited by Sharia and fraud in business transactions where the object is unknown, which constitutes a risk. There are several reasons why the prohibition of *gharar* causes contracting parties to take risks because it is related to fraud: selling unavailable goods is equivalent to

acquiring someone else's property, and the contract can lead to disputes. Hassan, 1997. According to Kamali (1999), some academics distinguish between the terms "uncertainty" and "risk" in economics. Risk is a condition where the probability of an event can be measured, and therefore, this risk can be estimated theoretically. The following presents the research findings from several countries regarding gharar in the global Islamic economic practice.

1. Research (Tista, 2024) in the journal *Journal of Islamic Accounting and Business Research* titled *“Examining a distinctive loan contract ‘Pagang Gadaai’ Practiced In a Muslim Society: an Islamic Finance Perspective.”*

This study uses a qualitative research approach and is divided into two stages. The first stage involves a documentary analysis of pawnshop contracts, and the second stage involves an in-depth study of a selected nagari. This study was conducted from 2020 to 2023 in Tanah Datar district, West Sumatra. The focus of this research is on the conventional pawn contract model, which involves the transfer of rights to cultivate productive agricultural land in exchange for a loan measured using a gold measurement system. This model excludes other pawn contract modes. If society wants to avoid contract practices that contain elements of domination and oppression, then revising this contract mode becomes very important.

According to the research findings, the typical contact mode violates several fundamental rules of Islamic finance, including *riba* and *gharar*. However, the influence of customary law, namely communal land ownership, makes this practice common in the studied community. This practice impacts society in both positive and negative ways.

2. Research (Mohd, 2024) in the *Journal of Islamic Accounting and Business Research* titled *A review on Gharar Dimension In Modern Islamic Finance Transactions.*

The objective of this research is to conduct a thorough and systematic review of the literature related to the aspect of *Gharar* in contemporary Islamic financial transactions. *Gharar* is defined as uncertainty that can lead to ambiguity and conflict in contracts.

According to the review, the aspects discussed in previous research attempt to explain *Gharar* in contemporary financial transactions as best as possible. Additionally, they show that legal experts still prioritize rigorous study and the application of definitions. The latest study on *Gharar* focuses on derivative products that show a high likelihood of uncertainty in their operations.

3. (Alahouel, 2020), Université de Tunis El, Manar, Tunis, Tunisia and Unité de Recherche FCF in the journal *International Journal of Islamic and Middle Eastern Finance and Management* with the title *Financial uncertainty valuation: does Shariah compliant screening matter?*

The purpose of this paper is to investigate various types of financial uncertainty based on two types of financial assets: conventional and Islamic.

Design—Common components related to known risks or information. The authors found a general difference between these two types of indices using a general dynamic factor model.

The results show that the level of uncertainty of Islamic assets differs from the level of uncertainty associated with conventional assets. Sharia screening and the prohibition of gharar can cause this difference. Compared to conventional approaches, the main results show that Islamic finance has lower financial uncertainty. The OLS results show that Islamic peers are not affected by conventional financial uncertainty. In addition, except for the Dow Jones pair, Islamic financial uncertainty does not seem to affect conventional financial markets. Overall, the results support the separation hypothesis only for the SP and MSCI indices in terms of uncertainty.

4. (Suzuki, 2013) Graduate School of Management, Ritsumeikan Asia Pacific University, Oita, Japan in the *Journal International Journal of Islamic and Middle Eastern Finance and Management* with the title *A Post-Keynesian perspective on Islamic prohibition of Gharar*

The purpose of this paper is to derive wisdom from the prohibition of Gharar from the perspective of institutional and Post-Keynesian economics. This research attempts to explain the dimensions of Gharar in Islam using theoretical contributions from Post-Keynesian economics and new institutional economics. By using empirical data, this research examines the differences between theory and practice. This data includes findings from an interview with one of the Islamic banks in Indonesia.

The results of the research on the two dimensions of Gharar, the fundamental uncertainty related to business and the incompleteness of contracts, can be explained through the lens of institutional and Post-Keynesian economics. The Post-Keynesian economic tradition distinguishes between the "animal spirit in speculation" and the "animal spirit in the enterprise," which must be carefully considered. But Islamic financial institutions face the "Murabaha syndrome," according to the interview.

5. (Shah & Arie Fianto, 2023) in the *Journal of Islamic Accounting and Business Research* with the title *Shariah Review of Brownian Motion of Islamic Stock Market Elements: establishing the Benchmarks of Islamic Econophysics*

A Shariah review of Brownian motion, which is used to predict the prices and volatility of Islamic stocks, is the objective of this paper. To evaluate the Brown initiative and its utilization, this uses guidelines for a development model that complies with Sharia.

The research findings indicate that there are no factors that make the Brownian motion model incompatible with Sharia; not all applications of Brownian motion are by Sharia. Because this model is based on a stochastic nature involving uncertainty, it is very important to consider the issue of gharar when applying it. The results must be thoroughly analyzed according to Sharia to

determine whether they introduce elements of gharar or uncertainty in terms of expected price estimation and volatility.

6. (Mihajat, 2016) IIUM Institute of Islamic Banking and Finance in the journal *International Journal of Islamic Management and Business* with the title *Contemporary Practice Of Ribā, Gharar And Maysir In Islamic Banking And Finance*

The main objective of this paper is to gain a good understanding of the concepts and applications of ribā, gharar (uncertainty), and maysir, as well as how these elements can occur in Islamic banking and financial products and services. This study shows that Islamic banking and finance may incorporate elements of ribā, uncertainty, and gambling prohibited by Sharia in the products and services they offer, indicating that Sharia-compliant products today are not significantly different from more conventional Sharia-compliant products. This may occur because Islamic banking practitioners do not have a proper understanding of the concepts of ribā, maysir, and gharar when creating products; this includes when setting monthly installments in wadīah, mudhārahah, and mushārahah contracts.

7. (Mohamed & Sahid, 2019) Faculty of Syariah and Law, Universiti Sains Islam Malaysia (USIM), Nilai, Negeri Sembilan in the *Malaysian Journal of Syariah and Law* with the title *Syeikh Daud Al-Fatani's Economic Thought Regarding The Concept Of Gharar In The Book Of Fiqh Jawi (Sullam Al-Mubtadi): Focusing On Akad Mua'wadah*

The purpose of this research is to analyze economic thought on the concept of gharar in the work of Sullam al-Mubtadi through content analysis. Because one of the parts of the Qur'an and Sunnah is about economics, debates about Islamic economic thought began to emerge since the time of Prophet Muhammad (PBUH). With the rise of Islamic civilization, debates about economics also increased rapidly, especially with the emergence of fiqh scholars and fiqh schools. The fiqh scholars are one of the parties that play an important role in regulating discussions about economics and presenting ideas based on naqli and aqli propositions.

8. (Alam, 2017) University of Reading Malaysia, Johor Bahru, Malaysia, *Prohibition of Riba and Gharar in Islamic Banking* in Book Chapter *Islamic Finance* in Springer Nature

The main principles of Islamic banking are the prohibition of riba (interest), Gharar (uncertainty), and Maysir (gambling). This distinguishes it from conventional banking practices. The presence of these components in financial transactions leads to excessive debt, speculation, negative growth, and significant disparity between the rich and the poor. This is contrary to Islamic law, so there are strict prohibitions to protect society from inflation, unemployment, and instability, as well as to promote social justice and economic efficiency.

Building a banking system based on the principles of justice, social responsibility, equality, stability, and growth is the economic reason behind the abolition of interest. In the Islamic banking system, investors and entrepreneurs share risks and profits. This allows for a fair distribution of profits based on the proportion of capital and services provided. This promotes the theme "Banking for All," which means providing banking services to individuals from various social strata without discrimination. The goals include achieving religious and ethical objectives, upholding socio-economic justice, and reducing the gap between the rich and the poor.

9. (Nurinayah, 2023) UIN Datokarama Palu in the *Jurnal Hukum Ekonomi Syariah TADAYUN* with the title "*Praktik Gharar dalam Transaksi Ekonomi Islam: Studi Pendekatan Kaidah Fiqh* "

The purpose of this research is to study the standards of contracts that are considered invalid and to provide an explanation of the types of gharar that are prohibited and permitted based on the description given by the principles. The research in this book uses descriptive analysis.

As a result, gharar can be accepted only if it is considered minimal. How to determine how much gharar has occurred? This is a gharar that has become a market practice, so people consider it normal and no one is harmed.

10. (Basyariah, 2022) in the *Journal Mukaddimah: Jurnal Studi Islam* dengan judul *Larangan Jual Beli Gharar: Kajian Hadist Ekonomi Tematis Bisnis Di Era Digital*

To avoid actions that violate Sharia, including gharar, Muslims are urged to understand the facts and concepts of proper transactions due to the development of transaction and business models in the current digital era. To understand sharia, we must learn from the sources of Islamic law, one of which is the hadith of the Prophet Muhammad (PBUH). This qualitative research uses a literature study approach to elaborate and analyze economic hadiths about gharar in business from various perspectives.

Research results show that many hadith explains that business transactions and sales that are prohibited are due to elements of gharar or ambiguity. Because it can hurt one of the parties involved in the transaction. A business is considered permissible or halal if it does not involve maysir, gharar, and riba.

RESULTS AND DISCUSSION

Gharar means "uncertainty, danger, opportunity, or risk." Because it can lead to speculation, Islam prohibits uncontrolled risk or obligation. "Where there is something hidden by one party, where (this concealment) can cause a sense of injustice and oppression to the other party" is the definition of uncertainty in muamalat transactions. Here is the discussion of the research presentation above based on the literature review and the author's understanding.

In the article (Tista, 2024) discussing the study of the typical loan contract "Pagang Gadai" practiced in Muslim communities: an Islamic finance perspective, this research was conducted in West Sumatra with the result that many people borrow money and then the amount is measured using gold measurements. Then the borrower provides collateral in the form of property or land to be managed by the lender. There is uncertainty where, at the time the debtor returns the money, the debtor must adjust the gold price at the time of repaying the debt. This will impact the return price due to the fluctuating gold price, which tends to increase. Both guarantees utilized involve oppression where the lender exploits the collateral. Anything that benefits from a pawn is considered usury.

In the article (Mohd, 2024) titled "A Review of the Dimensions of Gharar in Modern Islamic Financial Transactions," concludes that Gharar is a derivative product that exhibits a high degree of uncertainty in its operations. This research elaborates in detail on the concept of gharar, which is interpreted differently depending on the nature and behavior of the contract, and how gharar is interpreted in modern financial transactions.

A similar approach was also taken by (Mohamed & Sahid, 2019) with the title "The Economic Views of Sheikh Daud Al-Fatani on the Concept of Gharar in the Book of Jawi Jurisprudence (Sullam Al-Mubtadi): Highlighting the Mua'wadah Contract." This research discussion focuses on economic thought regarding the concept of gharar in one of his works (the text Sullam al-Mubtadi) using the content analysis method. (Suzuki, 2013), with research results on fundamental uncertainty related to business and contract incompleteness, can be explained through the lens of institutional and Post-Keynesian economics. This research also conceptually explains gharar according to Post-Keynesian economic theory. Next, the research (Shah & Arie Fianto, 2023) states that there are no factors that make the Brownian motion model non-compliant with Sharia; not all applications of Brownian motion are compliant with Sharia. Because this model is based on stochastic properties involving uncertainty, it is very important to consider the issue of gharar when applying it.

(Mihajat, 2016), with the results of Islamic banking and finance research, may include elements of riba, uncertainty, and gambling prohibited by Sharia in the products and services they offer, indicating that Sharia-compliant products today are not so different from more conventional Sharia-compliant products.

Then the research (Alahouel, 2020) found that the level of uncertainty of Islamic assets differs from the level of uncertainty associated with conventional assets. Sharia screening and the prohibition of gharar can cause this difference. Compared to conventional approaches, the main results show that Islamic finance has lower financial uncertainty. It means that even though the level of gharar is lower compared to conventional banks, there is still gharar in Islamic financial transactions.

The main principles of Islamic banking are the prohibition of riba (interest), Gharar (uncertainty), and Maysir (gambling). This distinguishes it from conventional banking practices. The presence of these components in financial transactions leads to excessive debt, speculation, negative growth, and significant disparity between the rich and the poor. (Alam, 2017). Next, the research (Nurinayah, 2023) states that gharar can be accepted only if it is considered minimal. How to determine how much gharar

has occurred? This is a gharar that has become a market practice, so people consider it normal and no one is harmed.

The latest research conducted by (Basyariah, 2022) indicates that many hadiths explain that business transactions and sales that are prohibited are due to the element of gharar or uncertainty, as they can hurt one of the parties involved in the transaction. A business is considered permissible or halal if it does not involve maysir, gharar, and riba.

Of the many explanations, it is evident that research on gharar has been extensively conducted, both conceptually, in financial institution transactions, and financial transactions between individuals. The concept that is built in detail should allow us as humans to discern and avoid ambiguity and uncertainty regarding the transaction risks we will undertake. Thus, it can be concluded that there are still many gharar transactions occurring in Islamic economic transactions globally, both in Indonesia and outside Indonesia.

CONCLUSION

Gharar in business means conducting transactions that are too risky or engaging in ventures blindly without sufficient knowledge. However, when there is a need, a small amount of uncertainty can be accepted. The gharar transactions examined in this paper explain that out of the ten studies mentioned above, they still contain gharar both in Shariah financial institutions and in global transactions among peers.

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