

Subjects of debt: Financial subjectification and collaborative risk in Malaysian Islamic finance

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**Subjects of Debt:
Financial Subjectification and Collaborative Risk in Malaysian Islamic Finance**

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ABSTRACTS

Subjects of Debt:

Financial Subjectivication and Collaborative Risk in Malaysian Islamic Finance

This article argues the Malaysian state has developed Islamic finance in conjunction with two distinct strategies of subject formation. In its first phase in the 1980s a central objective was the financial inclusion of Malays. Islamic finance was part of an identity-building project and intended to integrate this disadvantaged indigenous majority into the national economy. By the 2000s the state had succeeded in fostering a Malay Muslim middle class through aggressive affirmative action policies. Currently Islamic finance is being redeployed as a technique for the neoliberal entrepreneurialization of the Malay Muslim population. Empirically this shift is evident in efforts by experts to move Islamic finance away from a reliance on what they call “debt-based” devices to ones referred to as “equity-based.” This entails substituting devices that reformers contend replicate the credit and lending instruments characteristic of “conventional finance,” with instruments instead premised on investment, partnership, and risk sharing that they argue more faithfully adhere to the discursive tradition of Islam.

رعايا الديون:

تكوين الذات المالي وتقاسم المخاطر في التمويل الماليزي الإسلامي

تحاول هذه المقالة في نصها أن تجادل أن الدولة الماليزية قامت بتطوير التمويل الإسلامي من خلال استراتيجتي "تكوين رعية –subject formation" مختلفتين. ففي المرحلة الأولى من هذا التطوير خلال ثمانينيات القرن الماضي هدفت الاستراتيجية المتبعة آنذاك إلى الإدماج المالي للماليزيين. حيث في ذلك الوقت كان التمويل الإسلامي جزء من مشروع بناء هوية وكان يعمل على دمج الأغلبية المحرومة من السكان الأصليين ضمن المنظومة الاقتصادية الوطنية لماليزيا. وبحلول القرن الحادي والعشرين نجحت الدولة في تبني وإدماج الطبقة الوسطى من السكان الأصليين المسلمين من خلال سياسات "العمل الإيجابي –affirmative action" الفعالة. أما في الوقت الحالي فيتم إعادة وزيع منظومة التمويل الإسلامي كأسلوب لتشجيع التحول الريادي النيوليبرالي بين السكان الماليزيين المسلمين. و بصورة نظرية فإن مثل هذا التحول يمكن تبيينه من خلال الجهود التي يقوم بها المختصون لتحريك التمويل الإسلامي بعيدا عن ما يسمى بالوسائل المالية "المبنية على الدين debt-based" إلى الوسائل "المبنية على المساهمة –equity-based". مما يتطلب إبدال الوسائل التي يرى القائمون على الإصلاح، أنها تكرر مفاهيم التسليف والقرض التي تعد صفة مميزة "للتمول التقليدي"، بوسائل أخرى مبنية على أسس الاستثمار والشراكة وتقاسم المخاطر والتي يراها المختصون مفاهيم تطابق بصورة أكبر تقاليد التمويل المتبعة في الإسلام.

Subjek Hutang:

Pembentukan Subjek Kewangan dan Risiko Bersama dalam Kewangan Islam Malaysia

Artikel ini bertujuan untuk membincangkan perihal negeri Malaysia yang telah membangunkan kewangan Islam seiring dengan dua strategi berbeza dalam pembentukan subjek tersebut. Dalam fasa pertama yang berlangsung sekitar tahun 1980-an, objektif utama adalah kemasukan masyarakat Melayu dalam bidang kewangan. Kewangan Islam adalah sebahagian daripada projek pembangunan identiti yang bertujuan untuk

mengintegrasikan majoriti daripada kelompok bumiputera yang kurang bernasib baik dalam ekonomi negara. Menjelang tahun 2000-an, negeri ini telah berjaya mengangkat kelas pertengahan Muslim Melayu asli melalui dasar-dasar tindakan afirmatif yang agresif. Pada masa ini, kewangan Islam diatur semula sebagai teknik untuk pengusahawanan neo-liberal masyarakat Melayu Islam. Secara empirik, peralihan ini amat ketara dalam usaha para pakar untuk menggerakkan kewangan Islam dari kebergantungan pada apa yang mereka namakan peranti "berasaskan hutang" kepada apa yang disebut sebagai "berasaskan ekuiti." Ini melibatkan penggantian peranti yang dihadapi oleh reformis dalam meniru ciri instrumen pinjaman dan kredit "kewangan konvensional," dengan instrumen dan bukannya berasaskan pelaburan, perkongsian, dan pengongsian risiko yang mereka teguh menekankan sebagai lebih mematuhi tradisi wacana Islam.

On a typically muggy day in November 2013 I sat in a drab meeting room on the seventh floor in one of three tower blocks that comprise the Malaysian's Central Bank's headquarters in Kuala Lumpur. Built of dreary concrete in the 1970s with a grey visage, narrow horizontal slits for windows, and the dull lines of an army bunker, the building would be unlikely to elicit a glance from most passersby (see figure 1). However, Malaysia's Central Bank (commonly referred to as Bank Negara Malaysia or BNM) has played a highly visible role in Malaysia's ambitious efforts to make the capital, Kuala Lumpur, into what one participant in my research referred to as "the New York of the Muslim world"—a central node in an emerging global Islamic financial network. Fieldwork among Islamic finance experts engaged in this initiative required regular visits to the bank and on this occasion I was interviewing two employees of the Islamic Banking and Insurance Department, the bank's unit responsible for regulating Islamic finance in the country, to discuss the Islamic Financial Services Act (IFSA) a new Islamic banking law passed earlier in the year by Malaysia's parliament.

Midway through our conversation I brought up the objections to the new law that had been voiced by banking executives and other industry insiders with the two Bank Negara employees. They nodded knowingly, but smiled indifferently. Khairul, the deputy manager in the Islamic Banking and Insurance Department, leaned forward in his chair and told me in determined tones that after thirty years of growth, the industry needed to change the practices of Islamic finance in the country. He said that the industry had reached “the stage where they are mature and ready to make experiments and innovation.” The recent reforms were designed to initiate the process of reformulating Islamic finance around investment and equity, rather than debt.

During our conversation Khairul and his deputy, Shamsul, shrugged off the vociferous protestations of Islamic banking professionals. The central bankers asserted that the new law and other recent reforms should be viewed not as an obstacle to the growth of Islamic finance, but instead as the opposite: an incitement to innovation, risk-taking, and entrepreneurship. Khairul said “they complain...but we told them, ‘this is the opportunity for Islamic banks to do something bigger than what the conventional banks can do. The conventional banks can only do deposits and lending, but Islamic banks can do more than that! You can do lending, you can do financing, you can do venture capital, you can do a lot of things under these regulations.’” Shortly thereafter Shamsul optimistically asserted that Islamic banks in Malaysia needed to embrace the potential for increased profit that came with taking the greater risks. He saw this as the benefit of substituting investment for debt as the central means for the mobilization of capital in Islamic finance. Referring to the new regulations promoting riskier, non-guaranteed, profit-sharing accounts based on a *mudaraba* partnership contract, which was used by the

prophet Muhammad, Shamsul said “we typically think of risk in terms of losses, but there might be benefits too. Everyone sees risk as the possibility of losses” but one could instead view it as “the possibility of gains.” Khairul and Shamsul both suggested that Islamic finance should be reformed to be more conducive to what I contend is a version of neoliberal economic growth that stresses entrepreneurship, risk taking, innovation, and commercial autonomy, but also relies on what I conceptualize as collaborative risk.



Figure 1: The headquarters of Malaysia’s central bank, Bank Negara Malaysia (BNM).

This essay argues that recent efforts to reform Islamic finance in Malaysia to embrace investment rather than debt, and “risk-sharing” instead of “risk-transfer,” represent a shift in how Islamic finance has been conscripted in the project of national

development. Developing the notion of “financial subjectification,” I argue that the initial iteration of Islamic finance, beginning with its establishment in 1983, was enlisted in the Malaysian state’s affirmative action project, which sought to improve the economic fortunes of the majority Muslim Malay population by integrating them into the national economy. However, in the past decade commensurate with shifts in both domestic politics and global commerce, Islamic finance has been reformulated to elicit entrepreneurial dispositions among a Muslim Malay population that is perceived by some to have become complacent and entitled due to affirmative action policies that afforded this majority population privileged access to state largesse. I demonstrate that this reformulation is evident in efforts to change the underlying contracts used in Islamic financial transactions. Thus, rather than deploying what my interlocutors referred to as “debt-based” contracts that replicate the structure of interest-bearing loans, in Malaysian Islamic finance today there are increasingly vocal calls to shift toward “equity-based” contracts that promote investment, partnership and risk-sharing. Building on work that has examined the articulation of state power and market exchange (Vasantkumar 2016) and Islam and entrepreneurialism (Fischer 2013; Isik 2010; Osella and Osella 2009; Sloane 1999), I argue that this shift creates a form of Islamic neoliberalism that deploys contractual forms endorsed in Islam’s main texts, the Qur’an and the hadiths, to elicit entrepreneurial, risk-taking subjects, who are less dependent on state patronage. In so doing, I further argue that this form of neoliberalism is distinctive for its refusal of a rationally self-interested subject and its embrace of what I term collaborative risk.

In so doing, I seek to contribute to recent work in the human sciences on neoliberalism. Recently a number of scholars have questioned the utility of this concept

(Kingfisher and Maskovsky 2008). Anthropologists have criticized the deployment of neoliberalism as an analytical category due to a perception that it homogenizes actually existing processes and treats empirical phenomena as merely the effects of a neoliberal epoch, culture, age, or macrostructure. While the concept has been used perhaps too broadly in some instances, it is too analytically valuable to be indiscriminately discarded. Indeed, work in anthropology has made critical interventions in understanding neoliberalism as both an empirical and conceptual object (Elyachar 2012; Freeman 2014; Rudnyckyj 2009). Outside the North Atlantic, and in some cases even within it, neoliberalism can take on strikingly different forms and merge with other political and cultural forms to take on characteristics that look quite different from that envisioned by the Freiburg or Chicago schools of economics (Atia 2013; Collier 2011; Richard 2009; Schwittay 2011). Building on this work, this essay demonstrates how neoliberal representations frame economic knowledge and practice, even in financial experiments that are conceived in explicit contrast to the conventional financial order with centers of power that largely reflect a colonial political and economic map.

FINANCIAL SUBJECTIFICATION

My approach to neoliberalism builds on Michel Foucault's far-sighted analysis, which treats neoliberalism as a set of practical techniques to introduce economic rationality into domains that were previously considered external to market logic (Foucault 2008). Foucault writes that neoliberalism is dedicated toward taking "the formal principles of a market economy and...projecting them on to a general art of government" (2008:131). In this sense it is a political project that seeks to extend

economic rationality to domains from which it was previously excluded. In Foucault's formulation neoliberalism entails "extending the economic model of supply and demand and of investment-costs-profit so as to make it a model of social relations and of existence itself, a form of relationship of the individual to himself, time, those around him, the group, and the family" (2008: 242). In this sense, Foucault points to economists associated with the University of Chicago, especially Gary Becker, to show how a preoccupation of neoliberalism is the cultivation of human capital and the creation of a risk- and profit-calculating subject. Drawing on Foucault's account, Nikolas Rose refers to "advanced liberalism" as a technique of government in which all "aspects of social behavior are now reconceptualized along economic lines—as calculative actions undertaken through the universal human faculty of choice" (Rose 1999, 141). Efforts to shift from debt to equity as the technology of financial subjectification in Islamic finance today reveal efforts to elicit an entrepreneurial, risk-calculating subject, although this subject differs in key ways from that posited by what Foucault called American "anarcho-capitalism" (2008: 145), most notably in its reliance on what I conceptualize as collaborative risk.

Building on Foucault's observation that neoliberalism entails the "generalization" of the enterprise form and defining individual action according to an economic logic of "investment-costs-profit" scholars have demonstrated how neoliberalism is premised on the inculcation of entrepreneurial values (Burchell 1996, 29; Shever 2008). Scholars have further shown how the valorization of market efficiency in neoliberalism entails the production of subjects who are attuned to risk calculation and skilled at risk taking (Zaloom 2004). Others have shown how neoliberalism is premised on the individual

autonomy of economically rational subjects (Ferguson 2010, 174; Gershon 2011, 541). This essay argues that these elements are evident as experts in Malaysia have sought to recast Islamic finance from a technique for enhancing the economic fortunes of an historically disadvantaged group to a means of creating an entrepreneurial, autonomous, and risk-taking population.

This essay documents what I term “financial subjectification,” which I define as the deployment of financial devices to inculcate and elicit subjective dispositions, modes of fiscal being, and courses of economic action. In taking this approach I build on contemporary work in the anthropology of finance that has showed how financial practices and technologies shape both subjects and selves (Holmes 2014; Miyazaki 2013; Zaloom 2016). The sociologist and philosopher Maurizio Lazzarato insightfully demonstrates how debt is a technology of subjectification by noting that the recent technologies of debt are “part of a long process in which we have witnessed techniques for making a debtor ‘subject’” (Lazzarato 2012, 131). Lazzarato refers to the subject of debt as “homo debtor” (or the indebted human) and connects the emergence of this subject to the broader decline of the welfare state and deployment of neoliberal technologies of government (Lazzarato 2012, 127).

The concept of financial subjectification builds on recent anthropological work on microfinance that has also demonstrated how debt serves as a powerful technique of subjectification (Kar 2013; Schuster 2015). Lamia Karim, for example, has documented how institutions such as the Grameen Bank create subjects of debt in an “economy of shame” (Karim 2011, 84-86). In related work, Natascha van der Zwan has explored how “the financialization of the everyday” entails a broad project of financial subjectification

in which human beings are incorporated into “financial markets through participation in pension plans, home mortgages and other mass-marketed financial products” (van der Zwan 2014, 102).¹ Islamic finance experts in Malaysia today are keenly aware of the mobilization of debt as a technology of subjectification and I argue that their substitution of equity for debt posits a different economic subject than that characteristic of conventional finance. Furthermore, I seek to document how experts engaged in such experimental projects create new forms of capitalism (Ferguson 2015; Holmes 2014; Rofel 2007).

The spectacular growth of Islamic finance in recent years has attracted a great deal of scholarly interest (Calder 2010; Tobin 2016; Warde 2010). However, most social scientific work on Islamic finance has been dominated by two central arguments. On one hand, scholars have criticized Islamic finance for its failure to achieve the moral prescriptions of Islam, such as greater equality and social justice (Asutay 2012). On the other hand, scholars contend that it is little more than a second-rate imitation of conventional finance adorned with a religious veneer. Arguably, the prevailing question in qualitative approaches to Islamic finance in the human sciences has been to evaluate the extent to which Islamic finance offers a genuine alternative to conventional finance or merely represents a superficial façade (El-Gamal 2006; Kuran 1997; Maurer 2005; Pitluck 2013; Rethel 2011). This article seeks to move this body of scholarship beyond this question by showing how Islamic finance experts *themselves* are posing the problem of the alternative potential of Islamic finance and to document some of the concrete experiments in which they are engaged to do so. In making this move I build on work that has shown how contemporary Muslims are actively working to adapt modern institutions

and practices to the imperatives of Islamic action (Hoesterey 2016; Rudnycky 2010, 2014; Silverstein 2011; Walton 2013).

My argument is primarily based on observation of, and interviews and participation with, four key groups of experts active in Malaysian Islamic finance that took place between 2010 and 2015. These experts included: banking regulators, shariah scholars, practitioners, and Islamic economists. Regulators, such as Khairul and Shamsul, were primarily employed by either the Malaysian Central Bank or the Islamic Financial Services Board (IFSB). The IFSB is an international body based in Kuala Lumpur that is developing global standards for Islamic finance and is analogous to the Basel Committee in conventional banking. Shariah scholars generally hold specialized training in the discipline of Islamic jurisprudence (*fiqh*) and are hired by Islamic financial institutions to sit on committees that evaluate and approve the products offered. It is the role of shariah scholars that perhaps most distinguishes Islamic finance from its conventional counterpart, as it would be somewhat analogous to having a group of Christian theologians trained in religious law tasked with approving the products offered by a major conventional bank, such as Citibank. The third group with which I engaged were Islamic finance professionals ranging from senior executives to those employed at lower levels in the hierarchies of Islamic financial institutions. Finally, I interacted with self-described “Islamic economists” who typically had university degrees in conventional economics from universities outside the Muslim world and teach at universities or work in institutions such as the World Bank or IMF. Islamic economists emphasize the compatibility of Islam and secular economics, but were generally more comfortable deploying the theories and mathematical models of economists such as Keynes,

Friedman, and Irving Fischer, rather than the hermeneutic methods deployed by the shariah scholars. I found that it was Islamic economists, not shariah scholars, who were most insistent that Islamic finance need to reform to become less reliant on debt-based instruments and increase the use of investment-oriented ones. Although they did not explicitly conceive of this shift in terms of neoliberalism, as I detail below the language that they used to described it relied on neoliberal notions such as risk taking and management, profit and loss calculation, economic autonomy, and entrepreneurship.

SOMNOLENT CAPITAL AND FINANCIAL INCLUSION

The deployment of Islamic finance as a means for integrating Malays into the national economy can be traced to the colonial period. As the British increased their domination of the Malay Peninsula in the nineteenth century, Islam was deployed as a category through which the colonizers differentiated between what they classified as an indigenous Malay population and inhabitants who had migrated to the peninsula from elsewhere in Asia (Hirschman 1987). These migrants were mainly from China and India and their numbers increased rapidly as the colonial economy expanded and the demand for labor increased during the era of high colonialism, creating what became known as a “plural society” (Furnivall 1948). Colonial rule was premised on a political economy in which subject populations were created through the various knowledge technologies introduced by the British, such as the census. Although the three main racial groups produced through what the anthropologist Shamsul A.B. terms “colonial knowledge” were culturally and linguistically heterogeneous, prior to independence in 1957, they were differently incorporated into the colonial economy (Shamsul 2001). For the most

part those of Indian extraction were plantation or public works laborers, citizens of Chinese descent mainly pursued industrial, mining, and entrepreneurial activities, and Malays were largely rural and overwhelmingly engaged in subsistence practices such as small-scale agriculture or fishing (Chin 1998, 41).

The plural society, largely produced through colonial knowledge, erupted in conflict after Malaysian independence, as inhabitants of Chinese descent were perceived to have profited more from the colonial economy and enjoyed better economic standing after the end of British sovereignty compared to the majority Malay population. In the aftermath of widespread riots in 1969, the state introduced the New Economic Policy (NEP) of which a foremost objective was to eliminate the economic underdevelopment which afflicted the Malay population (Crouch 1996; Jomo 2004). In practice, the NEP created an “urban, educated...and shareholding Malay middle class” (Fischer 2008, 33) through affirmative action policies that provided those identified as Malay with privileged access to state resources, such as civil service positions, business licenses, government contracts, access to secondary education, and other benefits (Peletz 2002, 7-9). In 2010, of Malaysia’s population of roughly thirty million the state identified twenty-five percent as Chinese, seven percent as Indian, and sixty-seven percent as *bumiputra* (indigenous) (Department of Statistics Malaysia 2010). The category of *bumiputra* (literally “sons of the soil”) includes both Malays and non-Malays, with Malays comprising about 51% of the total national population. Roughly 60% of the population is identified as Muslim, but Islamic religious practice is a defining feature of Malay identity. In fact, the definition of a Malay according to the federal constitution is “a person who professes the religion of Islam” (Federal Constitution of Malaysia 2013,

article 160). The vast majority of Malaysians of Indian and Chinese descent are non-Muslim.

The founding of Malaysia's first Islamic bank, Bank Islam in 1983 was explicitly intended as one technique to integrate Malay Muslims into the modern economy. Gustav Peebles has analyzed financial inclusion in Europe during the 1800s when citizens were enjoined to store capital in national savings banks, rather than their surplus funds "merely moldering in a mattress" (Peebles 2008, 235). This process was part of the civilizing imperative of the modern state, which sought to transform the new wage-earning masses "from irrational into rational subjects, from solipsistic barbarians into community-oriented civilized folk" (Peebles 2008, 253). A similar project of subjectification through financial inclusion is evident in the initial iteration of Malaysia's Islamic finance project. In the 1980s, more than a quarter of a century after independence, there was a sense that the majority of this population did not participate in the institutionalized commerce of the nation. As in Peebles's account of the creation of banked subjects, I found metaphors of somnolent capital dozing in the nation's bedchambers common among Malaysians recounting the history of Islamic finance in the country. A frequent image was that many Malays, in part due to their observance of the Qur'anic prohibition on interest, kept their savings "under the pillow," rather than committing a grievous sin by collecting interest through opening a banking account.

As in Peebles case, financial inclusion through banking was specifically designed to incorporate the "unbanked" into the national economy, although in Malaysia this required overcoming moral and specifically religious objections to conventional finance. As Daud Vicary, the former CEO of Hong Leong Islamic Bank, explained to me, the

state's initial foray into Islamic finance was intended to bring "the financial empowerment and financial inclusion of the Malays." As such, the initial impetus for Islamic finance fit within the broader rubric of the state's affirmative action program for the indigenous Malay population. At the heart of what became known as the Malaysian "modernity project" (Chin 1998) was the economic advancement of the majority Malay Muslim population which entailed the rapid creation of a middle class that, as Johan Fischer has shown, identified so strongly with Islam that a whole new market for goods and services explicitly marked as Islamic, either through *halal* labeling or other sorts of religious branding, was created (Fischer 2011). Initial efforts to develop Islamic finance were part of efforts to foster a new Muslim middle class in Malaysia and participation in Islamic banking grew rapidly through the 1980s and 1990s.

Islamic finance was thus part of a broader state agenda to foster a prosperous and governable population in an image conceived of and desired by the state. As Michael Peletz has shown, the Malaysian state under Mahathir aggressively deployed Islam in both the public sphere and a network of shariah courts to mold its Malay citizens (Peletz 2002). In addition, the state promoted a version of Islam commensurate with the production of a middle class with skills and knowledge desired by transnational corporations but which was simultaneously reliant on state benevolence, creating what Aihwa Ong called "calculative but dependent subjects" (Ong 1999, 203). Recent efforts to shift from debt to investment shows how Islamic finance is being redeployed. Whereas the earlier project of financial inclusion created calculative, but passive consumers, the new project is formulated in terms of investment and equity and designed to elicit agentive, entrepreneurial producers.

FROM PASSIVE CONSUMERS TO KNOWING SUBJECTS

By the 2010s the state's objective for Islamic finance had shifted from financial inclusion to entrepreneurialization, by which I refer to strategies intended to inculcate practices, such as risk-taking, profit and cost calculation, individual initiative, and innovation in the country's Malay population. In part this shift was attributable to both Malaysia's changing position in the global economy and domestic political contestations. Malaysia's strategy of export-led growth during the 1970s and 1980s had made the country a model of development success (Jomo 1991). Following the lead of other "Asian tiger" economies such as Hong Kong, South Korea, and the country's close neighbor, Singapore, between the 1970s and 1990s, Malaysia had aggressively pursued foreign direct investment by establishing special zones for industrial assembly where multinational firms were enticed to establish production facilities for high tech and other commodities through tax incentives, modest wages, a stable political system, and a well-trained and docile laboring population (Ong 1987). However, the country's standing was threatened by the emergence of China as the preeminent destination for industrial production in Asia, competition for foreign investment from other countries in Southeast Asia such as the Philippines, Indonesia, and Thailand, and the increasing wage demands of the new middle-class labor force.

As Malaysia's export-oriented development paradigm was put in question the state began to develop other sectors suited to an increasingly educated and better-paid working population. Thus, the state sought to develop sectors to which its self-proclaimed "knowledge-based society" could add value (Evers 2003, 355). In the 1990s, the state

embarked on a series of extravagant development projects (Baxstrom 2008). This included the ambitious and expensive Multimedia Super Corridor (MSC), which was conceived as a hub to incubate information and multimedia technology. The MSC included sites like Cyberjaya, which was intended to become the Silicon Valley of Southeast Asia (Bunnell 2004). Today Malaysia hopes to isolate a particular niche in providing commodities labeled Islamic, including making the country a global halal certification center (Fischer 2011).² The state seeks to make the country a global center for the Islamic authentication of food and other products that are labeled halal and thus permissible for Muslims to consume.

Alongside the shift in industrial policy away from assembly and toward a knowledge economy, a parallel and intersecting shift was occurring in social policy and society more broadly. While I was conducting fieldwork there was a small but abiding sense of dissatisfaction with the state's affirmative action programs among some Malay Muslims. Although they had largely benefitted tremendously from these initiatives, they also realized that privileged access to the largesse of the state did not always work in their favor. This was due to the fact that the achievements of indigenous bumiputra were in some cases attributed to affirmative action, rather than the individual initiative of those who were perceived to have benefitted. For example, shortly following the establishment of the Bumiputra Empowerment Program in 2013, an initiative to further extend affirmative action to the Malay majority, an editorial in the venerable *Straits Times*, one of Southeast Asia's leading English-language newspapers, opined "One negative perception of the community is the belief that every successful Malay who reaches the top of his career achieves it not through his own ability and merit, but through the special

assistance provided for him by the state under the race-based policy” (Osman 2013).

Furthermore, there is an incipient awareness among some governing elites that the system of bumiputra entitlement is perhaps not the best long-term governing strategy. They fear that entitlements and promotions based on social and biological considerations rather than merit might produce a complacent and entitled population and adversely impact the nation’s ability to compete in a global economy. For example, none other than Mahathir Mohamad, Malaysia’s former Prime Minister and senior statesman, criticized Malays for being “lazy” and accused them of not taking advantage of the educational privileges afforded them (Lee 2014).

Against this backdrop, by the 2010s planners in the Central Bank sought to recast the role of Islamic finance as a means of entrepreneurialization. The problem was no longer the inclusion and integration of the Malay population into the national economy, but inciting them to action; that is to say, making them enterprising agents of economic growth. This entailed reframing the domestic project of Islamic finance to be less a marker of identity and instead a means of inculcating entrepreneurial values among risk calculating subjects who were economically autonomous rather than dependent on the state.

SUBJECTS OF DEBT

The shift from financial inclusion to entrepreneurialization in Islamic finance is evident in current efforts to reform several of the core contractual instruments commonly used in Malaysia. For Islamic finance experts the subjectifying power of debt is not only a theoretical problem but is also an empirical reality. Whereas in its initial years Islamic

finance relied primarily on what experts refer to as “debt-based” instruments, recently there have been increasing calls to shift toward what are called “equity-based” contracts, which are based on investment rather than lending. Debt-based instruments largely replicated the interest-based techniques of conventional finance and had been, in the argot of experts, “reverse engineered to be shariah compliant.” In contrast, those seeking to reform Islamic finance argue that equity-based instruments represent what one regulator in a workshop I attended at the Islamic Financial Services Board (IFSB) called “pure Islamic finance from the time of the Prophet [Muhammad].”

A brief account that was relayed to me during fieldwork in early 2014 illustrates the techniques used in so-called “debt based” Islamic finance. I was interviewing a former high-level Islamic banking executive, Nuraini, who had helped to create some of the early infrastructure for Islamic finance in the country. Although she had worked in an influential capacity at several key Islamic financial institutions, by the early 2000s she became disillusioned with the industry. Nuraini’s discontent derived from her conviction that Islamic finance was Islamic “in name only” because it “reverse engineered” interest-bearing contracts to make them shariah compliant. Interest-bearing loans are specifically prohibited in the Qur’an, so in their practical operations most Islamic banks use “paper sales” of tangible assets to replicate the debt contracts that are commonly used in conventional finance. Typically, Islamic financial institutions create what is referred to as a “shariah compliant” contract through the sale and repurchase of an asset on a deferred payment basis. In Malaysia, the most commonly used contract to facilitate this form of financing is called *bai al inah*, which is a “sale and buy back transaction” in which a customer sells an asset to a bank for cash on the spot and then buys the asset back shortly

thereafter at a mark-up on a deferred payment basis.

Nuraini described how such an arrangement worked. Some years before she had been in search of financing for a small business she was launching with her husband. She went to Bank Rakyat, a mid-sized bank in Malaysia that bills itself as "100% Islamic." To facilitate the financing the bank used a bai al inah contract based on the sale and repurchase of an office computer that sat on the desk of the employee with whom Nuraini was negotiating. For the "profit rate" on the deferred payments that she would be required to make, bank staff back-calculated the markup based on the prevailing interest rate on KLIBOR, the Kuala Lumpur Interbank Offer Rate.³ She explained:

I told them I wanted to borrow 10,000 RM. So they said to me, 'OK you sign this contract.' I said, 'what is this contract?' They said, 'well, you just sign here, on this line.' So I said, 'let me read it first.' What it said was that I was purchasing a computer for a certain price. The computer belongs to the bank. So I said, 'no I don't want to buy a computer!' They said, 'no nevermind, I know you want to borrow money, so you just sign here.' So I said, 'but it says here that I am buying a computer.' They said, 'its just one of our ways of doing things.' So I signed. Next they handed me another contract that said now I am selling the computer [to them]. I said, 'in the first place I don't want to buy a computer and there is no computer in front of me.' They said, 'never mind, don't worry about it. Just sign!'

Nuraini said that Islamic banks in Malaysia relying on sale and buyback transactions would "sell the same computer thousands upon thousands of times" with numerous different clients in order to facilitate financing. The bai al inah contract enables a simple

way to circumvent the Qur’anic prohibition on interest by using two sales to replicate what is essentially an interest-bearing loan: a customer in need of financing would come into the branch, buy a computer owned by the bank on a deferred payment basis and then immediately thereafter sell the computer back to the bank for cash on the spot, but at a reduced price (see figure 2). Effectively, such a transaction creates a loan with a fixed interest rate.

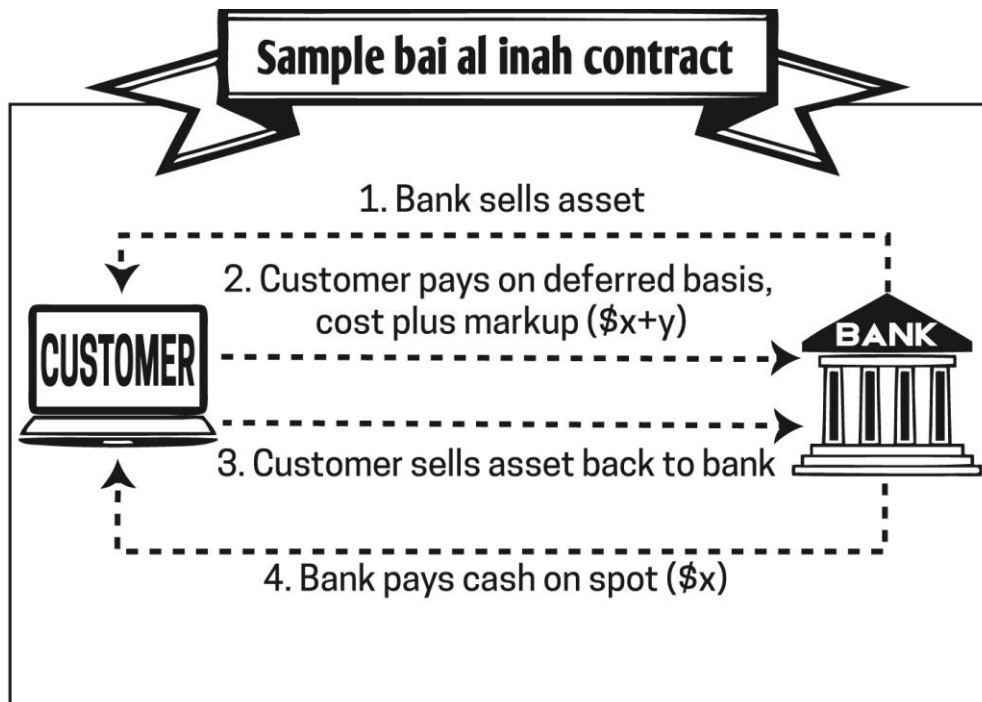


Figure 2: The basic structure of a Bai al inah.

Critics and reformers consider contracts such as the bai al inah “debt-based” because they create an obligation to repay funds at a markup through the paper sale of an asset. Referring to such contracts in Arabic enhanced the Islamic appearance of these transactions. However, by the 2010s many Islamic finance experts acknowledged that debt-based Islamic finance may have met the letter of Islamic law, but did not really meet its spirit. As Daud Vicary explained to me:

Today we're now questioning how different Islamic finance is from conventional finance. And the answer...its not that different. And the reason is because, at that time, we copied conventional products and, I won't say made them shariah compliant, but worked at "how is this shariah compliant?" The point I'm making here is, that at that time...had we been perhaps a little bit smarter, we could have said "no, we have to come from an Islamic base."

As long as the goal of Islamic finance was the "financial inclusion of the Malays" and creating a middle-class supportive of an authoritarian state, the question of the religious authenticity of Islamic finance could be deferred. The industry became characterized by contracts, such as bai al inah, which critics claimed might be Islamic in form, but were generally acknowledged to not be Islamic in substance.

EQUITY AND ENTREPRENUERIALIZATION

Reformers seek to substitute investment contracts for the "debt-based" ones that predominate in Islamic finance. Often the arguments in support of equity-based instruments are premised on the fact that they are more religiously authentic. However, I argue that another reason that they appeal to a state administration anxious about its continued ability to improve the livelihood of its majority Muslim population, is that they offered the potential to instill the practices neoliberalism affirms are conducive to economic growth such as entrepreneurship, profit and cost calculation, risk taking, and autonomy from state patronage.

Islamic economists and others seeking to reform Islamic finance most often invoked a contract called a mudaraba as the epitome of equity-based Islamic finance. A

mudaraba is a profit-sharing contract that was commonly used on the Arabian peninsula even prior to the revelation of Islam and was a standard economic arrangement in the classical Islamic world (Udovitch 1970, 170-248). A mudaraba is a contract between an entrepreneur (*mudarib*) and an investor in which the latter invests in a business venture and then is granted a pre-agreed percentage of the profits of the enterprise, while the entrepreneur provides only his or her skills, labor, and managerial expertise (see figure 3). Indeed, this was the contract that formed the partnership between the Prophet Muhammad, acting as a *mudarib*, and his wife Khadija, a wealthy investor, before he experienced the revelation of Islam (Aldohni 2011, 92). These contracts are considered “equity-based” because they entail investment rather than moneylending: an entrepreneur effectively sells an ownership share in a venture and the rights to a percentage of its profits to an investor. In a mudaraba the investor is responsible for all the financial risk in the deal, while the entrepreneur ventures only his or her time and labor.

Proponents of mudaraba liken these contracts to the venture capital arrangements that have financed Silicon Valley firms like Facebook, Twitter, and Google and argue that they could facilitate similar entrepreneurial dynamism in the Muslim world. In extolling the virtues of mudaraba an Islamic economist told a class full of Islamic finance students and in which I was also taking part, “I became aware of venture capital in 1982, when I learned about mudaraba. Venture capital has been applied with enormous success...but it turns out we are talking about a classical Islamic partnership that was practiced by Muhammad. And today twenty-first century California, Silicon Valley, is doing the same thing...They learned it from us, but we have forgotten it!” Exponents of mudaraba often assert that they were an instrumental part of a golden age in Islamic

history characterized by commercial dynamism through long-distance trade and the rapid expansion of the faith.

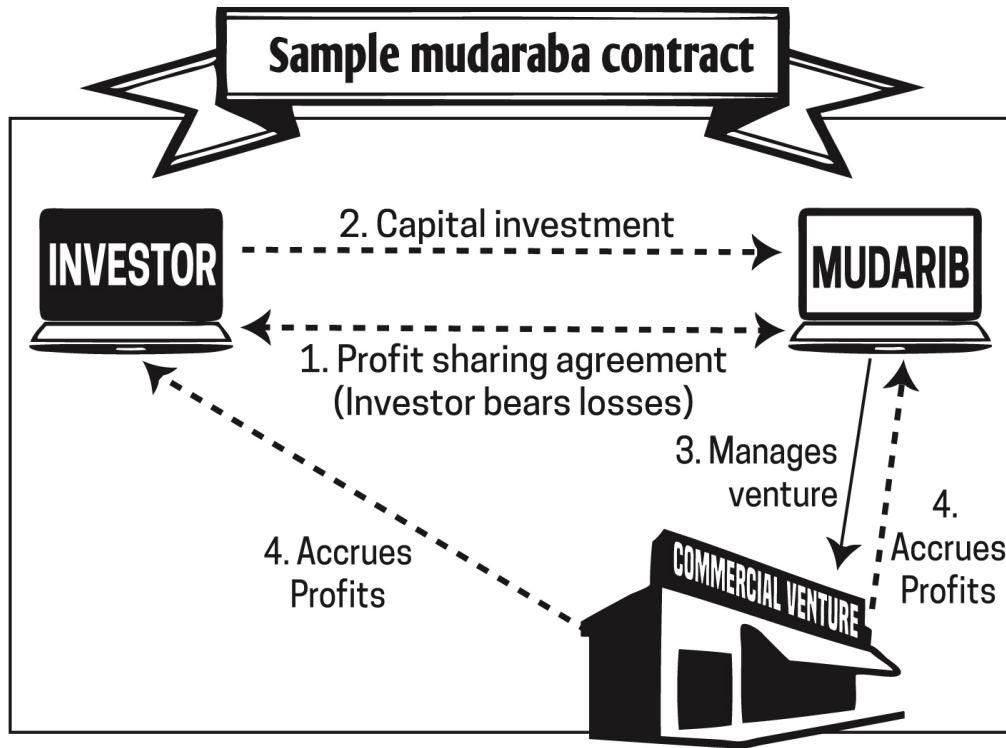


Figure 3: The basic structure of a mudaraba contract.

Indeed there is a growing chorus of reformers who argue that equity contracts based on investment represent authentic Islamic finance and that the industry as a whole should move to embrace them. In 2010 I interviewed Hamza, who the following year was appointed as the CEO of one of the country’s largest Islamic banks. At the time he sketched out for me a plan to reform retail Islamic banking according to investment-based principles. In his vision, Islamic savings or checking accounts used on a daily basis by millions of Malaysians would be structured according to mudaraba contracts. In a typical account at a conventional bank, he reminded me, a depositor receives a range of guarantees: a guaranteed interest payment, a promise that the funds can always be

withdrawn, and deposit insurance—a guarantee provided by the state that a depositor’s funds will be protected in the event of the bankruptcy of the institution. Hamza argued that these guarantees created rent-seeking rather than entrepreneurial behavior because they discouraged customers from evaluating risk and “doing their due diligence.”

Referring primarily to the American banking system, he argued that, in conventional banking, deposit insurance guarantees accounts and therefore customers do not “read the financial statements” of banks. He remarked that consumers “don’t ensure that the bank is acting responsibly with their money,” instead they relied on the external authority of the state to insure the credibility of banks through mechanisms such as licensing and deposit insurance.

In contrast, a deposit account at an Islamic bank structured according to a *mudaraba* would entail a different economic subjectivity. First, the profit paid to the account holder would vary based on the actual returns that the bank generated from the business ventures in which the bank had invested the account holder’s funds. Thus, if the bank made a 20% profit on an investment in one year, the depositor would receive an equivalent profit on her investment. However, if the investment the bank made with the depositor’s funds lost 10% in another year, the depositor would see a reduction in the size of their deposit.⁴ Second, the principle amount would not be guaranteed: thus, if the bank lost money on the investment that they made, the account holder would have to bear the losses. Finally, Hamza said that Islamic deposit accounts based on *mudaraba* could not be subject to deposit insurance, because according to Islamic economic principles “making profit requires taking risks.” This is based on the oft-cited shariah principle of “no reward without risk” (*al ghorḥ bil ghorḥ*) which is often invoked by shariah scholars as one of

the bases for the prohibition of interest in Islamic doctrine. Interest payments contravene this principle because they are guaranteed payments and thus not subject to the risk of market fluctuations. Hamza claimed “the mudaraba model of banking” that he envisioned would encourage depositors to adopt an entrepreneurial subjectivity more finely attuned to making cost-benefit calculations, because they would have to more accurately “price and distribute” risk. If people were dependent on profit sharing, he reasoned, rather than guaranteed interest income from their banking deposits and faced the possibility of losing their initial capital, they would be more diligent about researching banks and they would demand higher rates of return due to the higher risk incurred.

While in certain respects the economic subjectivity envisioned by those seeking to reform seeking to reform Islamic finance resembled the risk-taking, entrepreneurial, bearer of human capital envisioned by neoliberalism, in certain respects it departed from this conceptualization. Reformers by and large refused individualized self-interest as the primary motive force behind human action, evoking what Aihwa Ong has termed “neoliberalism as exception” (Ong 2006). For example, like Hamza, Mustafa was a proponent of shifting from an Islamic finance largely dependent on debt devices, to one that deployed equity and investment forms. He was an influential Islamic economist working in Malaysia and preferred equity as the central means for the provision of capital for a number of reasons. He thought that it would lead to greater stability, but also more collaborative economic undertakings not based on individualized ambition but collaborative risk-taking. He emphatically told me "the world will have to move toward an Islamic vision of the economy, because it is based on ensuring collective interests, whereas conventional finance is based nearly exclusively on self-interest...We're going to

kill each other if we keep up with the self-interest based system!" Thus, those seeking to reform Islamic finance embrace an economic subjectivity that embraces risk-taking, entrepreneurship, and the cultivation of human capital, but where risk-taking is conceived of as collaborative rather than individual.

Concrete initiatives to enhance the entrepreneurializing force of Islamic finance were subsequently put in to practice. In 2013, the Malaysian Parliament passed IFSA, a new law regulating Islamic finance, which created and defined a type of equity-based partnership account premised on the risk calculating, partnership, and profit-sharing principles of the *mudaraba*. In a level of detail that was unprecedented in parliamentary legislation regarding Islamic finance in Malaysia, IFSA distinguished "Islamic deposits" from "investment accounts." According to the law, an investment account was defined as an

account under which money is paid and accepted for the purposes of investment, including for the provision of finance, in accordance with Shariah on terms that there is no express or implied obligation to repay the money in full and: (a) either only the profits, or both the profits or losses, thereon shall be shared between the person paying the money and the person accepting the money; or (b) with or without any return (Legal Research Board 2013, 2.1)

According to the new law, then, an investment account was defined in terms endorsed by those seeking to reform Islamic finance insofar as it preserved many of the features of a *mudaraba*: no principal guarantee and a variable return based on the actual profits (or losses) on the investment made with the funds. In contrast, an Islamic deposit was defined as a guaranteed credit in which the depositor was entitled to repayment in full.

The new investment account device demonstrated a concrete example of how the state, following the advice of Islamic finance reformers sought to bring the new risk-taking, entrepreneurial subject into being.

Islamic banking professionals who had become accustomed to the old system were indignant about the new regulations governing Islamic investment accounts. Their firms had previously issued “products” under the moniker of *mudarabah* (see figure 4), but these had been engineered to replicate many of the features of interest-bearing accounts by, for example, guaranteeing the principal and offering a fixed “profit” rate. (The word “profit” is often used to replace the word “interest” in Islamic banking). Rahman, the CEO of one of Malaysia’s top five Islamic banks told me that the changes required by IFSA were “not clear.” He said “If I may be very blunt, I am not sure what the Central Bank is doing!” Rahman challenged the binary distinction that many Islamic finance experts made between debt and equity. He explained, “we’ve got to be clear about what is debt and what is equity... We’ve got to be clear about the shariah rules... There are structures that might have debt with convertible equity... I think it is too naïve... to say we’ve got to convert from debt to equity. Equity has a lot of classes as well!” Thus, he suggested that frame of the debate between debt and equity had been oversimplified. The sophisticated instruments of conventional finance and accounting make it not always apparent how to draw the line between debt and equity.



Figure 4: An advertisement for a mudaraba account prior to implementation of the new IFSA regulations.

On the surface, efforts to shift Islamic finance away from debt-based devices to ones based on equity instead appear to resemble elements of banking in the United States since the passage of the Glass-Steagall legislation in the 1930s. Glass-Steagall erected a firewall between debt-based commercial banking and equity-based investment banking activities. These provisions were famously undone by the Financial Services Modernization Act of 1999, which some have argued precipitated the 2008 financial crisis (Kregal 2013, 90). The difference between efforts to enable the merger of investment and commercial banking in the United States and efforts in Islamic finance to

shift from debt-based devices to equity-oriented ones is that the former is not an effort to eliminate debt. Indeed, the repeal of Glass-Steagall sought to enable banks to simultaneously engage in equity and debt finance. Nonetheless, debt remained a constituent pillar of American finance. In contrast, the current problem for Islamic finance is not how to resolve the contradiction between debt and equity, but rather how to create a form of capitalism where the provision of capital is based on equity and investment rather than debt and lending.⁵

COLLABORATIVE RISK

Over the past 30 years, the Malaysian state has deployed Islamic finance in conjunction with two distinctive strategies of subject formation. In its initial phase, beginning in the early 1980s when Islamic banking was established, a central goal was what one participant in my research called “the financial inclusion of the Malays.” For historical reasons, dating back to the colonial period, citizens from this indigenous ethnic majority, which is mostly Muslim, had been marginalized from commercial life on the Malay Peninsula. Thus, the state facilitated the creation of a network of Islamic banks and insurance companies as a means of incorporating them into the modern economy. However, by the early 2000s the state’s goal of fostering a Malay Muslim middle class had been largely achieved through aggressive affirmative action policies. At this point the state’s objectives for Islamic finance began to shift commensurate with broader transformations in both national politics and development strategy. Currently, Islamic finance is being recast in such a way that it can serve as a technique for the entrepreneurialization of the indigenous Malay population. Empirically this shift is

evident in increasing calls to move Islamic finance away from what experts call “debt-based” instruments to ones that they refer to as “equity-based.” This entails shifting from loan instruments that reformers assert “replicate” those of conventional finance, and toward instruments based on investment.

Reforming Islamic finance from a debt-based model to an equity-based model suits the interests of differently positioned actors. Islamic economists argue that investment-based contracts epitomize the authentic economic principles of Islam, such as partnership, risk sharing and profit sharing. Regulators and some business Islamic finance professionals find them attractive for these reasons, but also because they appear more conducive to eliciting entrepreneurial, risk taking dispositions that fall into line with neoliberal strategies for economic productivity. Given increasing questions as to whether conferring Malay Muslims benefits solely by virtue of their ethnic identification is in the best economic interest of the nation. The initial iteration of Islamic finance successfully contributed to the creation of a modern, Muslim identity, but also facilitated an entitled, complacent, and passive Malay subject who acted in compliance with the will of a paternalistic state. The more recent goal of entrepreneurialization is more radical in that it seeks, in a far more targeted fashion, to elicit agentic dispositions among the population. The promotion of entrepreneurship was not part of a pre-determined strategy by regulators at the Central Bank in which the sovereign power of the state was exercised in totalizing fashion. Rather, this was the contingent outcome of convergent interests among the diverse factions imbricated in Malaysian Islamic finance. Each of these constituencies acts with different objectives and the appeal of investment-based Islamic finance lies in its attractiveness to different groups at different times.

Efforts to shift from debt-based to equity-based Islamic finance demonstrate a transformation in the deployment of neoliberalism in Malaysia. Aihwa Ong has usefully distinguished between neoliberalism in the United States and that deployed in Southeast Asia in the 1980s and 1990s. She wrote that in “Western neoliberalism, privatized risk management has become a much more important technology of (self-) regulation, thus encouraging subjects to be in charge of their own lives...the welfare state is in retreat and individuals are increasingly left to fend for themselves.” In contrast in Southeast Asia, “technologies of security promote subjects who, while self-reliant, are dependent on the culturally sanctioned collectivity represented by the state” (Ong 1999, 196). She then describes how the Malaysian state in the 1980s and 1990s sought to foster “calculative but dependent subjects” who have the “professional skills and expertise desired by multinational corporations but also the kind of cultural sensibility that is loyal to the state” (Ong 1999, 203). In part, this configuration rested on an implicit bargain in which the “indigenous” Malay Muslim middle class accepted a limitation on political freedom in return for the economic benefits accorded to them through the affirmative action system. However, the shift in the way Islamic finance is being for subject formation demonstrates how this project is under revision. Today, some of those who have benefitted from the system are increasingly questioning its long-term viability and its continued ability to contribute to development in Malaysia.

While the Malaysian state has long advocated entrepreneurialism, affirmative action created a system of what R.S. Milne called “bureaucratic entrepreneurs” who, in part, deployed their ethno-religious identity to access state largesse as a source of personal enrichment (Milne 1976, 249). Debt-based Islamic finance was compliant with

this regime. In contrast, today there is increasing awareness that Malay subjects should be weaned of their reliance on the state and engage in risk taking and entrepreneurship. Efforts to reform Islamic finance illustrate an extension of this shift and the creation of a distinctive form of neoliberalism that differs in its conceptualization from that practiced in the United States. However, this is not the individualizing neoliberalism of the United States which requires “self accountability” creating “a highly precarious individualism” premised on the “privatized management of risk (Ong 1999:196).

In contrast, the equity-based version of Islamic finance is premised on what might be termed collaborative risk: an intersubjective social risk where subjects mutually guarantee each other, independent of assurances provided by the state or other institutions. Those seeking to reform Islamic finance argue that conventional, debt-based finance relied on “risk transfer” and “risk shifting” rather than “risk sharing.” They pointed out that in conventional debt contracts, financial institutions require their counterparties to guarantee the loans they issue through posting collateral (Riles 2011). Thus, they receive a guaranteed interest payment as long as the debtor is able to pay back the loan and, in the event of default, they can recoup their loss through liquidating the collateralized asset. My interlocutors argued that the practices of collateralizing risk violated the shariah dictum of “no reward without risk.” Profit is only morally justifiable if both parties in an exchange undertake risk, but in collateralized debt contracts financial institutions effectively transfer their risk to their counterparties. On a broader scale, Islamic finance experts asserted that the 2008 financial crisis demonstrated a paradigmatic case of risk transfer when massive US-based financial institutions created debt-based mortgage-back securities. After the massive waves of defaults on the assets

underlying these securities, the institutions that created them did not have to absorb negative effects, because they were deemed “too big too fail.” Thus, the risks they undertook were effectively transferred to US taxpayers who ultimately bailed out these institutions. Thus, Islamic finance experts viewed risk shifting and risk transfer as characteristic of collateralizing risk in a debt economy.

Those seeking to reform Islamic finance around equity advocate a project that evokes the financial alternative suggested by Arjun Appadurai in his appeal for an economy that “allows all of us to engage in the risk-taking possibilities for creating wealth, rather than reserving this privilege to the 1 percent who reap the rewards of risk-taking, with the rest of us consigned to the status of risk-bearers and collective losers” (Appadurai 2016, 119). The investment-oriented contracts reformers see as central to equity-based Islamic finance entailed “risk sharing,” rather than risk shifting, allowing more holders of capital to enjoy the benefits of risk, rather than just the downsides. In this model an investor, unlike a creditor who requires collateral, accepts the possibility that their investment might be lost entirely. Likewise, the entrepreneur accepts the risk that her or his hard work might be futile. In this sense, they viewed equity-based Islamic finance as paradigmatic of a kind of intersubjective risk that was foreign to debt-based conventional capitalism. Rather than collateralized risk, equity-based finance is premised on a kind of collaborative risk that entails the production of collective economic subjects, rather than individualized ones. Collaborative risk suggests an alternative form of neoliberalism premised on an alternative formulation of risk. In American neoliberalism, risk is devolved from the government to the individual. The model proposed by reformers in Malaysian Islamic finance also entails the devolution of risk. However, it differs in that

the burden of risk is placed not on individuals, but rather on congeries of entrepreneurs and investors.

The growing preference among Islamic finance experts for equity-based, partnership contracts such as *mudaraba*, illustrates how reformers are problematizing some of the fundamental presumptions of conventional finance. This would be a capitalism based on individual unions of entrepreneurs and investors. While this notion of financial individualism is not counter to capitalism (Appadurai 2016, 123), posing equity as an alternative to debt as the basis of finance entails a shift in the financial imagination. And perhaps in their solution to the predicament of finance today, there is a broader lesson for all of us, or at least those who find themselves in debt.

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NOTES

¹ Relatedly, Jerome Whittington has shown how carbon markets and carbon accounting posit a specific human subject in a technological regime in which carbon serves as a metric of the human" (Whittington 2016, 59).

² Other scholars have likewise drawn attention to the rise of religiously branded consumption elsewhere in the Muslim world (George 2009; Jones 2010; Meneley 2007).

³ This is a daily interest rate and is analogous to LIBOR of the Federal Funds Rate in the US.

⁴ I thank an anonymous reviewer for helping me to clarify this point.

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