AL-ARBAH: Journal of Islamic Finance and Banking
Vol. 6 No. 1 (2024), 17-34; DOI: 10.21580/al-arbah.2024.6.1.20934
E-ISSN: 2716-2575, P-ISSN: 2716-3946

Shari'ah-compliant Financing Mechanisms for Belt and Road Initiative: Mitigating Debt Trap Risks

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Abstract

Purpose - The purpose of this study was to examine how Shari'ah-compliant finance can be a solution in financing BRI projects and mitigating debt risk.

Method - The study uses a systematic literature review.

Result - The finding shows that Shari'ah-compliant finance can provide a solution to the debt trap associated with the conventional model proposed by the Chinese government. By using BOT, the structure can facilitate financing, especially in developing countries with no technical skills as well as experience in operating massive projects. This structure offers financing of the project as well as helps in skills transfer to the local during the operating stage. Another structure is Istisna's lease Finance, this structure focuses on financing the specific project identified by the country. This structure offers the country the ability to develop the project, lease the project, and pay back a specific amount in instalments. Despite the conventional finance where the payment contains interest, in this contract the payment is specified and cannot be changed due to interest.

Implication - The study uses shari'ah-compliant financing mechanisms for belt and road initiative to mitigating debt trap risks.

Originality - BRI projects are crucial for the development of the countries. The Chinese government established BRI to try to connect Asia, the Middle East, Europe, and Africa through massive infrastructure such as roads, railways, ports, and airports. However, there is a challenge in financing these projects. Sharia-compliant Financing Mechanisms to mitigating debt trap risks.

Keywords: BOT, BRI, Debt Trap, Shari'ah-Compliant Finance.

Introduction

As suggested by President Xi, "The Belt and Road Initiative refers to the Silk Road Economic Belt and the 21st Century Maritime Silk Road" (Scio, 2020). The term "Belt" means "Silk Road Economic Belt" and covers the envisioned rail and road routes traversing Central Asia, a landlocked region. These pathways align with the Western Region's historical route of trade. Conversely, the term "road" represents the "21st Century Maritime Silk Road", denoting sea routes in the Indo-Pacific region that span Southeast to South Asia, extending to Africa and the Middle East (Kuo & Kommenda, 2018). The Economic Belt encompasses six primary economic pathways: the new land route through Eurasia; the corridor connecting Russia, Mongolia, and China the route linking China with Asia in West and Central; the pathway creating relations between China and Pakistan; and uniting China with the Indochina Peninsula; the corridor encompassing Myanmar Bangladesh, India, and China. Meanwhile, a maritime route that links the Indian Ocean, South China and Pacific Sea serves as a connection between Southeast Asia Oceanic, and North Africa. The Belt's objective is to connect Chinese ports with Europe and Central Asia while also aiming to establish sea routes for connections through ports and railways between Southeast Asia's rapidly growing region and the southern provinces of China (Chang, 2019).

The Chinese Community Party incorporated the initiative into the Constitution in 2017, with the President Xi Administration characterizing it as a move to improve regional connections and look towards a promising future (The Economist, 2020; Xinhua, 2015). The project is scheduled for completion by 2049, aligning with the centennial of the founding from China (Powers, 2019). The BRI holds promise for generating a 4.1% rise in trade flows among its 155 members, a 1.1% to 2.2% decrease in global trade expenses, and an average growth in GDP up to 3.9% from 2.6% for developing states in East Asia and the Pacific (KPMG, 2021; World Bank, 2018). According to a London-based research firm, the BRI is projected to enhance the economy in 2040 by up to $7.1 trillion. Wide-ranging benefits are expected since improved infrastructure will reduce trade obstacles. Additionally, the CEBR suggests that as the global infrastructure project advances and gains traction, it may encourage other countries to join the initiative (CEBR, 2019; CIOB, 2019; Daniel, 2019), especially in developing nations.

New financial networks and markets are being created in response to the funding demands of the BRI, utilising the institutional experts and financing of numerous global financial players. However, there has been criticism due to issues about debt-trap diplomacy that may lead to neo-colonialism and economic practices. It was reported from some countries, that some projects have been postponed or cancelled due to the debt risk. Looking at the nature of the BRI projects, is necessary for the development of the countries but the financing mechanism becomes a question. By using a literature review, the objective of this study is to examine how Shari'ah-compliant finance can be a solution in financing BRI projects and mitigating debt risk.

After the introduction, section two reviews the concept of Shari'ah-compliant finance, the BRI project financing mechanism, and the challenge of the debt trap in BRI projects. The third section provides Shari'ah-compliant financing for projects and infrastructure, the fourth section provides the proposed mode of financing based on the Shari'ah-compliant and finally is the conclusion.

Literature Review

Shari'ah-compliant financing.

Shari'ah-compliant or Islamic finance is a financing mechanism under Islamic law, as well as its practical implementation via the development of Islamic economics. The sector has been praised for rejecting the West's "political and economic supremacy" and returning to the path of "divine direction" (Usmani, 1998, p. 9) and it is regarded as the most obvious manifestation of Islamic revivalism. Shari'ah-compliant financing comprises several principles as discussed.

Prohibition of Interest (Riba), as defined by Saleem, (2015, p. 2), the word Riba "denotes increase, addition, or excess." This means that any gain, growth, expansion, or excess of money possessed as debt over some time is Riba. Hence excessive earning means earning from money with money. In Islamic Finance money is referred to as the medium of exchange that differentiates the selling and buying of goods or services (Habib, 2018, p. 9). Money has no inherent value in Islamic Finance so it cannot grow on its own without trade or investment activity.

Avoidance of Prohibited Activities (Haram). The contracts which contain halal products or services are permissible while the contract that contains the prohibited element is not permissible. For example, a product like wine, intoxicants, pigs, blood, idols, crosses, and statues are prohibited from selling, used or produced (Saleem, 2015, p. 5). Despite those items mentioned above, the prohibition of haram products revealed in the Quran, Surah al-An'am (6:119) provides "Why should ye not eat of (meats) on which God's name hath been pronounced when He hath explained to you in detail what is forbidden to you except under compulsion of necessity..."

Speculation (Maysir) refers to a method of gaining something quickly and without exerting any effort. The phrase Maysir refers to any activity in which a person wins or loses only based on chance, such as gambling. The winner did not legally earn his prize, and the loser lost his money without being fairly compensated (Saleem, 2015, p. 5). Maysir is not the same as risk in ordinary life or business, which is tolerated. It is a gamble taken to win without engaging in any constructive effort, and it carries the chance of losing everything (Habib, 2018, p. 33).

Uncertainty and Risk (Gharar), another prohibited element in IBF is Gharar where the person obtains another property unlawfully. (Saleem, 2015, p. 3) explained Gharar as the type of sale which is attractive to the buyer by its appearance, but its content details and features are only known by the seller or both parties are not aware of it. According to Hanbali School, the contract is invalid when it involves goods or services which is absent, not described or uninspected. In general, Gharar sales refer to the sale of products without examination or explanation (Al-Zuhayl, 2001, p. 82).

Material Finality of Transactions, according to Shari’ah, each transaction must have a legitimate, underlying economic transaction. Islamic finance is different from conventional finance in that it requires a physical link to the real economy while conventional finance circulates abstract financial instruments. This principle guarantees that financial operations have a tangible effect and are based on profitable economic activity.

The key characteristics and structures of Islamic finance contracts.

Participatory finance, since interest is forbidden, fund providers become owners rather than creditors. They can lease, sell on credit, or offer financial capital; in return for profit (Van Greuning & Iqbal, 2007, p. 7).

Basis of the Contract	Islamic Finance contract	Definition
Sale	Deferred payment sale	It is a financing sale agreement for an item, goods, or assets, with delivery of the sold item at the time of contact and payment at a later time, for a price more than the cash payment price. (credit-based sale).
	Salam sale	is a sale contract of definite described quantity of a given commodity to be delivered in a definite future date against fully advanced payment.
	Istisna’ sale	As a definition the Istisna' contract is a sale of fully described (specified) construct (or manufactured) goods.
Lease	Ijarah	Ijarah is a contract of sale of usufruct of an asset or from service. the usufruct is well defined and known by both parties.
Sharing	Musharakah	Sharikah is mixing of properties management, and obligations in a manner defined in Shari'ah. This is a very general definition intended to include all types of Sharikah. Further.
	Mudarabah	Mudarabah is a partnership between capital owner (Rabb al-Mal) and venture manager (Mudarib) for the purpose of making profit.
	Muzara’ah	Partnership on crops between a landowner and a farmer.

Ethical finance, Islamic finance is based on Islamic ethics, yet its principles and methods are not unique to Islam only. Islamic finance places a strong emphasis on market-based financing, sale, lease, or shared risk. These arrangements encourage the development of assets and businesses, use capital to support the real economy and make it easier for opportunities and wealth to be distributed. Islamic finance must also abide by the moral precepts of honesty, and the absence of any uncertainty regarding its results (Kahf, 2013).

Religious finance, investments can only be made in commercial ventures that do not transgress Shari'ah ethics. For instance, it would be illegal to invest in companies that deal with gambling, alcohol, or casinos (Van Greuning & Iqbal, 2007, p. 7).

These three based contract categories are called nominate contracts or Classical Contracts which can be used as one contract or can be structured with another contract and make Hybrid Contracts. The financing structure in Islamic finance is divided into three contracts, namely sale, lease and sharing. Each contract consists of a variety of contracts used.

Financing Landscape in BRI

The financing of the massive infrastructure and economic development project initiated by China is a complex network of public and private financing from China and participating countries and from international financial institutions. The Chinese state-owned enterprises (STOEs) play a significant role in implementing BRI projects, often benefiting from state subsidies and economies of scale. The BRI financing model aligns with the concept of "financial statecraft," where national governments intentionally use monetary and financial capabilities to achieve foreign policy goals. China seeks to exert influence through financial means, promoting its currency and financial markets as sources of global influence (Mihr & Weiffen, 2023). China has created global economic partnership funds including the China-LAC Industrial Cooperation Investment, the China-Central and Eastern Europe Investment Cooperation, the China-Africa Fund for Industrial Cooperation, the China-LAC

Cooperation, the China-Eurasian Economic Cooperation, and the China-ASEAN Investment Cooperation funds. These funds have broadened investment and financing opportunities for participating nations.

Aminjonov et al., (2019) mentioned that the financing mechanisms for Chinese projects in Central Asia include funding from various sources such as the Asian Infrastructure Investment Bank (AIIB), Chinese Development Bank, Export–Import Bank of China, and the New Silk Road Fund. These financial institutions play a significant role in providing the necessary funding for implementing BRI projects in the region. Furthermore, the Chinese Development Bank and Export–Import Bank of China have offered substantial financial services directly for a variety of BRI projects. These institutions have a significant impact in directing development finance and combining domestic and international funds for collaboration. The China Exim Bank has extended loans to support BRI projects across more than 130 participating nations, stimulating considerable investment and trade activities (China Daily, 2023). Moreover, new investment and financing approaches like funds and bonds play a key role in backing BRI. Financial institutions are also actively seeking out different strategies to broaden cross-border investment and financing avenues. Example of Kazakhstan's investment in the establishment of the Astana International Financial Centre (AIFC). The AIFC aims to play a pivotal role in positioning itself as a global centre for business and finance, connecting economies in Central Asia, the Caucasus, EAEU, West China, Mongolia, the Middle East, and Europe. This shows how the BRI's funding requirements are driving the creation of new financial hubs and networks that could change the geographical distribution of commercial services and financial markets throughout Asia and beyond (Lai et al., 2020).

Challenges and concerns to debt trap risks

The issue of debt is a significant aspect of China's Belt and Road Initiative (BRI) and has raised concerns among various stakeholders. The BRI involves massive infrastructural investments in numerous countries, often through loans provided by Chinese financial institutions. These loans have led to a growing debt burden for some participating countries, raising questions about their ability to repay and the potential implications for their sovereignty and economic stability.

Mihr & Weiffen, (2023) raise the concern of Debt Sustainability that the terms of Chinese loans, including interest rates and repayment schedules, have been criticized for potentially burdening countries with high levels of debt. Also, they criticize the "debt-trap diplomacy," where countries that are unable to repay their loans may be pressured to make concessions to China, potentially compromising their sovereignty. A reminder to the economies of the BRI countries is provided by the example of Sri Lanka surrendering the Hambantota port to China because of its inability to fulfil its debt obligations (Ankunda & Student, 2022). However, it is crucial to note that Sri Lanka initiated the project and sought financial assistance from China, as other sources like India and multinational development banks did not support it. China provided funding with good intentions, and the debt distress in this case was not a result of deliberate trapping by China (He, 2019). Meanwhile, Lai et al., (2020) challenge the prevalent discourse surrounding the BRI, particularly the notions of "predatory lending" and "debt trap" that are often associated with the initiative by highlighting the need for a more nuanced understanding of BRI financing. They argue that the prevailing narratives of "predatory lending" and "debt trap" oversimplify the complex financial dynamics of the BRI and fail to capture the diverse range of actors and motivations involved in the initiative. The authors suggest that the focus on "predatory lending" and "debt trap" detracts from a more comprehensive analysis of BRI financing, which involves a variety of financial mechanisms and actors. They emphasize the importance of considering the broader context of global financial networks and the role of advanced business services in shaping the financing of BRI projects.

Some Southeast Asian countries have raised concerns about over-reliance on loans from China and have warned of being caught in a debt cycle for example Laos appears to be heavily dependent on Chinese debt at Southeast Asia, approx. the $6 billion needed for the Sino-Lao railway will be half of the country's GDP As of the first half of 2018, Cambodia owes China 48.4% of its total outstanding debt (Xue, 2020). Similarly, Ankunda & Student, (2022) highlights the potential challenges many African economies face in sustaining lending levels due to their reliance on loans from Chinese commercial banks for Chinese-sponsored projects. The authors highlight the need for African leaders to carefully manage the balance between maintaining a constant debt level to meet development needs. Failure to repay these loans can result in the foreclosure of significant state assets, which are often used as collateral when purchasing loans.

Studies proposed measures that can be employed by both China and BRI countries to mitigate the debt trap challenges. Among others, Mihr & Weiffen, (2023) insist that transparency and accountability ensure that financed countries fully understand the terms of the loans and the potential risks involved, Malik et al., (2021) discuss debt restructuring in the case of Congo-Brazzaville, where China Exim bank extended the maturities and increased interest rates on outstanding debt obligations. Nedopil, (2021) suggests that China has a unique opportunity to help BRI countries manage their debts through bilateral and multilateral instruments. One option is to use debt swaps, such as selling the remaining debt at a relatively low price to an environmental trust fund and then using the proceeds for conservation efforts environment on the borrowing country. Ankunda & Student, (2022) suggest including stress testing for loan applicants to assess the impact of potential burden, as well as issuing a risk assessment report to help future applicants understand their vulnerability before taking out a loan that may be unaffordable the role of the atom. Other measures include utilizing multilateral development banks to provide financing and expertise, enhancing project transparency and governance to attract a broader range of investors and mitigate financial risks, promoting public-private partnerships to leverage the strengths of both sectors in project financing and implementation and considering the potential for green finance and sustainable investment practices to align with global environmental goals (Dinwiddie, 2019).

Studies above show that BRI has potentially led participating countries into debt traps, where they become heavily indebted to the financiers, particularly China, due to the infrastructure projects' financing terms and the inability of some countries to repay these debts. This situation raises concerns about the economic sovereignty and long-term development prospects of these countries. Although Shari'ah-compliant finance, based on Islamic principles seems to offer an alternative model that could help mitigate the risk of debt traps within the BRI. Islamic finance emphasizes ethical and socially responsible investment practices and could provide more sustainable financing solutions for infrastructure development projects. This study is going to discuss Shari'ah-compliant Financing Mechanisms which seem to be suitable for financing BRI projects and mitigating the problem of debt trap.

Methods

Long-term projects and infrastructure establishment can be financed through Shari'ah-compliant financing strategies which can be classified as equity-based or debt-based. Equity-based strategies involve profit and loss sharing, and can be implemented through Shariah-compliant investments in savings and financial management contracts, capital markets, or share funds (Inderst, 2016). Debt-based financing methods do not rely on a profit and loss sharing system, even when they are associated with real assets. They can be used to finance projects, assets, and working capital. The finance takes both nominated contracts such as Mudarabah, Musharakah, and Istisnaa, among others, as well as hybrid contracts such as Reversed Murabahah, Revenue Sharing, Build, Operate and Transfer etc.

Projects financed under Shari'ah compliance needed to be accessed to ensure they comply with Shari'ah. This involves the process of screening to ensure that the project passes both qualitative and quantitative screening. According to Bacha & Mirakhor, 2013, p. 251) Qualitative screening is based on a case-by-case basis, which means in a situation where the project contains an element of prohibited elements. These prohibited elements can be because of customary practice or contain the rights of non-Muslims such as weapons, gambling, pornography, tobacco, alcohol, interest-bearing financial services, biological human and animal genetic engineering, and pork-related products (Biancone & Radwan, 2016). In the quantitative method, commonly used in stock, The goal is to determine the percentage of the company's income and profit before taxes originate from non-permissible activities (Bacha & Mirakhor, 2013). When the project passes the screening then the project qualifies to be financed by Shari'ah compliance finance.

Results and Discussion

The choice of model of financing based on Shari'ah-compliant can vary depending on the nature of project, expected revenue as well as the country in which the project is being established. The massive infrastructure targeted by BRI includes airports, ports, power plants, bridges, railways, roads as well as telecommunication networks require careful selection of the model of financing. For example, the port to be built in middle east or Europe is different to the one to be built in Africa. This is due to the different experience in operating ports between those regions.

Ijarah-based Build, Operate and Transfer contracts for BRI.

Build, Operate and Transfer financing contract is the contract employed the government to the investors who agreed to build the specific project, managing and operating it before transferring back to the government. The agreement based on Ijarah contract, and the cost of construction is considered as the price of usufruct paid by the investor in advance to use the specific project (Kahf, 2013). The projects are constructed based on the specification of the owner, although in the BRI context, the specification might be open between the owner country and the Chinese government as an investor due to the capacity and experience of the investor. The agreement may include another arrangement between parts such as taxation, maintenance of the project as well as transfer of the project at the end of the contract period.

Normally under this arrangement, the government identify the builder/contractor who arranges the BOT as well as the financing. The government do not interfere with the construction but waits for the builder to deliver the project at the maturity of the contract.

The mode of operandi which involves six steps. 1). The beneficiary government agree with the Chinese government to lease the project. Since the project is yet to be constructed the contract becomes Ijarah mawsufah bi al thimma, and the lease uses the rent to finance the construction of the project; 2). The Chinese government inter into agency contact with the contractor/agent to build, operate, and transfer the projects to the beneficiary government; 3). Chinese government provide the financial flow to the contractor/agent for the construction of the project; 4). The contractor/agent builds the project and operates it till the maturity date; 5). All income generated from the project operation will be transferred to the financial (Chinese Government); 6). The Chinese government through its agent transfer the project to the beneficiary country at the maturity of the contract.

The Ijarah-based build, operate and transfer contracts seem to fit in many BRI projects and mitigate the debt trap challenge. Since the structure is based on the usufruct, the financial has the right to re-resale or re-rent the usufruct to a third party. The structure also gives advantages to the countries especially developing countries with limited capacity in operating big projects such as ports, airports, power plants etc., to acquire skills and experience through skills and technology exchange which is also part of the BRI projects. At the maturity of the transfer of the project, the beneficiary country will be able to operate the project on its own.

Istisna' lease Finance to the BRI infrastructure projects.

Istisna' lease financing is the financing procedure which involves two contracts, the Istisnaa contract whereby the government arrange the sale of specific undeveloped property to a third party. The third part finances the development of the property and the government rents the property and pays rent to the financier. Islamic finance prohibits the sale of property, which does not exist, although the exclusion is given to Istisna' since the property needed to be developed under specific descriptions and make this contract valid. This is the hybrid contract can be of two types. The first one is Istisna' lease without exit and the second is Istisna' lease with exit. In Istisna' lease without exit, the financial will continue to own the property and receive rent from the government while in Istisna' lease with exit, the government will purchase the property on an installment basis.

This type of financing is suitable for global economic partnership funds created by China which include the China-LAC Industrial Cooperation Investment, the China-Central and Eastern Europe Investment Cooperation, the China-Africa Fund for Industrial Cooperation, the China-LAC Cooperation, the China-Eurasian Economic Cooperation, and the China-ASEAN Investment Cooperation fund.

The mode of operandi which involves seven steps. 1). The government sells undeveloped property to the financier and financers approve the purchase of the property; 2). The financer pays for the development of the property to the manufacturer; 3). The government leases the property from the financier; 4). The government fulfils the promise to buy the property; 5). The manufacturer delivers the property to the Government upon completion; 6). The government pays rentals plus instalment payments to buy the property; 7). Financial transfer of the ownership of the property upon maturity.

Istisna' lease with exit, although the parties can decide to do up to six steps and the financier continues to own the property. If the financier does not wish to continue to hold the property may issue a sukuk and transfer the ownership to the sukuk holders. This kind of financing is suitable for countries with knowledge and experience in operating massive projects.

Conclusion

BRI projects are crucial for the development of the countries. The Chinese government established BRI to connect Asia, the Middle East, Europe, and Africa through massive infrastructure such as roads, railways, ports, and airports. However, there is a challenge in financing these projects. Chinese government proposed the conventional financial model which seems to hinder the development of these infrastructures due to debt associated with financing mechanisms. The purpose of this study was to examine how Shari'ah-compliant finance can be a solution in financing BRI projects and mitigating debt risk. The finding shows that Shari'ah-compliant finance can provide a solution to the debt trap associated with the conventional model proposed by the Chinese government. By using BOT, the structure can facilitate financing, especially in developing countries with no technical skills as well as experience in operating massive projects. This structure offers financing of the project as well as helps in skills transfer to the local during the operating stage. Another structure is Istisna' lease Finance, this structure focuses on financing the specific project identified by the country. This structure offers the country the ability to develop the project, lease the project and pay back specific amounts in instalments. Despite the conventional finance where the payment contains interest, in this contract the payment is specified and cannot be changed due to interest.

The study suggests that there is a potential benefit that can be derived from Shari'ah-compliant financing. The Chinese government, as well as BRI countries, may explore further benefits to increase the capacity of financing projects while ensuring the projects are sustainable and countries can fulfil their obligation under the contacts. Further research can be carried out through testing the implementation of the istishna financing scheme.

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