

## **SHARIAH PARADOX OF “NONHALAL” REVENUE MANAGEMENT ON SHARIAH-BASED COOPERATIVE**

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### **Abstract**

The implementation of shariah financial management is a logical consequence due to the transformation of conventional cooperative into shariah cooperative. Not only does the consequence impact the use of margin term on some contracts of murabahah instead of interest, or the approach of profit-sharing on mudarabah, but also it has briefly led into a paradox where there are “nonhalal” revenues from usury practices of some businesses conducted by shariah-based cooperative. Moreover, the lack of awareness and minimum support from local government was another paradox faced by the cooperative and strictly damned the implementation of shariah. This study aims to explore the shariah paradox of non halal revenues management in Koperasi Tani Syariah Bina Usaha, a cooperative with the highest sum of financial turnover in Central Lombok West Nusa Tenggara. This research uses qualitative method with interpretive paradigm. Phenomenologically, the research has found shariah deviation of some revenues earned by Koperasi Tani Syariah Bina Usaha. The deviation was claimed as nonhalal revenues that entirely raising from saving and loan unit as well as investment unit. Furthermore, both of these business units have almost covered the financial needs for every single business conducted by Koperasi Tani Syariah Bina Usaha. There is more than 3 billion rupiah of investment, from customer deposits, was not managed within the framework of Shariah. Another 2 billion rupiah from other sources, which contracted on margin term, was still debatable. This research is expected to give a portrait of problem faced by Shariah-based cooperatives for both intern and extern stakeholders then ongoing coaching and better coordinating could be conducted in optimizing the pure implementation of shariah, especially in Koperasi Tani Syariah Bina Usaha.

**Keywords:** Mudharabah, Murabahah, “Nonhalal” Revenues, Syariah-Based Cooperative.

## 1. Introduction

It is like stepping on a small bamboo bridge on a very swift river. The bridge has to be traversed due to a better hope with full of blessing given by the only and none god except him (Allah SWT). Ones you step wrongly or having no willingness to pass through the bridge you may fall into the river and be swept away. That is the picture of those who intend to have their cooperatives transformed from conventional system to syariah<sup>1</sup> based cooperative. Unfortunately, the way isn't very easy but as representative of Allah on the earth, the small bamboo bridge has to be stepped carefully instead of noting to do with.

In fact, the principles of conventional cooperation regulated in Indonesian Law No.25 Year 1992 about cooperatives, article five, have indicated the system applied in conventional cooperative is not in the same line with Islam's law or *syariah*. The five principles stated in the fifth article do not regulate any aspects of loss possibility on a business conducted by a cooperative. Surely had it affected cooperative's effort to create a system that will always benefit it without considering any limitation of *halal and haram*<sup>2</sup>. *Riba* in both products of services and stuffs produced by cooperative has become a rule that rationalize the cooperative boards and members to discard the forbidness of *Riba* as what has been described by Allah SWT in Al-Qur'an Surah 2 verse 130. Furthermore, it has no difference with conventional bank system which has been stated its *haram* by Indonesian *Ulema Council* (MUI) in MUI law number 1 year 2004 about interest. Therefore, *ulama* agreement (*ijtihad*)<sup>3</sup>, in *muamalah*<sup>4</sup> context especially in maintaining the assets of cooperative businessmen has affected development of syariah-based cooperative in Indonesia.

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<sup>1</sup> *Shari'ah*: divine guidance as given by the holy qur'an and the sunnah of the prophet Muhammad SAW; embodies all aspects of the islamic faith, including beliefs and practice.

<sup>2</sup> *Halal* according to Wikipedia is Any object or activity that is permitted to be used or exercised, in Islam. While *haram* is the opposite of *halal*.

<sup>3</sup> *Ijtihad* an endeavor of a qualified jurist to derive or formulate a rule of law to determine the true rulling of the divine law in a metter on which the revelation is not explicit or certain, on the basis of *Nass* or evidence found in the Holy Qur'an and the *Sunnah*.

<sup>4</sup> *Muamalat* is all kind of economic activities related to exchange of goods and services

Considering punishment for those who practice *Riba*<sup>5</sup>, as Allah has mentioned in Al-Qur’an chapter 2 verse 275, the transformation of conventional to *syariah* cooperative has become a solution for the anxiety among cooperative practitioners. Since the punishment of *Riba* is applied not only to the cooperative practitioners (committee and members) who are involved in all cooperative activities and business, but also to those who witness it (in this case government); as has been said in hadits of Prophet Muhammad:

*From Jabir, he said, “Allah’s messenger (Prophet Muhammad SAW) has doomed Riba consumer, note-taker, and witness. The prophet said, “They have similar sin” (Muslim, No.4177).*

However, although the conventional cooperative has transformed into *syariah*, the *syariah* based cooperative is not completely freed from some practices of *Riba*. Therefore, it has motivated the researcher to investigate the paradoxes accrued in *Syariah*-based cooperative, specifically at Koperasi Tani *Syariah* Bina Usaha, a cooperative with highest sum of financial turnover in Central Lombok.

Though it is not yet covered by any law as the conventional cooperative’s law number 25 year 1992 about cooperative, the existence of *Syariah* cooperative in Indonesian society has attracted a great attention from the government and become an oases for the majority of Muslim in Indonesia. In fact, the spirit of *Pancasila* has become a mainstream covering every emerging financial institution including all cooperatives spread throughout Indonesia. Hence, it is unsurprisingly to see the difficulties of transformation process conducted by conventional cooperatives that already have legal form based on *Pancasila*, in the middle of effort to apply *Syariah* in all aspects of management and business system. Nevertheless, the demographic setting still becomes a significant strength in accelerating the development of *Syariah-based* cooperatives in Indonesia.

A great attention of the government towards the development and potential of *Syariah* cooperatives in Indonesia is indicated by the issue of regulation of Indonesian Ministry of Cooperative and Small and Medium Enterprise Number: 35.2/PER/M.KUKM/X/2007 about Guidance of

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<sup>5</sup> *Riba* literally is an excess or increase. Technically, it means an increase over the principal in a loan transaction, over a debt or in exchange transactions, accrued to the lender/creditor or a party to exchange without giving an equivalent counter value or recompense in retur to the other party.

Operational standards of management of *Syariah* Cooperative and *Syariah* Financial Service. Further, it becomes guidance for *Syariah*-based cooperatives in operating their institutional management.

In addition, former President, Susilo Bambang Yudhoyono, in 2013, has promoted *Syariah Economy Movement* (GRES) aiming at encouraging Indonesian mission to be the central of world *syariah* economy. Responding to that program, NTB (West Nusa Tenggara) governor TGH Zainuddin Majdi, also promoted similar movement (GRES) on 7 May 2014 by commencing a program known as Extending Cooperatives with *Syariah*-based Credit and Saving in Lombok, 1000-mosques Island.

Nevertheless, the implementation of sharia in Islamic financial institutions is not as easy as presenting or promoting it. Particularly, at Koperasi Tani *Syariah* Bina usaha, several paradoxes of *syariah* implementation have occurred and somehow the authorities (local government) didn't know much. Breaking bonds of coordination between cooperative and local government has externally assumed as the reason. Besides, some internal problems especially on how they manage the capital improperly with Islamic principles have brought up the revenues claimed as nonhalal revenues.

According to (Mauludi, 2014) in his study stated that basic *syariah principles* related to financial report are: reported correctly (QS 13:21), reported momentarily (QS 10:5), written by experts (accountants) (QS 13:21), clear, exact and informative (QS 17:21), containing entire information (QS 6:52), information is given to all parties involved horizontally and vertically (QS 2:212), detail and precise (QS 65:8), without any manipulation (QS 69:20), and is done continuously (QS 21:1). Unluckily, the capability of cooperative committee and supervisors in comprehending the application of those *syariah principles* still cannot be resolved.

Other previous researches related to this research have briefly explained both in qualitative and quantitative methodology. According to (Nazirwan, 2015), BMTs have developed a capacity to perform economic development and socio-religious empowerment functions. However, the dual missions pose a dilemma for BMTs: how to differentiate their role as faith-based microfinance institutions from their socio-religious mission. While (Al-Muharrami and Daniel C. H, 2013), Islamic and cooperative banks such as credit unions are broadly similar in that they both share some risk with savers. However, risk sharing goes along with ownership control in cooperatives, whilst Islamic banks share risk with

borrowers and downside risk with depositors. Islamic banking is consistent with mutual ownership, which may ease some of the governance and efficiency concerns implied by Shari'ah constraints. Greater risk sharing among cooperative bank stakeholders, using mechanisms embedded in Islamic financial products, may strengthen cooperatives' financial resilience. Moreover, (Solehudin, Rabiatal Awaliah and Zuhdi, 2014) who has identified that *syariah* financial institutions still use their non-*halal* profit as the source in *qardhul hasan*<sup>6</sup> capital, which further becomes a *subhat* or an unidentified source of the use of money. Therefore, it is necessary to make a separated record between *halal* and non-*halal* income/profit in *qardhul hasan* capital, either in the source or use of money of *qardhul hasan* to pay the interest of credit and become *hibah* to government. The other is (Yusuf, 2016), he has found through his research that the co-operative financial services syariah BMT Al-Munawwarah categorized as cooperative healthy enough. But there are some things that do not meet the criteria of soundness. Weaknesses that need to be improved on the aspects of sharia supervisory function, but can be addressed by improving the quality of human resources both supervisors, administrators and managers. Thus the assumption cooperative sharia was unprofessional and not well managed is the less precise assumption.

According to (Krimawati, Rabiatal Auliah and Yuni Rimawati 2013), have found that in term of kafalah financing, KKS As-Sakinah Kamal has conform to the provision and control of Sharia national Board. It can be found that (a) in kafalah financing procedure, members are charged against legalization; (b) kafalah financial agreement is signed literally when the three parties have been agree with the statements and provision explained; (c) cooperative institution is entitled to revive fee or *ujroh* from members with binding and not be annealed reward. Meanwhile, in quantitative methodology, examined the role of baitul mal Wat Tamwil (BMT) on poverty empowerment in Demak, Central Java, and (Rochman 2013) found that BMTs have a significant role on improving income level, family education, and business progress. However, the study did not find any significant role of Islamic microfinance on access to health care.

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<sup>6</sup> *Qard al hasan* is a virtuous loan. A loan with the stipulation to return the principle sum in the future without any increase

These findings have motivated the researcher to explore another problem faced by Syariah Based Cooperative. Due to improper implementation of Shariah at Syariah Based Cooperative seems to be another problem which never has any researcher investigated. Some question has come to researcher's mind whether the paradox of nonhalal revenues really occurred in Koperasi Tani Syariah Bina Usaha and why the paradoxes happened. Thus, the purpose of this research is to investigate *syariah* paradox on shariah based cooperative particularly in Koperasi Tani Syariah Bina Usaha. Furthermore, was to know the reasons within the paradox.

## **2. Theoretical Framework**

### *2.1 The Overview of Syariate Enterprise Theory (SET)*

According to (triyuwono, 2002b) in (Mulawarman, Iwan Triyuwono and Unti Ludigyo, 2007), Syari'ate Enterprise Theory (SET) was based on the metaphor of zakat<sup>7</sup>. As a creator, Allah is the only owner of all resources in this universe. As Allah is the only main source of trust and resources of all stakeholders, it is a must for any stakeholders to manage these resources based on the wishes of the giver (Allah SWT) instead of theirs. Since accounting goal is accountability, Triyuwono (2002b) has briefly defined accountability which tends to a spirituality of shariate accounting. The concept of accountability is closely related to the tradition of Islamic understanding of God, man and universe. In Islam man is khalifatul fil ard (the representative of God on Earth) with a special mission of spreading the grace for the universe to manage the earth based on God's will. That is, humans are obliged to manage the earth based on shariah, which is accountable to God.

Sharia'te Enterprise Theory has broader vision than former enterprise theory. According to this theory, stakeholders consist of not only direct participants but also indirect participants. The inclusion of indirect participants is a clear view of point that distinguishes this theory from enterprise theory. Direct participants such as shareholders, employees, government, suppliers, are those who contribute to the company, finance and non-finance. Because of their contribution, the company has to provide

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<sup>7</sup> Zakah/zakat : zakah is the third out of five pillars of Islam. A religious tax on Muslims having-wealth over and above an exemption limit (Nisab) at a rate fixed by The Shariah

welfare to them as counter-achievement. While, Indirect participant is a group that does not contribute to the company either finance or non finance, but according to Shariate enterprise theory they do have the right to enjoy the success of the company. This second party includes: the society especially mustahiq especially and the natural environment (in terms of safeguarding, repairing and preserving nature).

## *2.2 The Definition of Nonhalal Revenue*

Related to zakat accounting, the regulation of sources and non halal fund distribution has been stated in **PSAK No. 109**. The existence of non-halal funds in **ED PSAK No. 109** raises significant debate between some scholars and practitioners of shariah economy. Consequently, a Change cannot be ignored in PSAK109 which constrain the policy only to Lembaga Amil Zakat (LAZ). LAZ has to reveal the source, reason, amount, and non-halal fund distribution. The provisions of ED PSAK No. 109 about the recognition and measurement of non-halal funds are briefly stated as follows: Firstly, acceptance of non-halal funds shall be all revenues from activities that are not in accordance with Islamic principles, such as current account receipts or interest arising from conventional banks. Non-halal fund receipts generally occur in an emergency or unwanted condition by the shariah entity as it is prohibited in Islam. Secondly, the receipt of non-halal funds is recognized as non-halal funds and must be separated from zakat funds, infaq / alms funds and amil zakat. Non-halal assets have to be distributed based on shariah principles. Thirdly, Amil must disclose the existence of non-halal funds, if any, disclosed regarding the policy on the receipt and distribution of funds, reasons, and amounts.

## *2.3 Syariah- Based Cooperative*

According to ( Sabiq, 1997), the raising of Shariah cooperatives is essentially a conversion from conventional cooperative by adding a charge of cooperative or musharaka principles in accordance with Islamic Shariah and modeling on the economic behavior of the Prophet and his Companions. The concept of establishing Shariah Cooperatives is basically using the concept of Shirkah Mufawadhoh, a business that is jointly established by two or more people. Each contributing funds in same portion and participating in work with the same weight. Each partner bore each other in rights and duties, and it is not permitted for one to enter a larger capital and gain greater profits than any other partner.

The normative basis of shariah cooperatives is Qur'an and Sunnah, Pancasila and the 1945 Constitution. While mutual help is core principle. The verses of the Qur'an which are used as the basis for the implementation of cooperatives are Q.S. Shad: 24

*"... and verily most of those who associate are partly wronged with the other, except those who believe and do righteous deeds ...."*

While another basis come from Hadith<sup>8</sup> narrated by Abu Dawud:

*"From Abi Huraiurah ra. For the Prophet (s) said: "Verily Allah says:" I am the third of two who are unionized as one of them does not betray the other, and whenever he betrays one of the two, I come out of the union of both "*

The difference between Shariah cooperatives and conventional cooperatives is clearly defined. Shariah cooperative is a cooperative that operates its activities or business based on shariah or Islamic principles. Never do shariah cooperative implement the system of interest in all its activities but the conventional cooperative does. To avoid the system, a shariah based cooperative actually conducts its business on partnership based on equality and justice. Instead of interest, shariah based cooperative tends to use margin in some of its financial services or profit sharing in its cooperation partnership.

According to (Rodoni, 2008). Mudharabah is cooperation between two or more parties where the owner of capital (shahibul maal) entrusts a certain amount of capital to the manager (mudharib) with a profit sharing agreement. This form affirms cooperation with 100% capital contribution from shahibul maal and expertise of mudharib<sup>9</sup>. While murabaha is derived from the word ribh (profit) is a sale and purchase transactions where the bank calls the amount of profit. The bank acts as the seller while the customer as the buyer. Both parties must agree on the selling price and the timing of the payment.

Meanwhile (Antonio, 2009), the principle of financing in Islamic banks consist of two principles, they are Mudarabah and Murabahah. In general, the principle of profit sharing in Islamic banking can be done in four main contracts, namely mudharabah, musyarakah, muzara'ah, and

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<sup>8</sup> *Alhadith: Plural of Hadith, traditions of the holy Prophet of islam describing his utterances, actions, instructions and actions of others (Companions) tacitly proved by him.*

<sup>9</sup> *Mudharib in mudarabah contract , the person or party who acts as entrepreneur*

musaqah. However the most widely used principles are mudaraba and murabaha. Mudharabah is a cooperation contract between two people/parties where the first party (shabul maal) provides all (100%) capital, while the other becomes the manager. Business profits are divided according to the agreements set in the contract, whereas if the loss is borne by the owner of the capital as long as the loss is not a result of the manager's negligence. While murabaha is a contract of sale and purchase of goods between the bank and the customer at the price of origin with additional benefits that have been agreed.

### **3. Research Methodology**

As the research was to find shariah paradox of non halal revenues that occurred in Koperasi Tani Syariah Bina Usaha, the design of the research has been planned as follows:

#### *3.1 Type of Research*

This research uses qualitative method. Denzin and Lincoln (2005;3) describe qualitative research as involving "... an interpretive naturalistic approach to the world. This means that qualitative researchers study things in their natural settings, attempting to make sense of or interpret phenomena in terms of the meanings people bring to them". Meanwhile, according to Moleong (2009: 6) "Qualitative research is research that aims to understand the phenomenon of what is experienced by research subjects eg behavior, perception, motivation, action, etc..., Holistically and with a form of words in the specific context in which the natural and utilize natural methods ". Otherwise, according to (Sugiyono, 2011) characteristic of qualitative research is conducted in natural conditions, is descriptive, emphasize process rather than product, inductive data analysis, and emphasize meaning.. Therefore, to get the clear picture about shariah paradox of nonhalal revenue management occurred in Koperasi Tani Syariah Bina Usaha, researcher has had not only in-depth interviews with the key informan whom well known about the problems but also observes the data provided to decisively reconcile informant's statement.

#### *3.2 Research Approach*

This research uses interpretive paradigm with phenomenology study. For it isn't only powerful to understand subjective experience of the actors in Koperasi Tani Syariah Bina Usaha, but also very helpful to gain insight actors' motivation and action in raising the phenomena of shariah paradox within the cooperative. According to (Lester,1999). The purpose of the phenomenological approach is to

illuminate the specific, to identify phenomena through how they are perceived by the actors in a situation. In the human sphere this normally translates into gathering 'deep' information and perceptions through inductive, qualitative methods such as interviews, discussions and participant observation, and representing it from the perspective of the research participant(s). Phenomenology is concerned with the study of experience from the perspective of the individual, 'bracketing' taken-for-granted assumptions and usual ways of perceiving. Epistemologically, phenomenological approaches are based in a paradigm of personal knowledge and subjectivity, and emphasize the importance of personal perspective and interpretation. Meanwhile, according to Husserl (Creswell, 1998) phenomenological researchers seek to find the essentials, the invariant structure (essence) or the meaning of basic experience and emphasize the intensity of consciousness where experience consists of things that appear from the outside and the things that are, Things that are in each consciousness based on memory, image and meaning.

### *3.3 Sources of Data*

For the research purpose, both primary and secondary data are used. Primary data was based on in-depth interview with key informant those are the chief and treasurer of Koperasi Tani Syariah Bina Usaha as well as the chief of saving and loan unit. While secondary data was collected from suitable records, reports, notes or documents of the cooperative. To obtain information from each of the key informants, researcher has selected face-to-face interview. When the information needs to be proved, the secondary data were collected.

### *3.4 Data Analysis*

According to (Smith 2009) in Hajaroh (2010), data obtained with in depth interviews can be analyzed using interpretative phenomenological analysis. Six Stages in interpretative phenomenological analysis can be done. The first stage, Reading and Re-reading. At this stage, the researcher reads an interview transcript of an audio recording into a transcript in writing. Researchers begin this process with the assumption that every single of participant's word is very important to be written in analysis phase. Then re-read the overall structure of the interview for further development into the sections. The second stage, Initial Noting. At this stage the researcher examines the content of

words, sentences and languages used by participants in exploratory level. At this stage also begins by specifically identifying the ways participants talk about something, understand and think about issues. The third stage, Developing Emergent Themes. At this stage analyzing of the comments that led to the emergence of themes. At this stage also reorganized the participants' experience of the data.

The fourth stage is searching for Connection across Emergent Themes. At this stage, researchers seek links between emerging themes after researchers have defined a set of themes in transcripts and themes sorted chronologically. The fifth stage, moving the Next Cases. Phase 1-4 is performed in each case. If one case is completed and the result of the analysis is written then move on to the next case until all cases are resolved. The sixth stage is looking for Pattern across Cases. This final stage is to look for patterns that arise between cases. What is the relationship between cases and how the themes found in other cases guides the researcher to re-draw.

## **4. RESULT**

### *4.1 The Staging of Koperasi Tani Syariah Bina Usaha and Paradox towards Transformation of Syariah-Based Cooperative*

Koperasi Tani Syariah Bina Usaha now is a picture of unlimited passion of transforming cooperative from conventional into syariah based cooperative. From year to year this cooperative historically has been through several development phases: the early of 1999 until 2001. In this period, Koperasi Tani Syariah Bina Usaha has been established by several people on the euphoria of cooperative empowerment in Indonesia. Systemized as common conventional cooperatives, it has focusing only to give services to its member through financing service on saving and credit service unit. There isn't sufficient information obtained in this period. However, it is known that since the first initiation of the cooperative, there were some problems faced by the cooperative and has brought it into inactive period during 2001-2008. Low trust level of members due to misuse of financial management by committed has been assumed as the reasons as quoted from Mr. Syukur (the current head of Koperasi Tani Syariah Bina Usaha) who deeply think of the reasons as follows;

*“Banyak komplin sih ..banyak faktor dulu, kami pindah desa, kami pindah kepala dusun trus pindah madarasah..ada faktor lain antra lain organisasi juga sehingga kami harus buat masjid baru..naah semua dana yang ada dikoperasi itu dialihkan ke pembangunan masjid”*

The next periode stated as inactive period (2001-2008). This period is signed by closing the cooperative financial records and moving all remaining assets. The asset has been donated in a mosque. It was long period till 23 people started to initiate rebuilding the cooperative and agreed to restructure the cooperative committee as well as rationalize the cooperative financial on zero point. This has become a sign of the third period, 2008-2010. This period is more suitable to be said as the period of restructuring and recruiting new members. The 23 former members had agreed to collect their private fund, which was Rp 500.000 rupiah each person. The total amount was Rp 11.000.000 eventually has been collected and used to be the first capital. The only unit conducted at this period was saving and loan service with conventional financial system. Since there is a kind of trauma of the past, the society of Pendem village has no trust to invest even to be a member. Therefore, it was not easy to recruit new members, as Mr.Syukur explained when asked about how difficult the recruitment was:

*“Eee...satu tahun berikut tidak ada perkembangan, sampai masuk tahun 2010 ada penambahan anggota tapi sangat sedikit, itupun kami dari pengurus door to door.....sampai sekitar 3 tahunan nonstop pak kami mengajak masyarakat untuk masuk koperasi.*

The third periode was a transition period. It was in 2010-2014, Koperasi Tani Syariah Bina Usaha did not only try to do a transition to syariah system but also try to gain trust towards cooperative especially from former members and society in general. A creative program, called as “penyembelihan sapi h-1 lebaran”, had become starting point to get the trust from society. The program aimed to supply the members’ request of meat on Iedul Fitri day. What was unique from this program was the price of 1 Kg beef has been approved before the cow slaughtered. Surely do the price was offered cheaper than did in the market. The program was only promoted for the members instead of nonmember. Consequently, the inflation of beef price due to common problem on every Ramadan month was not affected to the member. Moreover, they could pay the beef by credit. As it quoted from My Syukur explanation as follow:

*“...Ee selama 2 tahun itu 2008, kita pertama yang kami lakukan adalah potong sapi itu untuk merubah pola konvensional ke syariah secara pelan-pelan, dari sekian asset yang kami punya ..eeemm kami potong sapi , 1 ekor sapi untuk tahun 2010 untuk h-1 lebaran kemudian kami bagi ke anggota yang bukan anggota tidak boleh ngambil”.*

The program of “*potong sapi h-1 lebaran*” had become an attractive point for the people. Moreover, the economic situation at the moment was haunted by *Riba* practices from many loan sharks. “Bank 46” arising, as people mentioned to say borrowing 4 then returning 6, has been a dilemmatic situation for tobacco farmers at Pendem village. If they would not accept the “bank’s” offer, their tobacco would become defective. Mr.Syukur has described it in his interview;

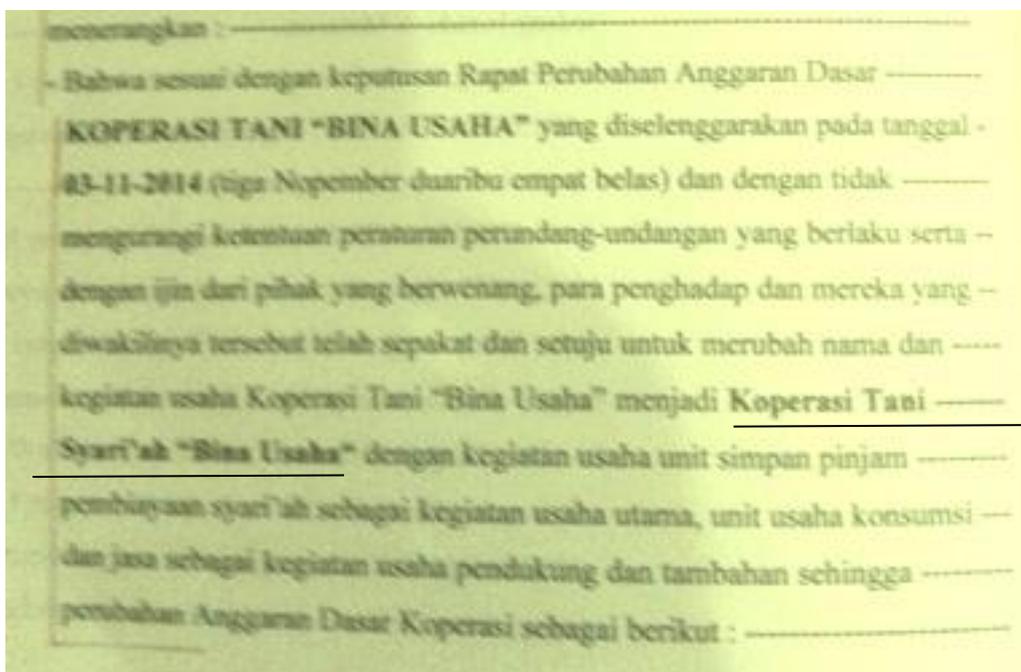
*“,..... di situ terbersit keinginan yang sangat kuat, kan disini kami basis tembakau dan ternyata tembakau itu sangat menyulut berkembangnya rentenir ....sangat menyulut...terus muncullah istilah yang disebut dengan bank 46...hutang empat kembali enam ...hehehe.....dan itu diadakan sampai kalau kamu siap mengembalikan sekian saya kasih nah, tapi di satu sisi yang minjem ini ngga diambil tembakaunya rusak...dilematis, udah diambil terpaksa marak di masyarakat pada tahun itu”*

The program has also been a starting point for increasing trust among the society especially cooperative members. It was in 2013, when the society trust reached a very significant point. Koperasi Tani Syariah Bina Usaha had an opportunity to join a competition of farmer economic institution held by the Ministry of Agriculture. Koperasi Tani Syariah Bina Usaha won the competition at province level, by which it grew society trust towards cooperative. Then, as a gift from the Ministry of agriculture, Koperasi Tani Syariah Bina Usaha was invited to meet President Susilo Bambang Yudhoyono and attend Indonesian Independence Day on 17 August 2013. Hence, people have become very enthusiastic in joining the cooperative.

After seeing a big potential of new membership, the committee of Koperasi Tani Syariah Bina Usaha felt really motivated to eliminate the practice of *Riba* among society. Some businesses using syariah system were intensively developed and made known to society. Yet, the cooperative still used conventional law-based cooperation. It was until 2014 when it eventually transformed from conventional to syariah system, which also initiated the forth period of Koperasi Tani Syariah Bina Usaha. The bright future of syariah implementation has come in this period of transformation (2014-now). The following picture of document shows the transformation done by Koperasi Tani Bina Usaha towards Koperasi Tani Syariah Bina Usaha.

Picture 1.

Certificate of legal entity of Koperasi Tani Syariah Bina Usaha



Although Koperasi Tani Syariah Bina Usaha Syariah has been protected by syariah legal entity, it experiences many obstacles mainly from outside organization. The paradox of implementation is indicated by insufficient support from the local government for legalizing the change of cooperative legal entity. Further, it has affected the delayed process of legalizing legal entity of the cooperative by the head of Central Lombok regency, since 2014 until present. In order to legalize the certificate of legal entity, the cooperative committee has done many efforts such as proposing it to the Cooperative and Small Medium Enterprise boards in Central Lombok government. Yet, it has not succeeded. As cited from his interview about some efforts that he has tried to do:

*“...karna sudah 2 kali pengajuan, terus terakhir kemarin eee waktu beliau tiang disukusi,,k, eem di mejanya beliau langsung...sudah begini saja pak syukur koperasi kita yang disana itu tidak usaha dirubah ke pola syariah namanya...cukup unit simpan pinjam saja yang dirubah menjadi unit simpan pinjam pembiayaan pola syariah, jadi koperasi secara total tetap namanya Koperasi Tani Bina Usaha unitnya saja yang berubah. Sementara kami mau menghilangkan unit simpan pinjam”.*

In addition, he exposed about the relation with local government which was not run very well. It was expressed when asked about his expectation to the district government:

*"Sebenarnya berurusan sama dinas agak malas juga....toh juga kami bukan tidak mau dibina lebih lanjut, sangat-sangat ingin, cumen kalau itu bertolak belakang dengan pola fikir kami ya kami tidak bisa gitu".*

Next, he also concerned about a gap of coordination between district government particularly cooperative and Small Medium Enterprise office and province government. Some programs held by the province government for cooperative members weren't consulted with district government. It indicates the bad condition among them, as he said:

*"...Yang lebih mengherankan lagi e.. ketika dinas provinsi kasi pengembangan usaha mengadakan pelatihan itu ngimailnya langsung kesini tidak ke dinas, kami prin kami antar".*

Based on the result of interview, such phenomenon basically has caused a paradox in implementing syariah system in Koperasi Tani Syariah Bina Usaha. It is proven by a very minimum real support from related institutions in Central Lombok government, as well as unconnected coordination among both district and province government. Furthermore, asked about the reason, Mr. Syukur really didn't know what happened between them and why the district government didn't want to approve the legation of legal entity. Moreover, he assumed that when the legal entity legalized by district government while the legal entity has been made in province government, the cooperative would not be in charge of district government as quoted from him:

*"Mungkin itu pak.....sehingga secara otomatis akan lepas menjadi binaan provinsi, ....mungkin saya tidak berani pastikan dari versi saya mungkin...boleh tanyakan, mungkin seperti itu kemungkinan menurut hati saya 95% cumen tidak mengiyakan saja masih menggunakan mungkin...cumen ngga enak saja ngomong blak-blakan sama beliau...saya cadangkan 5% untuk ditanyakan..masih cadangan 5%.*

Indeed, the legalization is very important as well as the role of District government. Due to its authority, to do or not to do legalization, has had impact on disability of cooperative in proposing and carrying some funds provided by central government. But according to the treasurer of the Cooperative, Mr. Zul has analogically explained the reason as he quoted from local Ulama as follow:

*"...posisimu...transaksi yang kamu lakukan seperti buat jembatan dengan 1 bambu, buatlah tali dan janganlah jalan pas waktu hujan, kalau pas hujan pasti akan kecebur juga di sungai itu, jadi inget..ada tempat dia kokoh ada tidak kokoh...jadi ada jalan sedikit tapi ketimbang tidak.. kan orang kecebur semua jadinya, tidak ada jalan menyeberang..jadinya"*

Referring to the Syari'ate Enterprise Theory proposed by Triyuwono, who said that accountability in a *syariah* system is a form of religiousness where human as *khalifatul fil ardh* (Allah's representative on Earth) with a special mission to spread blessing to universe and manage earth based on Allah's willing. In other words, human are responsible to manage the earth based on *syariah* system, which is depended to Allah SWT. Thus, government's authority and role of regulating become very important. The more they didn't approve the legalization of the document, the longer they let Riba practices occurred. Unfortunately, All they had made surely would they be cursed, as Rasulullah ever said in his hadits narrated by Jabir :

*"The Messenger of Allah (peace and blessings of Allah be upon him) cursed the riba (loan sharks), the usury borrower (the borrower), the author of the usury transaction (secretary) and two witnesses who witnessed the usury transaction." He said, "All are equal in sin." Muslim No. 1598).*

From hadits above and referred to Syariah Enterprise Theory (SET), the researcher briefly say that cooperative (members and committee), as well as government are tied together on a system which can be shariah or non shariah system. As the government has authority not to support shariah system, surely has the paradox of shariah been occurred.

#### *4.2 Nonhalal Revenues Paradox of Koperasi Tani Syariah Bina Usaha*

It was said that all business units in *Koperasi Tani Syariah Bina Usaha* have been supported by large sum of money earned from some sources. There are at least four venture capital sources that pay the whole activities of cooperative those are: intentional saving, deposits, school savings and scholarship saving. According to the cited data from the financial report in 2016, the amount of each investment is Rp.934.007.437 (for intentional saving), Rp 3.207.642.000 (deposits), 1.172.128.700 (school saving), and Rp 7.300.000 (scholarship saving). A more detail information is presented in the following balance sheet:

Table 1.

Comparison of Asset and Liability of Koperasi Tani Syariah Bina Usaha

NO	Asset	30/12/2015	30/12/2016	NO	PASIVA	30/12/2015	30/12/2016
<b>I</b>	<b>Current asset</b>			<b>III</b>	<b>Liability</b>		
	Cash	313,937,615	1,022,236,198		Voluntary savings	907,792,498	934,007,437
	Bank	1,100,000	1,100,000		Dividend		
	Monthly receivables	3,132,983,149	4,565,501,630		Third party investment		
	Capital of business unit	22,072,500	22,072,500		Deposit	1,964,320,000	3,207,642,000
	Capital of beef cattle	101,464,403	13,200,000		Gapoktan Loan		
	Weekly receivables	143,518,000	63,827,255		School savings	523,345,500	1,172,128,700
	Sale of cattle	50,000,000	50,000,000		Savings scholarship		7,300,000
	capital of duck business	100,000,000	140,558,000				
	Depreciation of bank	(640,000)	(640,000)				
	Cow Capital	160,250,000	270,500,000				
	<b>Total</b>	<b>4,024,685,667</b>	<b>6,148,355,583</b>		<b>Total</b>	<b>3,395,457,998</b>	<b>5,321,078,137</b>

Source: Balance sheet of Koperasi Tani Syariah Bina Usaha

It can be seen from the balance above that there was a significant enhancement of venture capital between 2015 to 2016 that is Rp.1.925.620.139 or 64%. So, it has indirectly showed a significant level of society (cooperative member) trust. Similarly, the interview with the head of loan and saving section of Koperasi Tani Syariah Bina Usaha (Mr.Mul) has indicated a high level of society trust in saving their money to be managed by the cooperative. When he was asked about the amount of investor and the payment of dividend to the investors, he confidently said:

*“...lumayan banyak lebih dari 100 investor,... Alhamdulillah kita tidak pernah (tidak membayar dividen, malah untuk bulan ini (mei 2017) kami siapkan dana untuk pembayaran tabungan sekolah sebanyak 1,6 milyar soalnya kami juga menerima tabungan sekolah)”*

Lot of amount of venture capital managed by Koperasi Tani Syariah Bina Usaha is resulted from a hard effort of the staffs in promoting the activities and businesses especially loan and saving service. It is shown in the interview with Mr. Mul about the investors’ development;

*“...kita kan disini berkembangnya juga karna kawan-kawan, kita disini tenaga lokalnya saja 29 orang, teman-teman disini bergerilya, artinya mengajak orang untuk menjadi anggota,*

*disamping menjadi untuk menabung yang 1000/2000 mungkin ada keluarganya yang dari Malaysia...malah di janapria ini lumayan masyarakatnya penghasilan dari luar juga besar”.*

The data below has reconciled the statement above as shown as follow;

Table 2

The deposit and saving list of Koperasi Tani Syariah Bina Usaha on April 30<sup>th</sup> 2017

NO	Contract No.	Name	Amount	saving starting	Contract	Agent Name	Interest Return							
							1	2	3	4	5	6		
3		Ira	9,000,000	2/14/2017	3 month	Zakaria	1							
4		Haini	12,000,000	3/15/2017	3 month	Jamaludin								
6	20111081	Maharudin	50,000,000	2/17/2017	6 month	Zulkarnain	1							
7	201600..	Aziz	75,000,000	1/21/2017	3 month	Hanan	1	1						
12		Mulhakim	2,000,000	2/3/2017	3 month	Mulhakim								
107	Nasrudin	Nasrudin	120,000,000	2/22/2017	3 month	Hanan								
166		Tiok	8,000,000	4/11/2017	5 month	Zakaria								
169		Hidayatulah	20,000,000	4/13/2017	4 month	Zulkarnain								
JUMLAH			3,322,537,500											

*Source: Deposit Data Of Koperasi Tani Syariah Bina Usaha April 2017*

The table shows that 169 investors have entrusted some different amount of money, from Rp. 2.000.000 as the lowest amount until Rp.120.000.000 as the highest one. Those venture capital in syariah context is called mudharabah; an agreement (cooperation) between two parties, where one of them gives capital to the other to be managed and developed. Meanwhile, the profit should be divided to both parties according to their agreement. Such agreement is commonly known as sharing profit. However, it is factual that the recording and reporting model used by the cooperative still uses the term interest to substitute profit sharing. Thus, it shows a paradox in their recording system. Besides, an observation result on mudharabah deal made by Koperasi Tani Syariah Bina Usaha shows that the cooperative has given 1% of dividend called Sisa Hasil Usaha (SHU) to investors. As described in picture 2 of mudharabah model, the SHU is given monthly in flat percentage. It is definitely against syariah principles where a management of venture capital should consider not only profit but also

possible loss that might be experienced. Moreover, it shows the existence of syariah paradox in cooperative pattern between the cooperative and investor. When confirmed to Mr.Syukur, the term of interest even more practically used to explain the dividend instead of profit sharing as stated in mudharabah system. Some documents below showed the paradox of shariah occurred in Koperasi Tani Syariah Bina Usaha:

Picture 2.

Deposit Saving Program

**KOPERASI TANI BINA USAHA**  
BH NO. 52/BH/KDK.23.2/IV/1999 Tanggal 14 April 1999  
Alamat Montong Bila Desa Pendem Kecamatan Janapria Kabupaten Lombok Tengah

**PROGRAM TABUNGAN DEPOSITO**

NO KONTRAK : 20170400125  
NAMA ANGGOTA : JAWIYAH  
TTL : KUANG MAYUNG, 16-05-1947  
ALAMAT : KUANG MAYUNG-KEREMBONG-JANAPRIA  
NO KTP : 5202071605470001  
PEKERJAAN : BURUH TANI/PEKEBUN  
LAMA KONTRAK TABUNGAN DEPOSITO : 4 BULAN  
KONTRAK BERAKHIR PADA TANGGAL : 17 AGUSTUS  
JUMLAH TABUNGAN BERJANGKA : Rp 13.000.000  
CARA MENABUNG : Tunggal

SHU DITERIMAKAN SETIAP BULAN SEBESAR : 1,00% YAITU :Rp 130.000

SHU YANG DITERIMA ANGGOTA BERDASARKAN HASIL PENGEMBANGAN TABUNGAN YANG SUDAH MASUK .

DITERBITKAN DI MONTONG BILA, 17 APRIL 2017  
KOPERASI TANI BINA USAHA  
MANAGER SIMPAN PINJAM,  
ZULKARNAIN, S.Pd

Picture 3a.

Cow Breeding Program

**Koptan BINA USAHA**  
Montong Bila Desa Pendem Kec. Janapria Kab. Lombok Tengah NTB  
BH. No. 52/BH/KDK.23.2/IV/1999 Tanggal 14 April 1999

**SURAT PERJANJIAN AKAD PENGKADASAN PETERNAKAN PENGGEMUKAN SAPI**  
No: 23/SP-4-01.KBU/12/2014

Pada hari ini Rabu tanggal dua puluh empat bulan Desember tahun Dua Ribu Empat Belas telah dibuat dan ditanda tangani Akad Perjanjian Pengkadasan Peternakan Penggemukan Sapi dengan rincian sebagai berikut :

Yang bertanda tangan di bawah ini :

Nama : ABDUSY SYUKUR  
Tempat/ tanggal lahir : Montong Bila, 01 Juli 1978  
Pekerjaan : KETUA KOPERASI TANI BINA USAHA  
Alamat : Montong Bila Desa Pendem Kec. Janapria Kab. Lombok Tengah – NTB  
Agama : Islam  
Nomor Anggota : 2008110001  
Nomor KTP : 5202070107760194  
Telepon : 087864330137

Dalam hal ini bertindak atas nama Koptan Bina Usaha yang selanjutnya disebut Pihak Pertama

Nama : AMAQ HARUDIN  
Tempat/ tanggal lahir : Berombok, 31 Desember 1963  
Pekerjaan : Tani  
Alamat : Berombok  
Agama : Islam  
Nomor Anggota : 200800029

Picture 3b.

Cow Breeding Program

- Pihak pertama berkewajiban untuk mengadministrasikan dan menyiapkan sarana dan prasarana kandang serta memelihara kandang kolektif dengan standar keamanan yang baik untuk digunakan oleh pihak kedua
- Pihak kedua harus merawat dan memelihara ternak di dalam kandang kolektif yang dibuat oleh pihak pertama dan tidak boleh dibawa keluar/pulang kecuali atas izin pihak pertama
- Pihak kedua berkewajiban untuk membayar sewa kandang senilai Rp. 100.000,- (seratus ribu rupiah) per-ekor sapi setiap tahun dan dibayar selambat-lambatnya 1 (satu) minggu setelah penjualan sapi.
- Dalam hal keamanan, Pihak kedua berkewajiban untuk menjaga/ronda sesuai dengan jadwal ronda yang sudah disepakati bersama dengan pihak pertama dan pihak pertama berkewajiban untuk melakukan kerjasama dengan aparat kepolisian setempat

**Pasal Tiga**

Kedua belah pihak sepakat akan mengambil zakat senilai 10 % dari keuntungan sebelum dibagi untuk diarahkan ke masjid dan atau fasilitas umum lainnya dan keuntungan setelah dipotong zakatnya akan dibagi dengan system sebagai berikut :

No	Keuntungan 100% setelah zakat	Pihak pertama	Pihak kedua	operasional
1	100%	40%	50%	10%

**Pasal Empat**

Apabila terjadi resiko kehilangan ternak yang disebabkan oleh pencurian dan atau perampokan dan atau kematian yang disebabkan oleh penyakit dan atau hal lain yang tidak terduga maka kedua belah pihak sepakat untuk menanggung resiko kerugian bersama dengan ketentuan bahwa pihak kedua terbukti tidak ada unsur kesengajaan setelah diadakan penyelidikan oleh pihak berwajib.

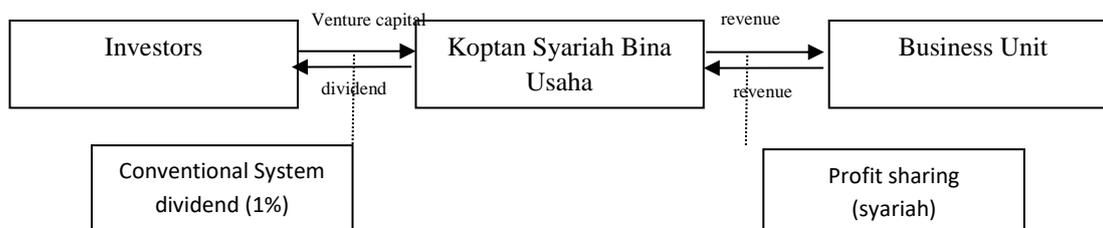
**Pasal Lima**

Perjanjian ini, maka akan dilakukan perbaikan bersama

Based on the findings, a cycle of venture capital management conducted by Koperasi Tani Syariah Bina Usaha in which brings in revenues could be explicitly pictured as follows:

Picture 4.

The cycle of venture capital and revenue management of *Koperasi Tani Syariah Bina Usaha*.



It is shown in the cycle that there is still revenue, which is not fully based on *syariah* system, such as 1% dividend payment to investors and cooperative members. Neither provision nor clause about the probability of loss has been stated on the contract. Confirmed about it, Mr. Syukur clearly answered as cited below:

*"Ya karena ada 1 % kesepakatan, sulit bagi kami, betapa beraninya kami memastikan kami akan menepatkan 1% besok"*.

According to Syariah Enterprise Theory (SET), This condition has definitely become a paradox in the application of *syariah* since the committee and investors have made an agreement or contract contrarily with the principles of Islam. Rasulullah SAW has been strictly explained it in hadits:

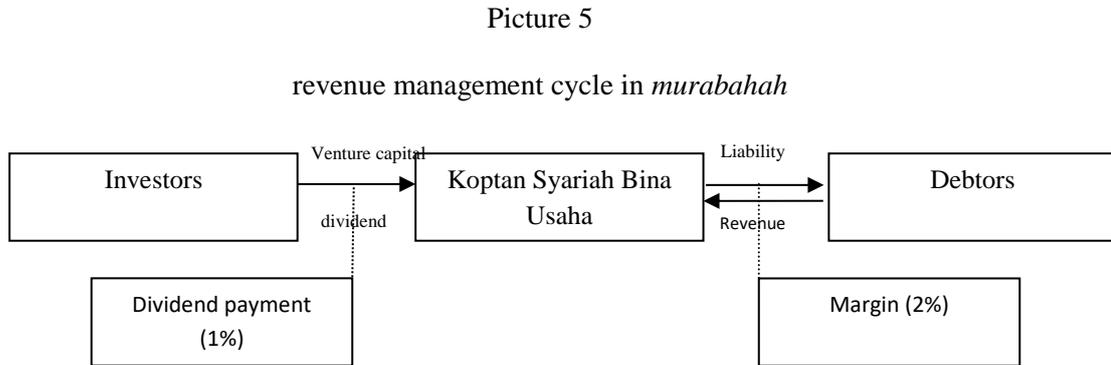
*"Who earn money from haram way then he gives it for charity, he will not get any reward, yet a sin is upon him."* (HR. Ibnu Khuzamah, Ibnu Hibban, and Hakim)

As well as venture capital management cycle, the program of members financing (Murabahah) did not represent the syariah system. The debt confession system conducted by Koperasi Tani Syariah Bina Usaha has charged the borrowers to return the money more than they received. 2% margin has stated to be paid by borrowers. The only reason has been made by committee is that it is like trading so legally make it on syariah framework. But ones the committee was asked about the persistence of the goods, Mr. Syukur clearly answered none. As quoted below:

*"2% itu masing ngeganjel, karena kalau murabahah kan harus ada barang yang dibeli, trus ada penjual dan ada pembeli...nah ini..barang tidak ada, apalagi yang sifatnya kebutuhan"*

kecil-kecil..kalau yang besar seperti mobil sih bisa dibawakan BPKBnya"... "prinsip syariah sebenarnya taawun ..tolong menolong jadi tidak ada boleh lebih pengembaliannya".

According to the explanation, a cycle of revenue management on murabahah system could be drawn as follow:



From that cycle, it could be said that the 2% margin applied to the members still becomes a debatable thing, because of a *syariah principle* of helping each other (Taiwan). Moreover, the stuffs bought using the loan money cannot always be watched its truth. It is another paradox of the implementation of *syariah*-based cooperative. Another document below has proved the findings

Picture 6  
Debt Confession Letter

KOPERASI TANI BINA USAHA Alamat Montong Bila desa pendem kecamatan Janapria	
<b>SURAT PENGAKUAN HUTANG</b>	
NO KONTRAK	: 20170400354
No anggota	: 201300343
Nama	: RUSDI SARIF
Tempat Tanggal Lahir	: RAJA, 01-07-1959
Alamat	: RAJA-KEREMBONG-JANAPRIA
No SIM/KTP	: 5202070107590112
Mengaku benar menerima pinjaman	
Mata uang	: Rupiah
Besar pinjaman	: 15.000.000
dan telah saya terima dari Koperasi Tani Bina Usaha pinjaman bersih dengan perincian sbb:	
a. Jumlah pinjaman	15.000.000
b. Potongan administrasi	100.000
c. Matrai	14.000
d. Propisi Koperasi	300.000
<b>Terima Bersih</b>	<b>14.586.000</b>
Saya telah memahami dan menyatakan setuju dengan syarat dan aturan yang berlaku di Koperasi Tani Bina Usaha tentang pinjaman dan saya setuju pengambilan pinjaman tersebut diatas diansur setiap tanggal jatuh tempo angsuran yaitu tanggal pengambilan pinjaman setiap bulan selama 18 bulan dengan perincian sbb:	
a. Angsuran pokok	833.333
b. Angsuran bagi hasil	412.500
Jumlah angsuran	1.245.833
Dalam hal angsuran tidak saya bayar pada saat jatuh tempo dan dikenakan masa toleransi tiga hari dari jatuh tempo, maka saya bersedia dikenakan denda atas angsuran dan pem bagian hasilnya yang tertunggak setiap Minggu 2% sebagai kompensasi kerugian Koperasi Tani Bina Usaha atas tertundanya pembagasan angsuran saya tersebut. Apabila kemudian hari saya tidak membayar angsuran berturut-turut selama tiga bulan, saya bersedia menyerahkan barang jaminan saya dan jika 15 hari setelah penyerahan jaminan saya tidak selesaikan tunggakan angsuran pinjaman, maka jaminan itu sepenuhnya menjadi hak milik Koperasi Tani Bina Usaha. Pinjaman ini dengan jaminan satu unit Sepeda Motor/Mobil beserta perlengkapannya dengan ciri-ciri fisik sebagai berikut :	
jaminan :	BPKB
Nama Pemilik	: MERDEKA MUHARANI
NO POLISI	: DR 6303 BV
MERK	: YAMAHA
JENIS	: SP. MOTOR
NO MESIN	: 31B-898899
NO RANRKA	: MH331B004B898748
NO FAKTUR	: 18699/84/LB0501-1081
Mengesahkan	Montong bila, 15-Apr-17
MANAGER SIMPAN PINJAM DAN INVESTASI	Peminjam

## **5. Conclusion, Implication and Limitation**

### *5.1. Conclusion*

The phenomenon of Shari'ah paradox occurred during the transformation of Koperasi Tani Syariah Bina usaha was a picture of how difficult the pure syariah could be implemented. Although, Koptan Syariah Bina Usaha has legally transformed from conventional to shariah cooperative since 2014, its legal entity certificate hasn't been approved by local authority. Moreover, improper financial management that impact on nonhalal revenues earned was such a kind of shariah paradox. Shariah paradox arises from the existence of contracts agreements that still deviate from shariah. Stipulation of 1% dividend payment to investors without considering the possibility of loss faced by cooperative on mudharabah system and 2% margin earning from any financing program through murabahah system have proved the existence of the paradox. The paradox occurred wasn't only in spite of less competence of committee in understanding shariah but also the difficulties in convincing the members as well as the government. Since the paradox was still very difficult to be eliminated, gradual socialization and education have been taken by Koptan Syariah Bina Usaha in order to implement pure Syariah in every single of its business. Furthermore, some creative programs have also been held by the cooperative to attract new member.

### *5.2. Implication*

Theoretically, this research is expected to enrich the explanation of phenomenon analyzed by other researchers who used Syariate Enterprise Theory (SET) as their basis of explanation. Moreover, this research is expected to have implications for local government policies to speed up administrative processes or to conduct ongoing coaching for any Shariah-based cooperatives. In addition, this study is expected to provide a portrait of the problem faced by Shariah-based cooperatives, especially Koptan Syariah Bina Usaha, in implementing pure shariah whereas they have legally had the certificate of transformation.

### *5.3. Limitation*

This study defines the limitations of paradox portrait in implementing shariah which is described in this study only sourced from the internal organization through face to face interview instead

of external organization. Data mining, information and confirmation need to be done further to the external stakeholders, such as regional government. To obtain in-depth and comprehensive information, interviewing the actors (members of cooperative) is also needed. Interviews could be focused on the reasons why the investors still want to earn the revenues from usury practices conducted by Syariah-based cooperative. Finally, next researchers also need to explore deeply about time series data in order to improve the quality of research.

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