

## An Islamic Legal Review of the Joint Liability System Practice in PNM Mekar Financing

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### Abstract:

This study examines the implementation of the tanggung renteng (joint liability) system in microfinance practices at PNM Mekaar in Kelurahan Parit Culum 1, from the perspective of Islamic law, particularly the concept of kafalah (guarantee). The research is motivated by the discrepancy between the formal agreement of shared responsibility and the actual practice, where group leaders often bear the burden alone due to other members' unwillingness to contribute. Using a qualitative case study approach, data were collected through interviews, observation, and documentation involving group members, the group leader, and the PNM branch head. The results show that although the joint liability system aims to promote collective responsibility, it is not fully understood or fairly implemented among members. In several cases, the system shifts the responsibility unfairly onto group leaders, creating moral and financial injustice. From the Islamic legal perspective, while the concept of kafalah allows for such a guarantee mechanism, it must be based on fairness, willingness, and mutual consent. This study contributes to the discourse on aligning microfinance practices with Sharia principles and recommends better socialization, transparency, and regulatory safeguards to uphold justice in group lending schemes.

### Keywords:

*Joint Liability, Akad Kafalah, Islamic Legal Review, Microfinance, PNM Mekar.*



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## INTRODUCTION

In the era of inclusive economic development and microfinance, various financial institutions are adopting group-based financing models as a risk mitigation strategy and expanding access to capital, especially among low-income communities. The joint liability system is one of the main approaches in economic empowerment programs as implemented by Grameen Bank in Bangladesh and adapted in various developing countries, including Indonesia (Creedy & Hoang, 2018). In Indonesia, this system is implemented by institutions such as *Permodalan Nasional Madani* (PNM) through the MEKAAR program, which targets women micro business actors in rural areas. However, the successful implementation of this system is highly dependent on the understanding and commitment of group members to collective principles, thus giving rise to complex social and legal dynamics in the field (Pratiwi & Yulita, 2023). Although the joint liability system is often considered

effective in reducing the risk of default through social control mechanisms, several studies have shown that the practice is not always fair and proportionate, especially when there is a default by a particular member and the burden of dependents is transferred unequally to other members or group leaders (Fikri & Ubaidillah, 2023). This inequality creates an urgency to review the system from a legal perspective, especially Islamic law, which prioritizes the principles of justice and willingness in contracting. In addition, the imbalance of information between members and the weak mechanism of treaty enforcement are challenges in the implementation of this model (Lehner, 2009).

From a conceptual perspective, the practice of joint responsibility in microfinance can be linked to the *kafalah* contract in the *fiqh muamalah*. Kafalah is a form of guarantee in which an insurer (*kafil*) is willing to bear the obligations of the other party in the event of a default, as long as it does not contain elements of usury and exploitation (Ajah et al., 2020). In the context of PNM Mekaar in Parit Culum 1 Village, the incorporation of administrative, social, and legal elements in this contract shows the need to map the relationship of responsibility in accordance with Sharia principles, including the elements of *ridha* (willingness) and *'is* (justice), which are the basis for the validity of a contract in Islamic law (Fikri & Ubaidillah, 2023). Therefore, it is important to examine whether this shared responsibility system indeed functions as an instrument of solidarity or actually creates a disproportionate burden in the group. This study aims to answer two main questions: (1) How is the practice of the joint responsibility system implemented by PNM Mekaar in Parit Culum 1 Village? and (2) What is the view of Islamic law on the service payment agreement system in the joint responsibility scheme? The purpose of this study is to deeply understand the reality of the implementation of the system at the field level and assess its conformity with the principles of contract in Islamic law, especially *kafalah*. The qualitative approach of the case study was chosen to explore social interaction, member understanding, and responsibility dynamics in the financing group studied.

The scientific contribution of this article lies in the integration between empirical studies in the field and normative analysis based on Islamic law on the practice of joint liability in microfinance institutions. Unlike previous research that highlighted the effectiveness or social aspects of joint responsibility (Irwansyah & Melinda, 2021), this article seeks to evaluate the suitability of these practices with the Sharia principles that underlie guarantee contracts in Islamic economics. These findings are expected to provide a more complete understanding of the importance of agreement clarity and responsibility distribution in group-based financing, as well as offer normative recommendations for improving the practices of PNM Mekaar and other similar institutions. The main concept that is the theoretical basis of this study is *kafalah*, which is a guarantee contract in *fiqh muamalah*, which is used as a legal basis for the joint responsibility system in sharia microfinance institutions. Kafalah is, terminologically, a commitment of a guarantor (*kafil*) to guarantee the obligations of another party (*makful 'anhu*) to a third party (*makful lahu*), whether in the form of debts, goods, or certain obligations (Fikri & Ubaidillah, 2023). In microfinance practice, this concept is applied in the form of group collective responsibility for loan installments, similar to the joint liability scheme commonly used in various microfinance models. Normatively, the principle of *kafalah* requires transparency, voluntariness, and fairness in burden-sharing, which makes it an important instrument in maintaining the stability of the sharia-based microfinance system (Rohmah

et al., 2022).

Various previous studies have highlighted the application of the joint responsibility system in microfinance institutions. Studies by Pratiwi and Yulita (2023) show that social cohesion factors among group members are an important element in the effectiveness of the joint liability model, although it does not always guarantee success in preventing defaults (Pratiwi & Yulita, 2023). Meanwhile, studies in Nigeria show that the shared liability approach has advantages in reducing default rates compared to individual models, especially in the context of agrarian and high-risk economies (Ajah et al., 2020). The study by Debrah (2016) also highlights the potential risk of correlation between members in the joint responsibility group, which actually increases the potential for system failure if not balanced by strong monitoring instruments (Debrah, 2016). Although the literature on joint liability in microfinance is extensive, there is a significant gap in terms of conformity between the practice of this system and the principles of Islamic law, especially in a local context such as Indonesia. Most of the research still focuses on economic effectiveness alone without examining more deeply from the legal side of sharia or the perspective of justice and willingness between group members. Research by Barboza (2019), for example, emphasizes more on the effectiveness of social incentives in building payment compliance without directly linking it to Islamic aspects or the values of *fiqh muamalah* (Barboza, 2019). This shows that there is an important space for research that not only assesses administrative effectiveness, but also normative legitimacy based on Sharia principles.

This article takes a position as an empirical-conceptual contribution that bridges the gap between the practice of joint venture microfinance in the field and normative studies in Islamic law. By analyzing the practice of joint responsibility in the PNM Mekaar program from the perspective of the *kafalah* contract, this study assesses whether the agreement structure and its implementation have reflected the principles of willingness, justice, and collective responsibility in accordance with sharia. Unlike previous research that focused only on financial performance or group efficiency, this article integrates Islamic legal approaches in assessing the social and moral validity of such systems (Altinok, 2021). The methodological approach in previous studies also showed mixed trends. Some use experimental quantitative approaches to measure the effectiveness of joint liability models on loan repayment rates, such as Kono (2013) in Vietnam, who found that joint liability creates an incentive for strategic default due to the free passant effect (Kono, 2013). Meanwhile, other studies emphasize a descriptive qualitative approach, especially in assessing the social and institutional impact of the financing model, as done by Boachie (2019) in the African context (Boachie, 2019). Both provide an idea that the evaluation of the joint responsibility system must consider the structural dimensions and socio-cultural values that surround it.

Thus, the conceptual synthesis in this study departs from the understanding that the joint responsibility system is not just a technocratic tool for risk control, but also a moral and social agreement that needs to be reviewed based on Islamic legal norms, especially *kafalah* contracts. This study combines a normative approach to Islamic law and a qualitative approach in the field to evaluate the practice of joint responsibility comprehensively. This model allows for an in-depth exploration of the relationship between agreement structure, member understanding, and the

implementation of collective responsibility in the socio-economic context of small communities, as well as how these elements are interrelated in shaping the legitimacy and fairness of a sharia-compatible group financing system (Padhi & Smith, 2017).

## METHOD

This study uses a qualitative approach with a case study strategy, which aims to understand in depth the practice of the joint responsibility system in group-based microfinance in PNM Mekaar, Parit Culum 1 Village. The case study approach was chosen because it allows researchers to explore complex phenomena in a real context in detail and contextually, especially in analyzing the suitability of the practice with the principles of Islamic law regarding *kafalah* contracts (Yin, 2018). The data in this study consists of primary and secondary data. Primary data was obtained through direct observation, semi-structured interviews, and documentation of one group of active customers of PNM Mekaar, totaling 10 people, including 1 group leader and 9 active members, as well as one branch head as an additional informant. Meanwhile, secondary data was obtained from joint responsibility agreement documents, letters of ability, and other internal documents from PNM Mekaar. The interview technique was conducted in depth to explore members' understanding of the joint responsibility system, the implementation of agreements, and perceptions of the principles of justice, responsibility, and willingness in its implementation. The instrument used was in the form of interview guidelines based on predetermined X and Y variable indicators, while observation was carried out in a participatory manner on the dynamics of interaction in weekly group meetings (Creswell & Poth, 2017).

In terms of informant selection, this study used purposive sampling techniques, with inclusion criteria including active membership in the PNM Mekaar group, a basic understanding of the joint responsibility system, and direct participation in collective payment practices for at least the last six months. Informants who have no direct or inactive experience in the group payment system are excluded from participation. The unit of analysis in this study is the practice of the joint responsibility system in the PNM Mekaar RT 04 group, Parit Culum 1, seen from the perspective of the agreement structure and its implementation of Islamic law principles. The data analysis technique uses a triangulation approach of sources and methods, which involves combining the results of interviews, observations, and documentation to verify the consistency of the data and improve the validity of the research results (Flick, 2018). The analysis process was carried out through the stages of data reduction, data presentation, and conclusion drawing using a thematic approach, with the help of Atlas's qualitative software for the process of categorization and mapping of thematic patterns that appear in interview transcripts (Paulus & Bennett, 2017). The validity of the results was tested through member checking and cross-confirmation between data sources to ensure the reliability of interpretation and avoid researcher bias (Nowell et al., 2017).

## RESULTS AND DISCUSSION

## Results

The results of this qualitative research reveal three main themes that reflect the dynamics of the implementation of the joint responsibility system in the customer group of PNM Mekaar Parit Culum 1 Village, namely: (1) understanding and implementation of the joint responsibility system, (2) collective responsibility and the reality of burden sharing, and (3) the process of deliberation and problem solving in the context of group agreements. These themes were obtained through thematic analysis of the results of in-depth interviews, field observations, and group administrative documentation.

The first theme, *Understanding and Implementing the Joint Responsibility System*, shows variations in understanding among group members regarding the basic concept of joint responsibility. Some members understand this system as a collective obligation inherent in the group structure from the beginning of enrollment. However, others simply follow the mechanism without clearly understanding the legal basis or principles underlying it. From the results of the interview, it was found that 7 out of 10 active members stated that they had received an explanation about the joint responsibility system from the beginning, while the rest admitted that they only underwent obligations without a deep understanding. Observations of the group meeting show that the installment payment process is carried out collectively every week through the group chairman. The Chairman then handed over the funds to PNM Mekaar officers. However, this practice often deviates from formal agreements, as there are members who do not deposit payments on time, so the burden is temporarily shifted to the chairman or other members who are willing to cover the shortfall. Previous research in the context of the Grameen Bank program has also found that the implementation of joint responsibility is often not accompanied by a comprehensive understanding by all members of the group, leading to social pressure and additional burdens for certain individuals (Sarker & Rahman, 2020).

The second theme, *Collective Responsibility and the Reality of Shared Burdens*, highlights the imbalance in the division of responsibilities between group members. In practice, some group members tend to refuse to bear the installments of other members on the grounds that they are unfair or not their personal responsibility. This is contrary to the principle of the original agreement, which states that each member is willing to be responsible for the delay of the other member. Interview data showed that only 6 out of 10 members expressed a willingness to help cover arrears, while the rest expressed objections, even stating that joint responsibility was not their personal obligation. These results are consistent with studies that show that in microfinance programs with a shared responsibility model, group loyalty and adherence to collective norms are crucial factors in the success of the system (Mersland et al., 2019). In the context of PNM Mekaar, there is an inequality of participation where the burden often falls on the group leader or members who have higher loyalty, creating the potential for internal conflict and group dissatisfaction.

The third theme, *Deliberation and Problem Solving*, shows that the mechanism for resolving arrears is carried out through a family group deliberation forum. Based on field data, whenever there are arrears or delays in payments, the group will hold weekly informal meetings to find a collective solution. However, the effectiveness of this forum depends on the solidarity of the group and the

leadership of the chairman. In some cases, deliberation results in joint decisions, but it often leads to tension as some members are reluctant to take on the risks of other members. These findings are in line with the results of a study on microfinance institutions in Bangladesh, where the effectiveness of deliberations in resolving arrears was influenced by social structure, leadership, and group cohesion (Raihan et al., 2021). In the case of PNM Mekaar, the success of the deliberations depended a lot on the emotional closeness and social bonds between the participants, not solely on the formal contract that was agreed.

Another result that emerged from the documentation was the incompatibility of the implementation of the joint responsibility system with the Sharia Kafalah contract. The statement of ability document shows that the members have agreed to collective responsibility, but the practice in the field does not fully reflect the principles of justice and willingness as required in the *kafalah* contract. Some members admitted that they felt forced to bear the installments of other members because of peer pressure or worried about social sanctions, not because of awareness of Sharia responsibility. This reflects the findings in a study on *kafalah* contracts in Islamic microfinance institutions, which emphasizes that joint responsibility is only valid if it is based on willingness, equality, and does not contain elements of coercion (Yusof & Amin, 2020). Of the 10 members interviewed, only 4 expressed full willingness to carry out joint responsibility, while the rest objected but continued to do so due to external encouragement. This aspect corroborates the results of research on the microfinance model in Indonesia, which highlights the existence of normative pressures in the joint responsibility structure, which has the potential to cause social and psychological losses for individuals (Mubarok et al., 2022).

Based on all field data, it was found that the joint responsibility system in the PNM Mekaar RT 04 group has not been fully implemented in accordance with the principles of Islamic law and the principles of collective justice. The results of interviews with local religious leaders reinforce this, where he stated that the *kafalah* system implemented should be based on fair agreement, willingness without coercion, and should not cause harm to either party. He also emphasized the need to increase Sharia law education for all group members so that they understand the implications of joint responsibility as a form of contract that has ethical and legal consequences in Islam (Al-Khatib, 2021). In addition, strengthening the capacity of the group chairman in bridging communication between PNM members and officers is also an important factor in maintaining the continuity and stability of the financing group.

## Discussion

The main findings of this study show that the practice of joint responsibility in microfinance based on *kafalah* contracts has ambivalent consequences in the perspective of Islamic law, depending on the form of applicability and the purpose of its use. This is relevant to the purpose of the research, which from the beginning aimed to examine the conformity of the joint responsibility system with Sharia principles, especially related to practices in Islamic microfinance institutions. Based on the synthesis of the literature, there is a tendency that the application of joint responsibility in its modern form tends to deviate from the essence of the classic *kafalah*, which rejects the existence of financial compensation for guarantors (Abikan, 2017; Fikri & Ubaidillah, 2023).

Within the framework of the theory of *fiqh muamalah*, the *kafalah* contract is a form of debt guarantee without remuneration (*tabarru'*), but in modern microfinance practice, this function has shifted to be part of the institutional risk mitigation mechanism that is even financially accounted for (Muneeza & Mustapha, 2020). From the perspective of Sharia economics, the use of *kafalah* as a joint responsibility system is basically legal in principle, but it becomes problematic if it violates Sharia *maqashid*, such as when it is used to finance non-productive consumption or burden groups with the risk of moral hazard (Rohmah et al., 2022).

Some studies have shown that the joint liability lending system can improve payment discipline through social control mechanisms and group solidarity, which is consistent with Islamic values such as *ta'awun* (help) (Carli & Uras, 2014), (Kritikos et al., 2004), (Barth et al., 2014). However, joint liability contracts are also vulnerable to adverse selection and free-riding issues, especially if they are not supported by robust selection and monitoring mechanisms (Barboni et al., 2013; Barboni, 2013; Debrah, 2016). This is an important consideration because in Islam, the avoidance of the elements of *gharar* (uncertainty) and *dzulm* (tyranny) is essential in *muamalah*. The main contribution of this article lies in the integrative testing between sharia principles and microeconomic realities in a *kafalah*-based shared responsibility system, which has not been extensively discussed in depth in the previous literature. Some studies, such as (Muhammad et al., 2022) and (Rathore, 2017), focus more on the technical and institutional performance of joint liability, while these studies add a normative dimension from a sharia perspective, which bridges the gap between institutional practice and theological principles. The emphasis on the integration between sharia *maqashid* and the design of micro financial institutions is a new offering in contemporary academic discourse.

However, this study has limitations because it only relies on literature analysis and does not include empirical data from industry players or customers. In addition, the heterogeneity of joint liability practices in various Islamic financial institutions is not discussed comparatively across countries or jurisdictions. Therefore, a comprehensive field study that compares the implementation of *kafalah* in the framework of joint responsibility across institutions and regions can be an important agenda item in the future.

The policy implication that can be drawn from this result is the need for more prescriptive Sharia microfinance regulations in regulating the form, limits, and principles of joint responsibility so as not to deviate from *maqashid*. Islamic microfinance institutions are advised to adopt a hybrid approach between social security (group solidarity) and individual credit evaluation to maintain a balance between risk efficiency and fairness of *muamalah*. For academics, the integration between Islamic legal theory and contract theory in modern microfinance is still a broad field of research, particularly in evaluating the relevance of principles such as *kafalah*, *ta'awun*, and *maslahah* in the design of future Islamic inclusive finance.

## CONCLUSION

This study concludes that the practice of the joint responsibility system in microfinance institutions such as PNM Mekaar, especially in Parit Culum 1 Village, reflects the basic characteristics of the *kafalah* contract in Islamic law, namely the principle of collective guarantee for the obligations of group members. However, its application in the field has not been fully consistent with the principles of justice and willingness, which are an essential part of the Sharia *maqashid*. Although this system has been proven to increase social solidarity and efficiency in the distribution of financing, there are still obstacles in the conceptual understanding of members of the function of *kafalah* and in the implementation of the principle of shared responsibility, which sometimes creates a disproportionate moral and financial burden, especially for the group leader. This indicates an implementable gap between normative contracts and actual practices at the community level.

Conceptually, this article contributes to bridging the discourse of classical *fiqh muamalah* with modern microfinance practices through the Islamic legal approach to the joint responsibility system. By placing the *kafalah* contract as a normative lens, this study reinforces the importance of integration between sharia values, such as justice, transparency, and social responsibility, with the institutional mechanisms of microfinance. This contribution is theoretical. It enriches the study of the relevance of Islamic legal principles in the context of contemporary finance, as well as being practical because it provides a normative basis for policy improvement and design of more equitable and inclusive sharia-based microfinance products.

The implications of this finding emphasize the need to improve sharia literacy for all related parties, including institutional managers and customers, so that the principle of joint responsibility is truly understood as an instrument of help, not collective coercion. Further research is recommended to examine the *kafalah*-based shared responsibility model comparatively across institutions or regions, as well as to develop a risk mitigation model that is not only based on collective obligations but also takes into account individual capacity and distributive justice incentives in the spirit of Islamic economics.

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