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Contractual Justice and Regulatory Pragmatism: A Comparative Analysis of IMBT (Indonesia) and AITAB (Malaysia) in Islamic Asset Financing

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Abstract: The rapid expansion of Islamic finance in Southeast Asia has positioned Ijarah Muntahiyah bi al-Tamlik (IMBT) in Indonesia and Al-Ijarah Thumma al-Bay' (AITAB) in Malaysia as the predominant asset financing models in their respective jurisdictions, yet their structural and jurisprudential divergences remain insufficiently explored in comparative literature. This study provides a comprehensive comparative analysis of IMBT and AITAB, examining their contractual structures, legal foundations, operational realities, and alignment with maqasid al-shariah. Employing a mixed-method approach that integrates doctrinal-normative analysis of DSN-MUI Fatwa No. 27/2002 and SAC-BNM Shariah Resolutions, comparative legal evaluation, and maqasid-based assessment, the study examines how each model balances consumer protection and institutional efficiency within its specific socio-legal ecosystem. The findings reveal fundamental differences in contractual architecture: IMBT mandates a strict separation between lease and ownership transfer contracts, permits transfer through sale or gift (hibah), and treats the promise of transfer as non-binding, thereby offering greater consumer flexibility and risk protection. Conversely, AITAB integrates the sale agreement as a pre-committed and automatically executed promise upon lease maturity, operating within Malaysia's Hire Purchase Act 1967 framework, prioritizing legal enforceability and operational efficiency, often at the expense of equitable consumer risk allocation. From the maqasid al-shariah perspective, IMBT demonstrates superior alignment with principles of justice, transparency, and wealth protection, while AITAB raises normative concerns regarding risk imbalance and consumer vulnerability. The study concludes that both models are valid within their respective frameworks, yet recommends regulatory refinements, particularly for AITAB, to enhance consumer welfare, and advocates for cross-jurisdictional harmonization to support an integrated ASEAN Islamic financial market.

Keywords: IMBT; AITAB; Maqasid al-Shariah; Comparative Analysis; Contractual Justice

Introduction

The global Islamic finance industry has witnessed remarkable growth over recent decades, propelled by the increasing awareness among Muslim populations regarding the imperative of conducting financial transactions in accordance with Shariah principles.[1] This phenomenon extends beyond majority-Muslim nations, permeating international financial markets and establishing Islamic banking as one of the fastest-growing segments of the global financial services industry. In Southeast Asia, particularly in Indonesia and Malaysia, this growth is manifested through continuous product innovation and aggressive expansion of Islamic banking services designed to meet public demand for financing alternatives that are free from *riba* (usury), *gharar* (excessive uncertainty), and *maysir* (gambling).

Among the various *muamalah* contracts, *Ijarah Muntahiyah bi al-Tamlik* (IMBT) in Indonesia and *Al-Ijarah Thumma al-Bay'* (AITAB) in Malaysia have emerged as the most widely adopted asset financing models in the Islamic financial sector. Both contracts serve an identical economic function: providing leasing (*ijarah*) arrangements that culminate in the transfer of asset ownership to the lessee at the conclusion of the contract period.[2] These products form the backbone of Islamic home financing and vehicle ownership schemes in their respective jurisdictions. In Indonesia, IMBT is governed by the Fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) No. 27/DSN-MUI/III/2002, which regulates the lease-to-own mechanism with options for ownership transfer through either a separate sale (*bay'*) or gift (*hibah*) contract executed after the lease period concludes.[3] Meanwhile, in Malaysia, AITAB has been widely adopted for vehicle financing, underpinned by the resolutions of the Shariah Advisory Council (SAC) of Bank Negara Malaysia, which recognize the structural validity of the contract while accommodating the requirements of the Hire Purchase Act 1967.[4]

Despite their similar economic objectives, the implementation of IMBT in Indonesia and AITAB in Malaysia reveals fundamental structural differences rooted in divergent juridical approaches and methodologies of legal reasoning (*istinbath*). These variations are not merely administrative technicalities but reflect distinct interpretations of ownership concepts, risk allocation, and contractual formation within Islamic commercial jurisprudence (*fiqh mu'āmalāt*).[5] In Indonesia, the DSN-MUI adopts a relatively conservative doctrinal stance, mandating a clear and definitive separation between the *ijarah* (lease) contract and the ownership transfer (*tamlik*) contract to avoid proximity to the prohibition of *bay' al-'inah* or combining two contracts in a single transaction (*shafqataini fi shafqatin*).[6] Conversely, Malaysia, through the SAC-BNM, employs a more pragmatic

[1] Apdil Abdilah and Ahmadih Rojalih Jawab, "Ijarah Dan IMBT (Al-Ijarah al- Muntahiyah Bi al-Tamlik) Dan Implementasinya," in *ULIL ALBAB : Jurnal Ilmiah Multidisiplin*, vol. 2, no. 11, CV Ulil Albab Corp, 2023, https://doi.org/10.56799/jim.v2i11.2418.

[2] Bustami Bustami, "The Application of Al-Ijarah Muntahiya Bi al Tamlik (Financial Lease With Purchase Option) As a Financing Solution in the Sharia Non-Bank Finance Industry," *AFEBI Islamic Finance and Economic Review* 2, no. 01 (2017): 13, https://doi.org/10.47312/aifer.v2i01.60.

[3] Dewan Syariah Nasional Majelis Ulama Indonesia, "Fatwa Dewan Syariah Nasional - Majelis Ulama Indonesia Tentang Al-Ijarah Al-Muntahiyah Bi Al-Tamlik No: 27/DSN-MUI/III/2002. Dewan Syariah Nasional MUI," Jakarta, 2002.

[4] Bank Negara Malaysia, "Resolutions of the Securities Commission Shariah Advisory Council," Securities Commission, 2007.

[5] Ahmet Faruk Aysan et al., "Standardization Efforts in Islamic Finance," preprint, Unpublished, 2022, https://doi.org/10.13140/RG.2.2.18309.42720.

[6] Erry Fitrya Primadhany, "ANALISIS KONSEP SHAFQATAINI FI SHAFQATIN PADA HYBRID CONTRACT AKAD IJARAH MUNTAHIYA BIT TAMLIK (IMBT)," in *Journal Evidence Of Law*, vol. 2,

approach by permitting a binding promise (*wa'd*) to execute the sale at the end of the lease term, thereby providing legal certainty and operational efficiency for financial institutions in alignment with the prevailing positive legal system.[7]

Specifically, DSN-MUI Fatwa No. 27/2002 concerning IMBT stipulates that the *ijarah* contract and the ownership transfer agreement (whether through sale or gift) must be executed as two separate and sequential contracts. The promise to transfer ownership (*wa'd*) made at the inception of the contract is legally non-binding until a new contract is formed upon the expiry of the lease period.[8] This structural requirement is designed to offer flexibility to consumers and to eliminate elements of uncertainty (*gharar*) and prohibited contract amalgamation.[9] In contrast, AITAB in Malaysia, as structured by the SAC-BNM, integrates the two contracts within a coherent framework where the bank purchases the asset and leases it to the customer, with the sale agreement pre-committed and automatically executed at the end of the lease term. This approach enables Islamic banks to operate seamlessly within the framework of the Hire Purchase Act 1967, ensuring legal clarity regarding asset ownership, insurance liabilities, and repossession procedures.[10]

These philosophical and structural divergences carry significant implications for risk allocation, consumer protection, and market efficiency. From the perspective of *maqāṣid al-sharī'ah*—an analytical framework that evaluates the extent to which a transaction achieves the higher objectives of Islamic law, namely the protection of religion, life, intellect, lineage, and property—IMBT in Indonesia appears to achieve a more equitable balance between the

no. 2, CV Era Digital Nusantara, 2023, https://doi.org/10.59066/jel.v2i2.277; Masrur Agus Alwi, "AL-IJARAH AL-MUNTAHIYAH BI AL-TAMLIK (IMBT) DALAM PERSPEKTIF HUKUM EKONOMI SYARIAH DAN APLIKASINYA SEBAGAI PRODUK PERBANKAN SYARIAH," in *AKSY: Jurnal Ilmu Akuntansi Dan Bisnis Syariah*, vol. 2, no. 1, Sunan Gunung Djati State Islamic University of Bandung, 2020, https://doi.org/10.15575/aksy.v2i1.7864.

[7] Nur Ain Nazihah Muhammad Rizal et al., "AITAB Contract: Analysing Islamic Banking Institutions Issues and Challenges in Moratorium Practices During COVID-19," in *Advances in Social Science, Education and Humanities Research*, Atlantis Press SARL, 2023, https://doi.org/10.2991/978-2-38476-076-3_6; Afrik Yunari et al., "Freedom of Contract and Certainty of Sharia Law in IMBT: Perspectives on Indonesian and Malaysian Legal Culture," in *Kawanua International Journal of Multicultural Studies*, vol. 6, no. 2, IAIN Manado, 2025, https://doi.org/10.30984/kijms.v6i2.1847.

[8] Muh Fudhail Rahman and Mujhid Budi Luhur, "The Issues of Wa'ad IMBT in The Fatwa DSN MUI Based on Fiqhiyyah Rules," in *Al-Iqtishad: Jurnal Ilmu Ekonomi Syariah*, vol. 13, no. 2, LP2M Universitas Islam Negeri (UIN) Syarif Hidayatullah Jakarta, 2021, https://doi.org/10.15408/aiq.v13i2.22418; Suprapdi, "Analysis of the Wa'd Ijarah Muntahiyah Bi al-Tamlik (IMBT) Contract From the Perspective of Islamic Law and Indonesian Civil Law," in *Ijtimā Iyya Journal of Muslim Society Research*, vol. 7, no. 2, UIN Prof. K.H. Saifuddin Zuhri, 2022, https://doi.org/10.24090/ijtimaiyya.v7i2.7170.

[9] Mohmed Firdaus bin Masruhen et al., "Evaluasi Praktek IMBT Di Bank XYZ Dengan Pendekatan Maqashid Syariah," in *Al-Tasyree: Jurnal Bisnis, Keuangan Dan Ekonomi Syariah*, vol. 14, no. 1, Fakultas Syariah Institut Perguruan Tinggi Ilmu Al Qur'an Jakarta, 2025, https://doi.org/10.59833/qmewnr22; Sisminawati Sisminawati and Ahmad Suminto, "Dualisme Akad Ijarah Dan Ijarah Muntahiyah Bit-Tamlik (IMBT) Perspektif Fiqh Muamalah," in *Musyarakah: Journal of Sharia Economic (MJSE)*, vol. 1, no. 1, Universitas Muhammadiyah Ponorogo, 2021, https://doi.org/10.24269/mjse.v1i1.4167.

[10] Hashim Ahmad Shiyuti et al., "Critical Evaluation on Al-Ijarah Thummalbai'," *SSRN Electronic Journal*, no. December (2012), https://doi.org/10.2139/ssrn.2184296; Mohd Usoff Zakaria and Ab Mumin Ab Ghani, "PEMBIAYAAN KENDERAAN BERKONSEPKAN AL-IJARAH THUMMA AL-BAY' (AITAB) DI BANK MUAMALAT MALAYSIA BERHAD DAN ISU-ISU BERKAITAN," in *Jurnal Syariah*, vol. 23, no. 3, Univ. of Malaya, 2017, https://doi.org/10.22452/js.vol23no3.4; Nurul Azma et al., "Issues and Prospects of Islamic Hire Purchase Financing: Malaysian Evidence," *Journal of Management Research* 6, no. 1 (2013): 12, https://doi.org/10.5296/jmr.v6i1.4536.

rights and obligations of the contracting parties.[11] Customers are protected from asset price fluctuation risks since ownership is only transferred at the end of the lease term through a gift or sale at a predetermined residual value, thereby emphasizing justice and wealth protection (*hifẓ al-māl*).[12] Conversely, AITAB in Malaysia tends to prioritize legal certainty and administrative efficiency for financial institutions, often at the expense of consumer vulnerability, particularly concerning asset maintenance responsibilities and damage risks that should ideally rest with the legal owner.[13] Empirical studies indicate that in practice, the burdens of maintenance, insurance, and taxation are frequently transferred entirely to the lessee (*musta'jir*), despite the bank retaining formal legal ownership during the lease period.[14]

The regulatory and implementation disparities between IMBT and AITAB become increasingly critical in light of ongoing efforts to harmonize Islamic financial markets within the ASEAN region. The existence of differing contractual standards across jurisdictions presents challenges for cross-border Islamic financial institutions, which must adapt their product offerings to accommodate the regulatory preferences of various jurisdictions, potentially increasing compliance costs and operational complexity.[15] This underscores that the discourse surrounding these two contract models is not merely of academic interest but carries substantial practical implications for developing an integrated, competitive, and globally resilient Islamic financial ecosystem. Consequently, an in-depth comparative study between IMBT and AITAB is essential to identify best practices from each model and derive valuable lessons for future improvements and cross-jurisdictional learning.[16]

While numerous studies have examined IMBT and AITAB in isolation, the existing literature predominantly focuses on technical product aspects or single-country case studies. Research on IMBT in Indonesia has largely addressed Shariah compliance issues, default

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[11] M. Afif Zamroni and Warti'ah Warti'ah, "The Internalization of Maqāṣid Al-Sharīʻah Values in Islamic Home Financing through the Ijarah Muntahiyah Bittamlik (IMBT) Scheme," in *Dirasah International Journal of Islamic Studies*, vol. 3, no. 2, Perkumpulan Dosen Tarbiyah Islam, Indonesia, 2026, https://doi.org/10.59373/drs.v3i2.80; Masruhen et al., "Evaluasi Praktek IMBT Di Bank XYZ Dengan Pendekatan Maqashid Syariah," 2025.

[12] Desy Rahmawati Anwar et al., "Kepatuhan Syariah Pada Hybrid Contracts Dalam IMBT: Studi Analisis Fiqh Dan Regulasi Modern," in *Business and Investment Review*, CV. Lenggogeni Data Publishing, 2025, https://doi.org/10.61292/birev.166; Maskur Rosyid, "PRINSIP KEADILAN DALAM IJĀRAH MUNTAHIYAH BI ATTAMLĪK (IMBT); KUH PERDATA vs FIKIH KLASIK," in *Islaminomics: Journal of Islamic Economics, Business and Finance*, vol. 5, no. 2, Sekolah Tinggi Ekonomi Syariah Islamic Village, 2018, https://doi.org/10.47903/ji.v5i2.34.

[13] Zakaria and Ghani, "PEMBIAYAAN KENDERAAN BERKONSEPKAN AL-IJARAH THUMMA AL-BAYʻ (AITAB) DI BANK MUAMALAT MALAYSIA BERHAD DAN ISU-ISU BERKAITAN"; Abdilah and Jawab, "Ijarah Dan IMBT (Al-Ijarah al- Muntahiyah Bi al-Tamlik) Dan Implementasinya."

[14] Masruhen et al., "Evaluasi Praktek IMBT Di Bank XYZ Dengan Pendekatan Maqashid Syariah," 2025; Helwatin Imaniyah and Anna Zakiyah Hastriana, "PENERAPAN IKAD IJARAH MUNTAHIYA BITTAMLIK (IMBT) DI BANK SYARIAH," in *Jurnal Landraad*, vol. 3, no. 1, Sekolah Tinggi Agama Islam Syekh H. Abdul Halim Hasan Al Ishlahiyah Binjai, 2024, https://doi.org/10.59342/jl.v3i1.507.

[15] Aysan et al., "Standardization Efforts in Islamic Finance"; Sean Hagan and José Viñals, *Resolution of Cross-Border Banks—A Proposed Framework for Enhanced Coordination*, vol. 2010 (International Monetary Fund, 2010), https://doi.org/https://doi.org/10.5089/9781498337267.007.

[16] Yunari et al., "Freedom of Contract and Certainty of Sharia Law in IMBT: Perspectives on Indonesian and Malaysian Legal Culture"; Bunga Artha Nefia Efendi et al., "Komparasi Implementasi Akad Sukuk Ijarah Dan Ijarah Muntahiya Bit Tamlik (IMBT) : Praktik Di Indonesia Dan Dubai," in *An-Nisbah: Jurnal Perbankan Syariah*, vol. 6, no. 2, Institut Agama Islam Sunan Kalijogo Malang, 2025, https://doi.org/10.51339/nisbah.v6i2.4197.

risks, and harmonization with positive law.[17] Similarly, studies on AITAB in Malaysia have primarily concentrated on operational issues, structural refinements, and regulatory challenges.[18] However, a significant research gap persists regarding comprehensive comparative analyses that simultaneously examine the structural, jurisprudential, and practical dimensions of both contracts within an integrated analytical framework.[19] Furthermore, studies that combine normative and empirical approaches to evaluate both models through the lens of maqāṣid al-sharī'ah remain notably scarce.[20]

Building upon this identified gap, the present study aims to provide a comprehensive comparative analysis between the implementation of IMBT in Indonesia and AITAB in Malaysia. Specifically, this research focuses on four key dimensions: (1) structural contract analysis and ownership transfer mechanisms; (2) examination of the underlying fiqh foundations and legal reasoning (*istinbath*) methods that inform each model; (3) assessment of practical implications for consumers, financial institutions, and regulators; and (4) determination of implications for regional Islamic financial harmonization. Employing a mixed-method approach that integrates doctrinal-normative analysis, comparative methodology, and *maqāṣid*-based evaluation, this study aspires to make a significant contribution to the development of contemporary *fiqh mu'āmalāt* literature while serving as

[17] Restianika Prisna Subroto, "ANALISIS HUKUM TERHADAP KEWENANGAN BANK SYARIAH DALAM MELAKUKAN EKSEKUSI HAK TANGGUNGAN DALAM TRANSAKSI IJARAH MUNTAHIYA BIT TAMLIK (IMBT) DI INDONESIA," in *JURISDICTIE*, vol. 8, no. 2, Maulana Malik Ibrahim State Islamic University, 2018, https://doi.org/10.18860/j.v8i2.4424; Maruli Oktarina Emalia, "IMPLEMENTATION OF PRUDENTIAL PRINCIPLES IN IMBT CONTRACTS HOUSE FINANCE PRODUCTS IN INDONESIAN SYARIAH BANK," in *Indonesian Journal of Multidisciplinary Sciences (IJoMS)*, vol. 2, no. 1, CV Era Digital Nusantara, 2023, https://doi.org/10.59066/ijoms.v2i1.321; Daffa Muhammad Dzubyan, "ANALISIS AKAD IJARAH MUNTAHIYA BITTAMLIK (IMBT) DALAM PERSPEKTIF HUKUM ISLAM DAN HUKUM POSITIF DI INDONESIA," in *Amwaluna: Jurnal Ekonomi Dan Keuangan Syariah*, vol. 3, no. 2, Universitas Islam Bandung (Unisba), 2019, https://doi.org/10.29313/amwaluna.v3i2.4304; Muhammad Ilham Amrullah et al., "Analisis Kepatuhan Koperasi Syariah Pada Implementasi Akad IMBT Ditinjauan Dari Fatwa DSN MUI No. 27 Tahun 2002," in *Jurnal Ilmiah Universitas Batanghari Jambi*, vol. 24, no. 1, Universitas Batanghari Jambi, 2024, https://doi.org/10.33087/jiubj.v24i1.4626; Cut Zainab Safira and Khadijatul Musanna, "An Analysis of the Application of the IMBT Contract in Financing Products at Bank Aceh Syariah from the Perspective of MUI DSN Fatwa No. 27/DSN-MUI/III/2002," in *Khuluqiyya: Jurnal Kajian Hukum Dan Studi Islam*, Sekolah Tinggi Agama Islam Al-Hikmah 2 Brebes, 2026, https://doi.org/10.56593/khuluqiyya.v8i1.195.

[18] Zakaria and Ghani, "PEMBIAYAAN KENDERAAN BERKONSEPKAN AL-IJARAH THUMMA AL-BAY' (AITAB) DI BANK MUAMALAT MALAYSIA BERHAD DAN ISU-ISU BERKAITAN"; Syed Ahmed Salman, "Islamic Baking Innovation With a Special Focus on Al-Ijarah Thumma Al-Bai (AITAB)," in *Advances in Business Strategy and Competitive Advantage*, IGI Global, 2024, https://doi.org/10.4018/979-8-3693-7903-5.ch025; Rizal et al., "AITAB Contract: Analysing Islamic Banking Institutions Issues and Challenges in Moratorium Practices During COVID-19."

[19] Dimas Muhammad Hanief Arkaan et al., "Regulatory Dualism in The Legal Framework of Ijarah Muntahiyah Bi Al-Tamlik (IMBT): A Legal Pluralism Analysis," in *Tujjar International Journal of Islamic Economics Development*, vol. 3, no. 1, Universitas Muhammadiyah Pontianak, 2026, https://doi.org/10.29406/tujjar.v3i1.9161; Tri Chamauliddah et al., "Analisis Kritis Terhadap Opsi Khiyar Dalam Akad IMBT Untuk Sewa Alat Berat Pada Proyek Infrastruktur," in *At-Taradhi: Jurnal Studi Ekonomi*, vol. 16, no. 1, UIN Antasari Banjarmasin, 2025, https://doi.org/10.18592/taradhi.v16i1.16055.

[20] Masruhen et al., "Evaluasi Praktek IMBT Di Bank XYZ Dengan Pendekatan Maqashid Syariah," 2025; Zamroni and Warti'ah, "The Internalization of Maqāṣid Al-Sharī'ah Values in Islamic Home Financing through the Ijarah Muntahiyah Bittamlik (IMBT) Scheme"; Supratman Supratman and Galih Mulya Subastyan, "The Contribution of the Ijarah Imbt Financing Scheme to the Development of a Sustainable Halal Economy in East Lombok," in *Al-Afkar, Journal For Islamic Studies*, vol. 8, no. 4, Universitas Wiralodra, 2025, https://doi.org/10.31943/afkarjournal.v8i4.2771.

a practical reference for policymakers and industry practitioners in both countries. This study argues that while both models are valid within their respective legal and social frameworks, IMBT offers superior contractual flexibility and risk balance for consumers, whereas AITAB prioritizes enforceability and administrative efficiency, yet requires continuous refinement to ensure substantive justice and ethical integrity in modern Islamic finance.[21]

Research Method

This study employs a mixed-method approach that integrates doctrinal-normative legal research with empirical case analysis, utilizing a comparative framework grounded in *maqāṣid al-sharī'ah* theory. This methodological choice is deliberate, as it enables a comprehensive examination of both the textual-normative dimensions of the contracts (fatwas, regulations, and *fiqh* literature) and their practical implementation within the banking sectors of Indonesia and Malaysia.[22] The doctrinal component focuses on analyzing the legal texts governing IMBT and AITAB, while the empirical component examines how these contracts are operationalized in practice, thereby bridging the gap between normative ideals and on-the-ground realities.

The doctrinal-normative analysis centers on the content examination of two primary legal instruments: DSN-MUI Fatwa No. 27/DSN-MUI/III/2002 concerning *al-Ijarah al-Muntahiyah Bi al-Tamlik* (IMBT) in Indonesia and the Shariah Advisory Council (SAC) resolutions of Bank Negara Malaysia concerning *Al-Ijarah Thumma al-Bay'* (AITAB) as documented in the Resolutions of the Securities Commission Shariah Advisory Council.[23] Additionally, this study examines other relevant regulatory instruments, including the Indonesian Compilation of Sharia Economic Law (*Kompilasi Hukum Ekonomi Syariah* - KHES), the Malaysian Hire Purchase Act 1967, and pertinent AAOIFI Shariah Standards, particularly Standard No. 9 concerning *Ijarah* and *Ijarah Muntahiyah Bittamlik*.[24] These documents constitute the primary legal sources that shape the contractual structures and operational frameworks of both financing models.

[21] Masruhen et al., "Evaluasi Praktek IMBT Di Bank XYZ Dengan Pendekatan Maqashid Syariah," 2025; Eri Hariyanto, "Advantages of Imbt Contracts In Financing The Sumatera Jalintim Project with The PPP Scheme," in *Jurnal Anggaran Dan Keuangan Negara Indonesia (AKURASI)*, vol. 7, no. 1, Directorate General of Budget - Finance Ministry of Indonesia, 2025, https://doi.org/10.33827/akurasi2025.vol7.iss1.art279; Reno Virlandana A, "Analisis Penurunan Nasabah Pembiayaan KPR IB Dengan Akad Ijarah Muntahiyyah Bittamlik (IMBT) Di Bank Syariah XYZ," in *JABI (Jurnal Akuntansi Berkelanjutan Indonesia)*, vol. 4, no. 1, Universitas Pamulang, 2021, https://doi.org/10.32493/jabi.v4i1.y2021.p1-15.

[22] Arkaan et al., "Regulatory Dualism in The Legal Framework of Ijarah Muntahiyah Bi Al-Tamlik (IMBT): A Legal Pluralism Analysis"; Chamauliddah et al., "Analisis Kritis Terhadap Opsi Khiyar Dalam Akad IMBT Untuk Sewa Alat Berat Pada Proyek Infrastruktur."

[23] Majelis Ulama Indonesia, "Fatwa Dewan Syariah Nasional - Majelis Ulama Indonesia Tentang Al-Ijarah Al-Muntahiyah Bi Al-Tamlik No: 27/DSN-MUI/III/2002. Dewan Syariah Nasional MUI"; Bank Negara Malaysia, "Resolutions of the Securities Commission Shariah Advisory Council."

[24] Alwi, "AL-IJARAH AL-MUNTAHIYAH BI AL-TAMLIK (IMBT) DALAM PERSPEKTIF HUKUM EKONOMI SYARIAH DAN APLIKASINYA SEBAGAI PRODUK PERBANKAN SYARIAH"; Sisminawati and Suminto, "Dualisme Akad Ijarah Dan Ijarah Muntahiyah Bit-Tamlik (IMBT) Perspektif Fiqh Muamalah."

Data collection is conducted through extensive literature review combined with document analysis. The literature sources include scholarly articles, academic books, conference proceedings, and institutional reports relevant to IMBT and AITAB.[25] The document analysis component involves a systematic review of banking operational documents, contract templates, and internal guidelines from Islamic financial institutions in both countries, as accessible through publicly available sources and prior empirical studies.[26] The literature from the comprehensive collection provided, including works on the implementation challenges,[27] consumer protection dimensions,[28] and *maqasid*-based evaluations,[29] forms the secondary data foundation for this comparative study.

The analytical framework integrates three complementary approaches. First, a contractual-structural analysis examines the technical architecture of each contract, including the sequencing of agreements, mechanisms of ownership transfer (*hibah* vs *bay'*), and the treatment of promises (*wa'd*) within each jurisdiction.[30] Second, a comparative *fiqh* analysis investigates the methodological foundations (*usul al-fiqh*) and legal reasoning (*istinbath*) that inform each model, exploring how classical *fiqh* principles are interpreted and applied in contemporary contexts.[31] This approach identifies the schools of thought and jurisprudential tendencies that shape each jurisdiction's approach to the permissibility of linking contracts (*ta'alluq*) and the binding nature of promises. Third, a *maqāṣid al-sharī'ah* evaluation assesses both models against the five essential objectives of Islamic law: protection of religion (*hifẓ al-dīn*), life (*hifẓ al-nafs*), intellect (*hifẓ al-'aql*), lineage (*hifẓ al-nasl*), and property (*hifẓ al-māl*).[32] This evaluation focuses particularly on the dimensions

[25] Masruhen et al., "Evaluasi Praktek IMBT Di Bank XYZ Dengan Pendekatan Maqashid Syariah," 2025; Rizal et al., "AITAB Contract: Analysing Islamic Banking Institutions Issues and Challenges in Moratorium Practices During COVID-19"; Zakaria and Ghani, "PEMBIAYAAN KENDERAAN BERKONSEPKAN AL-IJARAH THUMMA AL-BAY' (AITAB) DI BANK MUAMALAT MALAYSIA BERHAD DAN ISU-ISU BERKAITAN."

[26] Emalia, "IMPLEMENTATION OF PRUDENTIAL PRINCIPLES IN IMBT CONTRACTS HOUSE FINANCE PRODUCTS IN INDONESIAN SYARIAH BANK"; Suprapdi, "Analysis of the Wa'd Ijarah Muntahiyah Bi al-Tamlik (IMBT) Contract From the Perspective of Islamic Law and Indonesian Civil Law."

[27] Azma et al., "Issues and Prospects of Islamic Hire Purchase Financing"; Shiyuti et al., "Critical Evaluation on Al-Ijarah Thummalbai'."

[28] Zakaria and Ghani, "PEMBIAYAAN KENDERAAN BERKONSEPKAN AL-IJARAH THUMMA AL-BAY' (AITAB) DI BANK MUAMALAT MALAYSIA BERHAD DAN ISU-ISU BERKAITAN."

[29] Zamroni and Warti'ah, "The Internalization of Maqāṣid Al-Sharī'ah Values in Islamic Home Financing through the Ijarah Muntahiyah Bittamlik (IMBT) Scheme"; Rahman and Luhur, "The Issues of Wa'ad IMBT in The Fatwa DSN MUI Based on Fiqhiyyah Rules."

[30] Primadhany, "ANALISIS KONSEP SHAFQATAINI FI SHAFQATIN PADA HYBRID CONTRACT AKAD IJARAH MUNTAHIYA BIT TAMLIK (IMBT)"; Suprapdi, "Analysis of the Wa'd Ijarah Muntahiyah Bi al-Tamlik (IMBT) Contract From the Perspective of Islamic Law and Indonesian Civil Law."

[31] Alwi, "AL-IJARAH AL-MUNTAHIYAH BI AL-TAMLIK (IMBT) DALAM PERSPEKTIF HUKUM EKONOMI SYARIAH DAN APLIKASINYA SEBAGAI PRODUK PERBANKAN SYARIAH"; Yunari et al., "Freedom of Contract and Certainty of Sharia Law in IMBT: Perspectives on Indonesian and Malaysian Legal Culture"; Ahmad Syaichoni, "Al-Ijarah Al-Maushufah Fi Al-Dzimmah in the Study of Islamic Financial Economics," *Economica: Jurnal Ekonomi Islam* 11, no. 2 (2020): 309–28, https://doi.org/10.21580/economica.2020.11.2.6834.

[32] Mohmed Firdaus bin Masruhen et al., "Evaluasi Praktek IMBT Di Bank XYZ Dengan Pendekatan Maqashid Syariah," *Al-Tasyree: Jurnal Bisnis, Keuangan Dan Ekonomi Syariah* 14, no. 01 (2022): 34–54, https://doi.org/10.59833/altasyree.v14i01.713; Masruhen et al., "Evaluasi Praktek IMBT Di Bank XYZ

of justice (*'adālah*), transparency (*shafāfiyyah*), and wealth protection (*hifẓ al-māl*) as indicators of contractual fairness and consumer welfare.

The empirical component of this study draws upon existing case studies and banking practice reports to examine the operational realities of IMBT and AITAB in their respective jurisdictions. For Indonesia, the analysis incorporates findings from studies on IMBT implementation at Bank Syariah Mandiri,[33] Bank BRI Syariah,[34] Bank Danamon Syariah,[35] Bank Aceh Syariah,[36] and Bank XYZ.[37] For Malaysia, the study draws on research examining AITAB practices at Bank Muamalat Malaysia Berhad[38] and other Islamic financial institutions, particularly regarding the challenges encountered during the COVID-19 moratorium period.[39] This dual-jurisdiction empirical approach enables a more nuanced understanding of how each model functions within its specific socio-legal ecosystem and how institutional practices align with or deviate from normative Shariah requirements.

Data analysis employs descriptive-analytical and critical-comparative techniques. The descriptive-analytical method is used to systematically present the structural features, legal foundations, and operational characteristics of each contract model of Miles, Huberman, & Saldaña, 2014, as cited in Masruhen et al.[40] The critical-comparative method is then applied to identify points of convergence and divergence between the two models, examining not only the textual provisions but also their practical implications for stakeholders.[41] Throughout the analysis, the principles of *maqasid al-shariah* serve as the normative benchmark for evaluating whether each model effectively fulfills the higher objectives of Islamic law, particularly in terms of ensuring transactional justice, protecting

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Dengan Pendekatan Maqashid Syariah," 2025; Zamroni and Warti'ah, "The Internalization of Maqāṣid Al-Sharī'ah Values in Islamic Home Financing through the Ijarah Muntahiyah Bittamlik (IMBT) Scheme."

[33] Iwan Mulyana, "Praktek Pembiayaan KPR Dengan Akad Ijarah Muntahiya Bittamlik (IMBT) Di PT. Bank Syariah Mandiri Cabang Bandung : Tantangan Dan Solusinya," in *Banking and Management Review*, vol. 10, no. 2, STIE Ekuitas, 2022, https://doi.org/10.52250/bmr.v10i2.429.

[34] Mila Sartika and Hendri Hermawan Adinugraha, "IMPLEMENTASI IJĀRAH DAN IMBT PADA BANK BRI SYARIAH CABANG YOGYAKARTA," in *Economica: Jurnal Ekonomi Islam*, vol. 7, no. 1, UIN Walisongo Semarang, 2016, https://doi.org/10.21580/economica.2016.7.1.1034.

[35] Kusjuniati Kusjuniati and Dyah Soelistya Jekti, "Implementasi Ta'zir Pada Pembiayaan Ijarah Al Muntahiya Bit Tamlik (IMBT) Di Bank Danamon Syariah Kantor Cabang Gunung Agung Denpasar," in *Widya Balina*, vol. 8, no. 1, Sekolah Tinggi Agama Islam Denpasar, 2023, https://doi.org/10.53958/wb.v8i1.257.

[36] Safira and Musanna, "An Analysis of the Application of the IMBT Contract in Financing Products at Bank Aceh Syariah from the Perspective of MUI DSN Fatwa No. 27/DSN-MUI/III/2002."

[37] Masruhen et al., "Evaluasi Praktek IMBT Di Bank XYZ Dengan Pendekatan Maqashid Syariah," 2022.

[38] Zakaria and Ghani, "PEMBIAYAAN KENDERAAN BERKONSEPKAN AL-IJARAH THUMMA AL-BAY' (AITAB) DI BANK MUAMALAT MALAYSIA BERHAD DAN ISU-ISU BERKAITAN."

[39] Rizal et al., "AITAB Contract: Analysing Islamic Banking Institutions Issues and Challenges in Moratorium Practices During COVID-19"; Azmuddin Razali and Mohammad Amir Wan Harun, "Moratorium in Islamic Hire Purchase Financing: A Shariah Perspective," *The Journal of Muamalat and Islamic Finance Research*, December 1, 2021, 13–29, https://doi.org/10.33102/jmifr.v18i2.367.

[40] Masruhen et al., "Evaluasi Praktek IMBT Di Bank XYZ Dengan Pendekatan Maqashid Syariah," 2022.

[41] Yunari et al., "Freedom of Contract and Certainty of Sharia Law in IMBT: Perspectives on Indonesian and Malaysian Legal Culture"; Efendi et al., "Komparasi Implementasi Akad Sukuk Ijarah Dan Ijarah Muntahiya Bit Tamlik (IMBT) : Praktik Di Indonesia Dan Dubai."

consumer rights, and promoting equitable wealth distribution.[42] This integrated methodological approach ensures that the study's findings are both normatively grounded and empirically validated, contributing to a holistic understanding of the comparative dynamics between IMBT and AITAB.

Results and Discussion

Analysis of IMBT Implementation in Indonesia

The implementation of *Ijarah Muntahiyah bi al-Tamlik* (IMBT) in Indonesia is normatively grounded in DSN-MUI Fatwa Number 27/DSN-MUI/III/2002, which establishes the legal permissibility of this lease-to-own contract within the framework of Islamic commercial law. This fatwa was issued in response to the growing public demand for Shariah-compliant leasing alternatives that could serve as an ethical substitute for conventional financing models.[43] The fatwa essentially structures IMBT as a two-stage transaction: an initial leasing period governed by an ijarah contract, followed by the transfer of ownership at the conclusion of the lease term. Critically, the DSN-MUI mandates that the promise to transfer ownership (*wa'd*) must be agreed upon at the inception of the contract, but the actual execution of the transfer can only occur after the lease period concludes, thereby ensuring a clear separation between the lease and the transfer contracts.[44] This structural requirement reflects the DSN-MUI's conservative doctrinal position aimed at avoiding the prohibition of combining two contracts in a single transaction (*shafqataini fi shafqatin*).[45]

The normative foundation of this fatwa draws upon classical *naqli* arguments establishing the legitimacy of leasing transactions and the importance of contractual certainty in *muamalah*. The fatwa references QS. al-Zukhruf [43]: 32, which addresses divine wisdom in the distribution of ownership and the organization of worldly affairs, thereby providing theological space for the creation of financial agreements based on reciprocity and mutual benefit.[46] Additionally, the fatwa invokes hadiths that emphasize transparency in determining wages and the prohibition of renting land with unclear harvest outcomes, establishing the critical importance of explicit compensation in any ijarah contract. The narration from Ibn Mas'ud, as reported by Ahmad, which forbids two contracts

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[42] Supratman and Subastyan, "The Contribution of the Ijarah Imbt Financing Scheme to the Development of a Sustainable Halal Economy in East Lombok"; Anwar et al., "Kepatuhan Syariah Pada Hybrid Contracts Dalam IMBT: Studi Analisis Fiqh Dan Regulasi Modern."

[43] Majelis Ulama Indonesia, "Fatwa Dewan Syariah Nasional - Majelis Ulama Indonesia Tentang Al-Ijarah Al-Muntahiyah Bi Al-Tamlik No: 27/DSN-MUI/III/2002. Dewan Syariah Nasional MUI"; Jamaluddin, "Implementasi Akad Ijarah Muntahiya Bi Al-Tamlik (IMBT) Perspektif Fatwa DSN-MUI Nomor 27 Tahun 2002 & Hukum Islam," in *Jurnal At-Tamwil: Kajian Ekonomi Syariah*, vol. 2, no. 2, Institut Agama Islam Tribakti Kediri, 2020, https://doi.org/10.33367/at.v2i2.1339.

[44] Alwi, "AL-IJARAH AL-MUNTAHIYAH BI AL-TAMLIK (IMBT) DALAM PERSPEKTIF HUKUM EKONOMI SYARIAH DAN APLIKASINYA SEBAGAI PRODUK PERBANKAN SYARIAH"; Suprapdi, "Analysis of the Wa'd Ijarah Muntahiyah Bi al-Tamlik (IMBT) Contract From the Perspective of Islamic Law and Indonesian Civil Law."

[45] Primadhany, "ANALISIS KONSEP SHAFQATAINI FI SHAFQATIN PADA HYBRID CONTRACT AKAD IJARAH MUNTAHIYA BIT TAMLIK (IMBT)."

[46] Masruhen et al., "Evaluasi Praktek IMBT Di Bank XYZ Dengan Pendekatan Maqashid Syariah," 2022.

in a single transaction, is also cited as a crucial source for requiring the legal separation between the rental contract and the ownership transfer contract.[47] This demonstrates that the DSN-MUI's approach is not merely concerned with transactional validity but also with maintaining the ethical integrity and conceptual purity of Islamic commercial transactions.

From a technical perspective, the DSN-MUI fatwa stipulates that IMBT must commence with a complete ijarah contract, which may subsequently be followed by an ownership transfer agreement under specific conditions. The transfer agreement can take the form of a gift (*hibah*) or a sale (*bay'*) and can only be executed after the lease period has expired. Crucially, the initial promise of ownership transfer is expressed as a unilateral promise (*wa'd*) that is not legally binding until a new contract is formed after the lease period ends.[48] This fatwa explicitly prohibits the simultaneous implementation of both contracts within a single agreement document, and provides clear limitations to ensure that the ownership transfer process occurs within a separate, valid contractual framework. The contract must clearly delineate the rights and obligations of both parties, including payment terms, insurance responsibilities, and asset maintenance obligations, with dispute resolution referred to the Sharia Arbitration Board if deliberation fails.[49]

In practice, the implementation of IMBT across Indonesian Islamic banks reflects both the strengths and challenges of this normative framework. Empirical studies indicate that while the separation of contracts is generally maintained, operational inconsistencies often arise, particularly concerning asset ownership registration, maintenance obligations, and the handling of defaults.[50] For instance, research on the implementation of IMBT at Bank Syariah Mandiri revealed that while the bank provides clear information about the contract structure from the outset, customers often face difficulties in understanding the distinction between the lease and the ownership transfer phases, leading to confusion during default situations.[51] Similarly, a study at Bank XYZ found that while the contractual documentation system explicitly separates the *ijarah* and *tamlik* contracts to avoid *ta'alluq al-'uqud* (contractual interdependence), the practical enforcement of these provisions often

[47] Syaichoni, "Al-Ijarah Al-Maushufah Fi Al-Dzimmah in the Study of Islamic Financial Economics"; Sisminawati and Suminto, "Dualisme Akad Ijarah Dan Ijarah Muntahiyah Bit-Tamlik (IMBT) Perspektif Fiqh Muamalah."

[48] Rahman and Luhur, "The Issues of Wa'ad IMBT in The Fatwa DSN MUI Based on Fiqhiyyah Rules"; Amrullah et al., "Analisis Kepatuhan Koperasi Syariah Pada Implementasi Akad IMBT Ditinjauan Dari Fatwa DSN MUI No. 27 Tahun 2002."

[49] Chamauliddah et al., "Analisis Kritis Terhadap Opsi Khiyar Dalam Akad IMBT Untuk Sewa Alat Berat Pada Proyek Infrastruktur"; Subroto, "ANALISIS HUKUM TERHADAP KEWENANGAN BANK SYARIAH DALAM MELAKUKAN EKSEKUSI HAK TANGGUNGAN DALAM TRANSAKSI IJARAH MUNTAHIYA BIT TAMLIK (IMBT) DI INDONESIA."

[50] Emalia, "IMPLEMENTATION OF PRUDENTIAL PRINCIPLES IN IMBT CONTRACTS HOUSE FINANCE PRODUCTS IN INDONESIAN SYARIAH BANK"; A, "Analisis Penurunan Nasabah Pembiayaan KPR IB Dengan Akad Ijarah Muntahiyyah Bittamlik (IMBT) Di Bank Syariah XYZ."

[51] Mulyana, "Praktek Pembiayaan KPR Dengan Akad Ijarah Muntahiya Bittamlik (IMBT) Di PT. Bank Syariah Mandiri Cabang Bandung : Tantangan Dan Solusinya."

relies on conventional legal frameworks rather than Shariah-based legislation.[52] Despite these challenges, the flexibility of the IMBT structure, particularly the option for ownership transfer through hibah rather than sale, has been identified as a significant advantage in terms of consumer preference and ethical appeal, as it offers a non-commercial transfer model perceived as more aligned with Islamic values of generosity and mutual assistance.[53]

Analysis of AITAB Implementation in Malaysia

The concept of *Al-Ijarah Thumma al-Bay'* (AITAB) represents one of the most widely adopted financing contracts in Malaysian Islamic financial institutions, particularly in the motor vehicle financing sector. Legally, the regulatory framework for AITAB operates within a dualistic system, influenced by the civil law system through the Hire Purchase Act 1967 while simultaneously being recognized in Shariah through the resolutions of the Shariah Advisory Council (SAC) of Bank Negara Malaysia.[54] In its resolution first discussed at the SAC meeting on 8 July 1997 and subsequently strengthened at the 36th meeting on 26 June 2003, the SAC affirmed that the application of the AITAB concept in vehicle financing is permissible in Shariah, provided that it meets the established contractual structure requirements. The permissibility of AITAB is grounded in the principle that the ijarah and sale-and-purchase contracts are executed separately and sequentially, rather than simultaneously, which is a critical consideration given that Malaysian law imposes certain restrictions on asset ownership during the lease period.[55]

From an operational perspective, the SAC framework structures AITAB as comprising two independent contracts: first, an *ijarah* (lease) contract, and second, a *bay'* (sale-and-purchase) contract, implemented in stages. In practice, the Islamic bank first appoints the customer as an agent to purchase the vehicle from the dealer, after which the vehicle is leased to the customer for a specified period. Following the conclusion of the lease period, the customer is granted the option to purchase the vehicle through a separate sale-and-purchase contract at a predetermined price, often equivalent to the final lease value.[56] To ensure Shariah compliance, the SAC stipulates several additional provisions: (i) the sale contract must be explicitly executed at the end of the lease period; (ii) responsibility for insurance and ownership risks rests with the bank as the legal owner during the *ijarah*

[52] Masruhen et al., "Evaluasi Praktek IMBT Di Bank XYZ Dengan Pendekatan Maqashid Syariah," 2025; Dzubyan, "ANALISIS AKAD IJARAH MUNTAHIYA BITTAMLIK (IMBT) DALAM PERSPEKTIF HUKUM ISLAM DAN HUKUM POSITIF DI INDONESIA."

[53] Zamroni and Warti'ah, "The Internalization of Maqāṣid Al-Sharīʿah Values in Islamic Home Financing through the Ijarah Muntahiyah Bittamlik (IMBT) Scheme"; Sartika and Adinugraha, "IMPLEMENTASI IJĀRAH DAN IMBT PADA BANK BRI SYARIAH CABANG YOGYAKARTA."

[54] Bank Negara Malaysia, "Resolutions of the Securities Commission Shariah Advisory Council"; Zakaria and Ghani, "PEMBIAYAAN KENDERAAN BERKONSEPKAN AL-IJARAH THUMMA AL-BAYʿ (AITAB) DI BANK MUAMALAT MALAYSIA BERHAD DAN ISU-ISU BERKAITAN."

[55] Rizal et al., "AITAB Contract: Analysing Islamic Banking Institutions Issues and Challenges in Moratorium Practices During COVID-19"; Salman, "Islamic Baking Innovation With a Special Focus on Al-Ijarah Thumma Al-Bai (AITAB)."

[56] Azma et al., "Issues and Prospects of Islamic Hire Purchase Financing"; Zakaria and Ghani, "PEMBIAYAAN KENDERAAN BERKONSEPKAN AL-IJARAH THUMMA AL-BAYʿ (AITAB) DI BANK MUAMALAT MALAYSIA BERHAD DAN ISU-ISU BERKAITAN."

period; and (iii) in cases of early settlement or transfer of rights to a third party, the previous AITAB contract must be terminated first. The SAC also permits customers to be granted priority rights to purchase vehicles in the event of default, regulated through contractual clauses that provide banks with legal recourse while maintaining Shariah principles.[57]

The jurisprudential foundation of the SAC resolution on AITAB draws upon the majority view of fuqaha who permit the *ijarah muntahiyah bi al-tamlik* contract as long as it is executed with a separation of time and form between ijarah and bay'. In this regard, the SAC explicitly references AAOIFI Sharia Standard No. 9, as well as *Majma' al-Fiqh al-Islami* Resolution No. 110 (12/4) of 2000, which affirms the permissibility of the lease-purchase contract when executed through two separate contracts.[58] The foundational principle adopted by the SAC is that the ijarah contract and the sale-and-purchase contract can proceed sequentially as long as there is no *ta'alluq* (binding) between the two at the same time or within the same document. The SAC's legal approach also considers the principle of *al-milkiyyah* (ownership), which distinguishes between beneficial ownership (usufruct) by the lessee and ownership of the asset by the financial institution. In this context, even though the institution's name may not be recorded as the formal owner in the vehicle certificate, the SAC maintains that the legal status of ownership remains valid according to Shariah, as there is documentary evidence of the ijarah agreement.[59] This pragmatic approach has successfully combined classical Shariah principles with Malaysia's positive legal system without abandoning the principle of caution in *fiqh muamalah*.

However, the implementation of AITAB in practice has revealed several operational challenges that raise questions about its full compliance with *maqasid al-shariah*. Empirical studies have identified that the prevailing AITAB implementation merely adopts the structure of conventional hire purchase under the Hire Purchase Act 1967 with slight modifications, rather than being governed by a comprehensive Islamic legal framework.[60] This structural hybridity creates operational inconsistencies, such as confusion in asset ownership, insurance liabilities, and profit calculation, which often mimics interest-based benchmarks.[61] The COVID-19 pandemic further exposed these limitations, particularly during the implementation of moratorium policies. According to Rizal et al.,[62] Islamic banks faced legal and operational constraints in adjusting AITAB repayment schedules, as any change required the customer's explicit consent under the Hire Purchase Act, despite

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[57] Azmuddin Razali and Mohammad Amir Wan Harun, “Moratorium in Islamic Hire Purchase Financing”; Rizal et al., “AITAB Contract: Analysing Islamic Banking Institutions Issues and Challenges in Moratorium Practices During COVID-19.”
[58] Shiyuti et al., “Critical Evaluation on Al-Ijarah Thummalbai’.”
[59] Shiyuti et al., “Critical Evaluation on Al-Ijarah Thummalbai’”; Zakaria and Ghani, “PEMBIAYAAN KENDERAAN BERKONSEPKAN AL-IJARAH THUMMA AL-BAY‘ (AITAB) DI BANK MUAMALAT MALAYSIA BERHAD DAN ISU-ISU BERKAITAN.”
[60] Shiyuti et al., “Critical Evaluation on Al-Ijarah Thummalbai’”; Azma et al., “Issues and Prospects of Islamic Hire Purchase Financing.”
[61] Rizal et al., “AITAB Contract: Analysing Islamic Banking Institutions Issues and Challenges in Moratorium Practices During COVID-19.”
[62] Rizal et al., “AITAB Contract: Analysing Islamic Banking Institutions Issues and Challenges in Moratorium Practices During COVID-19.”

government directives for automatic deferment. This situation exposed the misalignment between AITAB's intended Shariah-based contract and the conventional legal framework within which it operates. Nevertheless, public perception of AITAB remains generally positive. A study in Kelantan found that religious obligation, awareness levels, and social influence significantly influenced customer preference for AITAB over conventional alternatives.[63] Despite the structural critiques, AITAB's broad acceptability among Muslim consumers reflects its socio-religious value and economic relevance in the Malaysian context.

Comparative Analysis: IMBT vs AITAB

The examination of the two official documents—Fatwa DSN-MUI No. 27/DSN-MUI/III/2002 (Indonesia) and the Shariah Resolutions of the SAC-BNM (Second Edition) on AITAB (Malaysia)—reveals fundamental differences that are structural, legal, and methodological in nature. These differences are not merely terminological but reflect deeper institutional, legal, and doctrinal distinctions that shape the implementation and effectiveness of each model. The following table summarizes the key differences between IMBT and AITAB across multiple dimensions:

Table 1. Comparative Analysis of IMBT (Indonesia) and AITAB (Malaysia)

Aspect	IMBT (Indonesia)	AITAB (Malaysia)
Contract Structure	Requires two separate, sequential contracts: ijarah first, followed by a distinct contract for ownership transfer (either hibah or bay') after the lease ends.	Also uses two contracts (lease + sale), but the contractual promise to sell may be embedded earlier and executed directly upon lease completion.
Timing of Ownership Transfer	Occurs only after the lease expires and based on a new contract executed at that time.	Occurs immediately after lease maturity, with the sale agreed upon in advance and executed automatically.
Nature of *Wa'd* (Promise)	Transfer of ownership is non-binding (*wa'd*) until a new contract is executed; the promise is unilateral and not legally enforceable.	Promise to transfer can be enforced as long as it follows SAC's conditions; the promise is binding (*wa'd mulzim*).

[63] Remali Yusoff and Nor Azurah Md. Kamdari, *Selection Factors of the Acceptance Al-Ijarah Thumma Al Bay (Aitab) in Kota Bharu, Kelantan*, 1, no. 2 (2014), https://jurcon.ums.edu.my/ojums/index.php/mjbe/article/view/118.

Aspect	IMBT (Indonesia)	AITAB (Malaysia)
Legal Reference System	Based on DSN-MUI Fatwa and Indonesian civil law recognizing unnamed contracts (*kontrak tak bernama* under Article 1319 KUHPerdata).	Based on Shariah Resolutions SAC-BNM, with compliance with the Hire Purchase Act 1967 and Contract Act 1950.
Ownership During Lease	Remains with the bank; full risk and obligations (insurance, maintenance) are with the bank unless stated otherwise in the contract.	Remains with the bank, but operational risk and insurance responsibilities are often passed to the customer.
Flexibility in Promise Type	Allows hibah as an option for transfer (with no monetary transaction).	Uses only sale contract (*bay'*) for transfer; no hibah option available.
Consumer Protection	Higher emphasis on protecting the lessee's rights through contractual separation and transparency.[64]	Prioritizes institutional efficiency and legal enforceability, often at the expense of consumer risk allocation.[65]
Dispute Resolution	Through deliberation and/or Sharia Arbitration Board as the final step.[66]	Primarily through conventional legal channels under the Hire Purchase Act and Contract Act 1950.[67]

Source: Compiled from DSN-MUI Fatwa No. 27/DSN-MUI/III/2002 (Dewan Syariah Nasional - Majelis Ulama Indonesia, 2002) and SAC-BNM Shariah Resolutions (Bank Negara Malaysia, 2007).

The observed divergence between IMBT and AITAB reflects distinct regulatory environments and jurisprudential traditions in each jurisdiction. In Malaysia, the implementation of AITAB is inseparable from the legacy of the Hire Purchase Act 1967, which governs vehicle financing and delineates the procedural and ownership aspects of leasing contracts. To ensure compatibility with this legislative framework, the SAC structured AITAB as a dual contract arrangement that accommodates the requirements of both civil law and Shariah, resulting in a pragmatic model where leasing and subsequent

[64] Masruhen et al., “Evaluasi Praktek IMBT Di Bank XYZ Dengan Pendekatan Maqashid Syariah,” 2022.
[65] Zakaria and Ghani, “PEMBIAYAAN KENDERAAN BERKONSEPKAN AL-IJARAH THUMMA AL-BAY‘ (AITAB) DI BANK MUAMALAT MALAYSIA BERHAD DAN ISU-ISU BERKAITAN.”
[66] Majelis Ulama Indonesia, “Fatwa Dewan Syariah Nasional - Majelis Ulama Indonesia Tentang Al-Ijarah Al-Muntahiyah Bi Al-Tamlik No: 27/DSN-MUI/III/2002. Dewan Syariah Nasional MUI.”
[67] Azma et al., “Issues and Prospects of Islamic Hire Purchase Financing.”

sale are contractually linked yet legally separable to comply with both legal orders.[68] Conversely, Indonesia's regulatory approach allows greater flexibility due to the civil code's recognition of unnamed contracts under Article 1319 of the KUHPerdata, enabling IMBT to be structured with a clearer demarcation between the leasing and transfer phases, with ownership transferred through a separate hibah or bay' contract at the conclusion of the lease.[69] As such, Indonesia's legal setting permits more diverse contractual outcomes, influenced primarily by internal fatwa mechanisms rather than binding statutory provisions.

From a jurisprudential standpoint, the divergence between AITAB and IMBT further reflects differing applications of fiqh mu'amalat, particularly regarding the interpretation of *ta'alluq*—the prohibition against linking two contracts in a manner that causes interdependency. The DSN-MUI adopts a conservative doctrinal stance, requiring that the lease and the transfer of ownership be governed by two separate and sequential contracts. This approach is guided by the concern that performing a sale and lease contract simultaneously may amount to a prohibited *bay'ayn fī bay'* (two sales in one transaction), which classical jurisprudence deems invalid.[70] Accordingly, DSN-MUI mandates that the promise to transfer ownership at the end of the lease be treated as a non-binding unilateral promise (*wa'd*), enforceable only upon the formation of a subsequent contract.[71] In contrast, the SAC-BNM recognizes the permissibility of linking a lease contract with a binding promise to sell, provided the sale is executed separately and without conditionality within the lease document. This methodological openness reflects a more pragmatic reading of contemporary *fiqh*, aligning with international standards such as those issued by AAOIFI and supported by resolutions of the Majma' al-Fiqh al-Islami.[72] In this regard, Malaysia's framework offers operational efficiency while maintaining a degree of doctrinal flexibility deemed sufficient for Shariah compliance.

Finally, practical and market-driven considerations also shape the distinctive paths taken in each country. In Malaysia, the design of AITAB facilitates administrative simplicity and legal enforceability, particularly in relation to asset ownership registration and risk allocation. Because the sale agreement is predetermined and occurs seamlessly upon lease maturity, banks retain formal ownership during the leasing period and retain control over asset repossession and insurance arrangements.[73] This model is highly suited to Malaysia's dual legal structure, in which Islamic and civil law must operate concurrently. In contrast, IMBT in Indonesia offers a broader spectrum of contractual outcomes, particularly through the use of hibah as a mechanism for transferring ownership. This alternative appeals to more

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[68] Zakaria and Ghani, "PEMBIAYAAN KENDERAAN BERKONSEPKAN AL-IJARAH THUMMA AL-BAY' (AITAB) DI BANK MUAMALAT MALAYSIA BERHAD DAN ISU-ISU BERKAITAN"; Shiyuti et al., "Critical Evaluation on Al-Ijarah Thummalbai'."

[69] Suprapdi, "Analysis of the Wa'd Ijarah Muntahiyah Bi al-Tamlik (IMBT) Contract From the Perspective of Islamic Law and Indonesian Civil Law"; Dzubyan, "ANALISIS AKAD IJARAH MUNTAHIYA BITTAMLIK (IMBT) DALAM PERSPEKTIF HUKUM ISLAM DAN HUKUM POSITIF DI INDONESIA."

[70] Primadhany, "ANALISIS KONSEP SHAFQATAINI FI SHAFQATIN PADA HYBRID CONTRACT AKAD IJARAH MUNTAHIYA BIT TAMLIK (IMBT)"; Sisminawati and Suminto, "Dualisme Akad Ijarah Dan Ijarah Muntahiyah Bit-Tamlik (IMBT) Perspektif Fiqh Muamalah."

[71] Rahman and Luhur, "The Issues of Wa'ad IMBT in The Fatwa DSN MUI Based on Fiqhiyyah Rules."

[72] Salman, "Islamic Baking Innovation With a Special Focus on Al-Ijarah Thumma Al-Bai (AITAB)"; Yunari et al., "Freedom of Contract and Certainty of Sharia Law in IMBT: Perspectives on Indonesian and Malaysian Legal Culture."

[73] Azmuddin Razali and Mohammad Amir Wan Harun, "Moratorium in Islamic Hire Purchase Financing"; Rizal et al., "AITAB Contract: Analysing Islamic Banking Institutions Issues and Challenges in Moratorium Practices During COVID-19."

conservative consumers who prefer a non-commercial transfer model at the conclusion of a lease, viewing it as ethically superior to monetised asset acquisition.[74] Additionally, IMBT allows greater responsiveness to *maqasid al-shariah*, particularly in terms of *hifẓ al-māl* (protection of wealth) and distributive justice. Consequently, while both models aim to fulfil similar economic functions, the differing socio-legal and doctrinal ecosystems in which they operate result in substantively distinct institutional designs.[75]

Maqasid al-Shariah Evaluation

The evaluation of IMBT and AITAB through the lens of *maqasid al-shariah* provides critical insights into how each model fulfills the higher objectives of Islamic law, particularly in terms of justice, transparency, and wealth protection. From the perspective of *maqasid*, a financial contract should not merely be formally compliant with Shariah but should actively contribute to the protection and promotion of the five essential objectives: religion (*dīn*), life (*nafs*), intellect (*'aql*), lineage (*nasl*), and property (*māl*).[76] When evaluated against these criteria, IMBT and AITAB reveal significant differences in their capacity to achieve these higher objectives, with IMBT generally demonstrating superior alignment with *maqasid* principles.

In the case of IMBT implementation in Indonesia, studies indicate that the contract's structural features—particularly the separation between the leasing and ownership transfer phases—contribute positively to consumer protection and wealth preservation.[77] The requirement that the transfer of ownership occurs through a separate contract (either *hibah* or *bay'*) after the lease period concludes ensures that the lessee is not unduly burdened with ownership risks during the lease period. This structural clarity aligns with the *maqasid* principle of *hifẓ al-māl* by protecting the lessee's financial interests and preventing the accumulation of excessive debt obligations.[78] Additionally, the option to transfer ownership through *hibah* rather than a sale enhances the ethical dimension of the transaction by allowing for a non-commercial transfer that emphasizes generosity and mutual assistance, thereby supporting the *maqasid* objective of social solidarity (*ta'āwun*).[79] The contractual transparency mandated by the DSN-MUI fatwa, which requires clear and separate documentation for each contract phase, further strengthens the maqasid principles of

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74 Sartika and Adinugraha, “IMPLEMENTASI IJĀRAH DAN IMBT PADA BANK BRI SYARIAH CABANG YOGYAKARTA”; Zamroni and Warti’ah, “The Internalization of Maqāṣid Al-Sharī‘ah Values in Islamic Home Financing through the Ijarah Muntahiyah Bittamlik (IMBT) Scheme.”

75 Efendi et al., “Komparasi Implementasi Akad Sukuk Ijarah Dan Ijarah Muntahiya Bit Tamlik (IMBT) : Praktik Di Indonesia Dan Dubai”; Arkaan et al., “Regulatory Dualism in The Legal Framework of Ijarah Muntahiyah Bi Al-Tamlik (IMBT): A Legal Pluralism Analysis.”

76 Zamroni and Warti’ah, “The Internalization of Maqāṣid Al-Sharī‘ah Values in Islamic Home Financing through the Ijarah Muntahiyah Bittamlik (IMBT) Scheme”; Bakhrul Huda et al., *Assessing the Legality of Cryptocurrency Trading in Indonesia’s Commodity Market: An Analytical Study Based on Maqāṣid Al-Sharīʿah*, 25, no. 1 (2025): 67–93.

77 Masruhen et al., “Evaluasi Praktek IMBT Di Bank XYZ Dengan Pendekatan Maqashid Syariah,” 2022; Anwar et al., “Kepatuhan Syariah Pada Hybrid Contracts Dalam IMBT: Studi Analisis Fiqh Dan Regulasi Modern.”

78 Rosyid, “PRINSIP KEADILAN DALAM IJĀRAH MUNTAHIYAH BI ATTAMLĪK (IMBT); KUH PERDATA vs FIKIH KLASIK”; Jamaluddin, “Implementasi Akad Ijarah Muntahiya Bi Al-Tamlik (IMBT) Perspektif Fatwa DSN-MUI Nomor 27 Tahun 2002 & Hukum Islam.”

79 Sartika and Adinugraha, “IMPLEMENTASI IJĀRAH DAN IMBT PADA BANK BRI SYARIAH CABANG YOGYAKARTA”; M. E. Burhanudin, “FILOSOFI DAN PERWUJUDAN PRINSIP TAUHÎDULLAH DAN AL-‘ADALAH, DALAM IJARAH, DAN IJARAH MUNTAHIA BI-TAMLIK (IMBT),” in *TAHKIM*, vol. 14, no. 1, LP2M IAIN Ambon, 2018, https://doi.org/10.33477/thk.v14i1.581.

transparency (*shafāfiyyah*) and certainty (*yaqīn*).[80] Empirical research at Bank XYZ confirmed that all five maqasid al-shariah dimensions were appropriately addressed in their IMBT practices, with systems in place to protect the wealth, intellect, life, lineage, and property of customers.[81]

Conversely, the *maqasid* evaluation of AITAB implementation in Malaysia reveals several normative and operational challenges that raise concerns about its full compliance with the higher objectives of Shariah. The combination of two contracts in stages—rent and sale—within a single transaction document, although technically separate, often results in a pseudo-simultaneous contract that generates ambiguity and potential injustice.[82] The most significant issue relates to the position of ownership and the obligation to maintain the asset. Although the bank legally remains the owner during the lease period, the responsibility for maintenance, insurance, and taxes is transferred entirely to the lessee. This creates an imbalance in risk distribution that is normatively inconsistent with *maqasid al-shariah*, particularly in terms of consumer protection (*hifẓ al-nafs* and *hifẓ al-māl*).[83] Furthermore, AITAB's reliance on the Hire Purchase Act 1967 framework limits Shariah flexibility because positive law does not recognize grants as a mechanism for transferring assets, thereby restricting the ethical options available to consumers.[84] Although AITAB provides certainty to financial institutions in terms of risk mitigation through repossession clauses, efforts to ensure contractual fairness have not been fully realized, suggesting that without structural reformulation, the AITAB model used in Malaysia tends to favor the interests of financial institutions, risking violation of the principle of equality and protection of consumer rights in *maqasid al-shariah*.[85]

The comparative maqasid analysis thus demonstrates that while both contracts have *fiqh* validity, IMBT in Indonesia offers a more balanced approach to safeguarding the rights of consumers and the obligations of financial institutions. The structural features of IMBT, such as the non-binding promise and the option of *hibah*, provide consumers with greater protection and flexibility.[86] In contrast, AITAB in Malaysia, while offering operational efficiency and legal certainty for institutions, tends to place the lessee at higher risk and

[80] Suprapdi, "Analysis of the Wa'd Ijarah Muntahiyah Bi al-Tamlik (IMBT) Contract From the Perspective of Islamic Law and Indonesian Civil Law"; Alwi, "AL-IJARAH AL-MUNTAHIYAH BI AL-TAMLIK (IMBT) DALAM PERSPEKTIF HUKUM EKONOMI SYARIAH DAN APLIKASINYA SEBAGAI PRODUK PERBANKAN SYARIAH."

[81] Masruhen et al., "Evaluasi Praktek IMBT Di Bank XYZ Dengan Pendekatan Maqashid Syariah," 2025.

[82] Shiyuti et al., "Critical Evaluation on Al-Ijarah Thummalbai'"; Zakaria and Ghani, "PEMBIAYAAN KENDERAAN BERKONSEPKAN AL-IJARAH THUMMA AL-BAY' (AITAB) DI BANK MUAMALAT MALAYSIA BERHAD DAN ISU-ISU BERKAITAN."

[83] Rizal et al., "AITAB Contract: Analysing Islamic Banking Institutions Issues and Challenges in Moratorium Practices During COVID-19"; Azma et al., "Issues and Prospects of Islamic Hire Purchase Financing."

[84] Zakaria and Ghani, "PEMBIAYAAN KENDERAAN BERKONSEPKAN AL-IJARAH THUMMA AL-BAY' (AITAB) DI BANK MUAMALAT MALAYSIA BERHAD DAN ISU-ISU BERKAITAN"; Azmuddin Razali and Mohammad Amir Wan Harun, "Moratorium in Islamic Hire Purchase Financing."

[85] Efendi et al., "Komparasi Implementasi Akad Sukuk Ijarah Dan Ijarah Muntahiya Bit Tamlik (IMBT) : Praktik Di Indonesia Dan Dubai"; Salman, "Islamic Baking Innovation With a Special Focus on Al-Ijarah Thumma Al-Bai (AITAB)"; Zakaria and Ghani, "PEMBIAYAAN KENDERAAN BERKONSEPKAN AL-IJARAH THUMMA AL-BAY' (AITAB) DI BANK MUAMALAT MALAYSIA BERHAD DAN ISU-ISU BERKAITAN."

[86] Masruhen et al., "Evaluasi Praktek IMBT Di Bank XYZ Dengan Pendekatan Maqashid Syariah," 2022; Suprapdi, "Analysis of the Wa'd Ijarah Muntahiyah Bi al-Tamlik (IMBT) Contract From the Perspective of Islamic Law and Indonesian Civil Law."

limit consumer protection options.[87] These findings underscore that the effectiveness of either model under Shariah depends significantly on how the financial institution operates and the extent of its commitment to upholding contractual fairness and *maqasid* principles. To ensure that ijarah financing remains grounded in Islamic ethical values and can fairly and sustainably meet modern economic needs, it is crucial to strengthen regulations, educate consumers, and harmonize sharia principles with the national legal system.[88] The findings also highlight the importance of cross-jurisdictional learning, where Malaysia might benefit from incorporating more consumer-friendly elements from the Indonesian model, while Indonesia might draw lessons from Malaysia's administrative efficiency and legal certainty.[89]

Conclusion

This comparative study has examined the structural, jurisprudential, and operational dimensions of *Ijarah Muntahiyah bi al-Tamlik* (IMBT) in Indonesia and *Al-Ijarah Thumma al-Bay'* (AITAB) in Malaysia, evaluating both models through the lens of maqasid al-shariah. The analysis reveals that while both contracts serve the identical economic function of asset financing with eventual ownership transfer, they diverge fundamentally in their contractual architecture, legal reasoning, and institutional implementation. IMBT, as governed by DSN-MUI Fatwa No. 27/2002, emphasizes a strict separation between the lease and ownership transfer phases, permits transfer through either sale or gift (*hibah*), and treats the promise of transfer as non-binding until a new contract is formed. In contrast, AITAB, as structured by the Shariah Advisory Council of Bank Negara Malaysia, adopts a more integrated approach where the sale agreement is pre-committed and automatically executed upon lease maturity, operating within the pragmatic framework of the Hire Purchase Act 1967 and prioritizing institutional efficiency and legal enforceability.

From the perspective of *maqasid al-shariah*, the study finds that IMBT demonstrates superior alignment with the higher objectives of Islamic law, particularly in terms of consumer protection (*hifẓ al-māl* and *hifẓ al-nafs*), contractual justice (*'adālah*), and transparency (*shafāfiyyah*). The structural separation of contracts, the option of *hibah*, and the non-binding nature of the initial promise collectively provide consumers with greater flexibility, risk protection, and ethical assurance. Conversely, AITAB, while offering operational efficiency and legal certainty for financial institutions, tends to transfer disproportionate risk to consumers through the allocation of maintenance, insurance, and

[87] Rizal et al., "AITAB Contract: Analysing Islamic Banking Institutions Issues and Challenges in Moratorium Practices During COVID-19"; Zakaria and Ghani, "PEMBIAYAAN KENDERAAN BERKONSEPKAN AL-IJARAH THUMMA AL-BAY' (AITAB) DI BANK MUAMALAT MALAYSIA BERHAD DAN ISU-ISU BERKAITAN."
[88] Zamroni and Warti'ah, "The Internalization of Maqāṣid Al-Sharī'ah Values in Islamic Home Financing through the Ijarah Muntahiyah Bittamlik (IMBT) Scheme"; Supratman and Subastyan, "The Contribution of the Ijarah Imbt Financing Scheme to the Development of a Sustainable Halal Economy in East Lombok"; Masruhen et al., "Evaluasi Praktek IMBT Di Bank XYZ Dengan Pendekatan Maqashid Syariah," 2025.
[89] Yunari et al., "Freedom of Contract and Certainty of Sharia Law in IMBT: Perspectives on Indonesian and Malaysian Legal Culture"; Arkaan et al., "Regulatory Dualism in The Legal Framework of Ijarah Muntahiyah Bi Al-Tamlik (IMBT): A Legal Pluralism Analysis"; Efendi et al., "Komparasi Implementasi Akad Sukuk Ijarah Dan Ijarah Muntahiya Bit Tamlik (IMBT) : Praktik Di Indonesia Dan Dubai."

taxation responsibilities during the lease period. This imbalance raises normative concerns regarding the full realization of *maqasid* principles, suggesting that the Malaysian model, despite its doctrinal permissibility, may benefit from structural refinements to enhance consumer welfare and distributive justice.

The comparative analysis further underscores that the divergences between IMBT and AITAB are not merely technical but reflect deeper institutional, legal, and methodological distinctions shaped by each country's regulatory environment, jurisprudential tradition, and market dynamics. Indonesia's civil law system, which recognizes unnamed contracts, allows for greater contractual flexibility and ethical diversity, while Malaysia's dual legal system, which operates concurrently with the Hire Purchase Act, necessitates a more pragmatic and harmonized approach. These findings have significant implications for regional Islamic financial harmonization, as the existence of divergent contractual standards across jurisdictions may increase compliance costs, operational complexity, and regulatory fragmentation for cross-border Islamic financial institutions.

The study contributes to the literature by providing a comprehensive comparative framework that integrates doctrinal analysis, empirical case studies, and *maqasid*-based evaluation—an approach that remains relatively underexplored in existing scholarship. The findings offer practical insights for policymakers, regulators, and industry practitioners in both countries. For Indonesia, the study suggests the importance of strengthening regulatory oversight and consumer education to ensure that the flexibility of IMBT does not lead to operational inconsistencies or contractual ambiguities. For Malaysia, the study recommends a critical re-evaluation of the risk allocation mechanisms within AITAB, potentially through the incorporation of more consumer-friendly elements such as the option of *hibah* or enhanced transparency in profit calculation, while maintaining the model's administrative efficiency. Additionally, both jurisdictions could benefit from enhanced cross-jurisdictional dialogue and regulatory cooperation to facilitate the development of harmonized standards that uphold both Shariah compliance and consumer protection in the ASEAN Islamic financial market.

Future research should explore the long-term socio-economic impacts of these contract models on financial inclusion, household welfare, and sustainable development, employing quantitative methodologies to complement the qualitative and normative findings of this study. Comparative studies involving other jurisdictions, such as Brunei, Singapore, or Gulf Cooperation Council (GCC) countries, would further enrich the understanding of how different legal and cultural contexts shape the implementation of Islamic financial contracts. Moreover, empirical investigations into consumer perceptions, dispute resolution outcomes, and institutional governance practices would provide valuable insights for refining and harmonizing lease-to-own financing models in the global Islamic financial ecosystem. Ultimately, this study affirms that while both IMBT and AITAB are valid within their respective frameworks, their ongoing refinement and adaptation are essential to ensure that Islamic finance remains ethically grounded, functionally effective, and responsive to the evolving needs of contemporary Muslim societies.

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