

THE IMPORTANCE OF THE CODIFICATION OF ISLAMIC CONTRACT LAW IN SOLVING BANKING AND FINANCIAL DISPUTES IN INDONESIA”.

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ABSTRACT

Islamic Court has already been established in Indonesia for a long period before the beginning of the Dutch Colonization in Nusantara (Indonesia in the past) and has been continued until now. However, the jurisdiction of Islamic Court on economic fields has been banned by the Dutch Government, caused some problems on capability to solve banking and financial disputes. After the independence of the country, according to the Act No.3, year 2006 stated that the jurisdiction on Islamic banking cases are given to the Religious Court, though some doubt on the capability still persist. When the Act on Islamic Banking has been approved by Indonesian parliament, still the problem exists due to the lack of source on contract law in Islamic basis. The law which is now applied in court still Dutch Civil Code “BurgerlijkWetboek” (BW), because the Islamic Economic Law Compilation (KHES) still does not have legal enforcement on district courts. Moreover, the customers of the Islamic financial institutions are not all Muslims, which would rather to file the law suits not to religious courts. How important is the codification on Islamic contract law in the perception of the legal practitioners’ point of view to cope with sharia compliance is the problem in this paper. Based on a survey research to some judges in 10 provinces as legal practitioners in Indonesian, this paper found the conclusion.

Keywords: codification, Islamic banking, Islamic Contract law, dispute settlement

INTRODUCTION

Islamic banking and finance as an industry is very young in Indonesia, (just about 22 years old), compare this to the conventional system, which has had over hundred years since it was brought by the Dutch colonial system. It was not until the end of 1990’s that Islamic banking began to branch out and develop many kinds of investment funds, however, nowadays the growth of this industry so rapidly, together with the disputes as the consequences.

This paper aims to describe a state of urged that the reason for need or do not need to be an attempt to collect systematically and comprehensively written regulations or as a codification in the field of engagement in Islamic law. Thus the Islamic contract law becoming one of the elements in the legislation (national).

The idea of the direction of the codification of Islamic contract law got the attention of various parties, particularly the enthusiasts and observers of the economy Shariah law, so the topic is meant to discuss the extent of thinking codified Islamic law of contract can be implemented within the framework of national legislation system. Some facts objectively application of Islamic economic system that drives the need to establish sharia sound fundamentals of contract law can be expressed by stating some historical developments in this paper.

This writing is based on normative method of research, using legal materials and legislation. However, to analyze the importance of the codification of Islamic contract law as disputes resolutions, the authors here have done a field research through a survey. In searching the data, was done by distributing questionnaires to the respondents. The survey were taken from some judges in 10 provinces in Indonesia which has the most high consumption on Islamic banking funds and financial activities based on statistical data by Bank Indonesia in December 2013. The ten of those provinces are: DKI Jakarta, West Java, East Java, Central Java, South Sulawesi, North Sumatra, Banten, West Sumatra, South Sumatra and East Kalimantan.

ISLAMIC COURT IN INDONESIA AND ITS JURISDICTION ON BANKING DISPUTE SETTLEMENTS.

Islam is *al din*.¹ The terms contained in the Qur'an, Surat Ali Imron (3) of paragraph 19 (hereinafter referred to as QS Ali Imron (3): 19): "Truly blessed religion with Allah is Islam ..."² Al Din in the Qur'an contains bidimensional concept which includes two aspects³ of human life is the spiritual and religious aspects of the social aspect, which is based on the doctrine of tawhid (unity).

The totality of Islamic teachings, regulate all aspects of human life. Not only limited set of worship, but also regulate human relationships with each other (*muamalah*), including setting economic system.⁴ The entire errand and prohibitions of Allah in the Qur'an as well as the messenger and the *sumah* of the Prophet prohibition formulated in *fiqh*,⁵ it would seem that everything has wisdom and no vain.⁶ The goal is to realize the benefit of the people in accordance with the objectives of Islamic law.⁷ If the benefit values are ignored, there will be various forms of discrimination, oppression and injustice. So that is why Islam also attributed with the system on court of justice.

Islamic Court (nowadays it is called as "Religious Court" or Pengadilan Agama) has already been established in Indonesia for a long period before the beginning of the Dutch Colonization in Nusantara (Indonesia in the past) and has been continued until now.⁸ However, the jurisdiction of Islamic Court on economic fields has been banned by the Dutch Government.⁹ That is why nowadays it causes some questions on the capability of the court to solve banking and financial disputes, even though those fields already become its jurisdictions.

After the independence of the country, according to the Act No.3, year 2006 stated that the jurisdiction on Islamic banking cases is given to the Religious Court. Pursuant to Article 49 of Law No. 3 of 2006 on the Amendment of Law Number 7 of 1989 on the Religious Judicature (hereinafter referred to as Law No.3 / 2006) there is a new authority to institute the Religious Courts, namely resolve economic disputes or disputes in the field of Sharia economic law.¹⁰

Sharia economic law is the law governing the economic activities of Indonesia's economy, which is based on Sharia. Potential disputes in the field of Shariah economy, among others related to the contract (agreement) on economic transactions known as contract or also because of disputes between financial institutions and the interests of the users of funds, can also be attributed to differences in perception or interpretation of the obligations and rights that they must satisfy.¹¹

Law No. 21/2008 also regulates dispute resolution in Islamic banking. According to Article 55 of the law the dispute resolution can be implemented via two pathways, ie pathways out of court or in court. The parties were given the freedom to resolve disputes using Islamic banking both litigation and non-litigation path. Paths used are non-litigation consultation, mediation and arbitration as agreed in the agreement between the two sides. Freedom of the parties to choose the path of completion will typically be included in the contract agreement (contract) agreed by the parties.¹² In the explanation of Article 55 paragraph (2) of Law No. 21/2008, stipulated that the dispute resolution to be carried out in accordance with the contents of the contract. The form of the resolution of disputes through consultation, among others; banking mediation; National Sharia Arbitration (hereinafter abbreviated BASYARNAS) or other arbitration institutions; and / or through the courts in general courts.¹³

Today, because of there are so many options for resolving disputes of Islamic banking according to the Law No. 21/2008, in the dispute resolution clause, the fact that banks are more likely to state that in the event of a dispute not resolved in the religious courts.¹⁴ This became problems of sharia compliance in the dispute settlements based on the contract. About this matter, the former Chief Justice Prof. Abdul Ghani Abdullah said that the first problem is the formulation of the contract. On the field, the banks and Islamic financial institutions do not yet have a standard contract format. In practice, many Islamic banks are not consistently implements sharia engagement. Most often, initially murabaha, then turned into a regular contract, both buying and selling and debt. According to Prof. Ghani, usually the bank does not want to care about this fundamental issue. On the other hand, society as well as the customers do not know anything or do not want to bother. In fact, from a legal standpoint, this has serious consequences, in juridical realities, it is muamalah contract but empirical reality, not muamalah. The second problem is that there is still no clarity about the making of the sharia contract: whether it should be notarized or just like the insurance contract between the insurer and the insured. There needs to be a standardization formulas contract, so be notarized can be well defined. In addition, a notary involved in the signing of the contract was to be a notary who understands sharia contract-agreement, otherwise some contracts become invalid. So in the way of solving these problems in banking business needs guidance in practice to run Islamic banking system according to Islamic law, by means of codification of Islamic contract law to guide the day to day transaction and as a standard in dispute settlements.

THE DEVELOPMENTS OF ISLAMIC BANKING AND FINANCE IN INDONESIA

Indonesia has become the biggest Islamic retail banking in the world according to Adiwarman Karim. There are five reasons for his opinion, namely: 1) the breadth of institutions that have achieved 191 Islamic banks, 2) the institutional network has supported the current number of users of banking services that are not small as well, 3) the growth of Islamic banking is supported by a number of members of the Supervisory Board Sharia (hereinafter referred to as DPS) in the world. 4) having Islamic bankers in the world, and 5) have the largest colleges that offer Islamic banking as a matter of learning materials.¹⁵

There are three things that the Islamic economic system contribution to the national economy. First, Islamic economics contributed to the development of the real sector. Prohibition against bank interest and speculation require funds managed by Islamic financial institutions channeled to the real sector. Secondly, Islamic economics in Islamic finance industry through taking part in attracting investment to Indonesia, mainly from the Middle East countries, which are investors from the oil-producing countries, to invest in Indonesia.¹⁶ Third, the progress of movement of the Islamic economic system encourage ethical behavior in Indonesian society.

The development of the application of Shariah principles in the practice of economic activity in Indonesia is characterized by increasingly diverse types of economic institutions based on the principles of Shariah. Even the imposition of Islamic law in the field of muamalah has had its own position in the world, not only in Muslim countries,¹⁷ but also among the non-Muslim majority.¹⁸ For example, Islamic Banking in the UK that is in demand by non-Muslim customers.

There are two important roles and functions played by banks in the country's economy as a depository of public funds and as a provider of funds for public institutions or businesses.¹⁹ In the banking world, the customer is a consumer of banking services. The position of customer in relation to banking services, are the two positions can be alternated according to which side they are.²⁰ In Islamic banks in terms of fund mobilization, customers save their money in the bank either as savers, depositors, as well as the buyer of securities, the customers he serves as the owner of capital.²¹ While on the distribution of funds, domiciled borrowers as capital and bank managers as owners of capital.²² From all of these positions, basically customers are consumers of businesses that provide services in the banking sector.

Banking institutions function as intermediary parties who have surplus funds have consequences on the onset of intensive interaction between the banks as businesses with customers as users of consumer banking services. In such intensive interaction between the bank and its customers,²³ it may happen that if the problem can not be resolved immediately turned into a dispute between the customer and the bank.

Economic revival of sharia in Indonesia was marked by the establishment of Bank Muamalat Indonesia in 1992. At that time the existence of the Islamic banking system to obtain legal protection with the enactment of Law No. 7 of 1992 concerning Banking, followed by some law thereafter.²⁴ Indirectly in terms of market psychology, the application of some of this Act is more than enough to encourage public confidence in doing all economic practice of sharia in Indonesia. Since transforms the Banking Law and the Law No. 3 of 2004 on the Amendment of the Law of the Republic of Indonesia Number 23 of 1999 concerning Bank Indonesia (hereinafter referred to as Act 3/2004)²⁵ as well as the issuance of Law No. 21 Year 2008 on the Islamic Banking (hereinafter referred to as Act 21/2008)²⁶, since the year 1998 national Islamic banking growing quite rapidly, both assets and business activities.²⁷

In business transactions in general and Islamic banking in particular, although it has been attempted making through good planning and analysis system based on a careful prudence, not an absolute assurance about the absence of conflict and dispute. However jelinya formulate approval, conflicts and disputes cannot be avoided completely. If the man in the conduct of business activities in the form of cooperation and of any level, there is always faced with the possibility of dispute.²⁸

THE POSITION OF CODIFICATION IN CONTRACT LAW IN INDONESIA.

In the Latin language, code or codex means "a systematically arranged and a comprehensive collection of laws, which means that a complete set of laws systematically arranged. So codification (Codification, codificatie,) means action or work codify laws or regulations or to collect into a law book systematically (to systematize and arrange (laws and regulations) into a code).²⁹

As in most of Southeast Asia, the codes in Indonesia came through colonization. Unlike what happened in East Asia where western codes were adopted somewhat voluntarily in order to “modernise” and replace the previous laws. In the history of Indonesia, there was no need to adapt the codes to local cultures as the locals would be governed by their own law (Islamic Law and the different indigenous Adat laws) and the codes would apply in principle only to Europeans and their commercial transactions.³⁰

Indonesia to this day remains committed to legal pluralism and the codes are therefore only one of the many legal traditions available and applicable to different persons and situations. In fact the civil and commercial codes remain very “foreign” to this day, only the Dutch version is official and no version in the Indonesian language has ever been adopted. This leads to a certain weakness in the doctrine and jurisprudence on these codes as very few academics and judges speak Dutch today. This has led to a decodification, the legislature adopts new legislations in Indonesia which take out of the codes whole fields of law such as land law and company law for example.³¹ Nonetheless in contract and commercial law, these old codes in Dutch remain the law until now.

Indonesia is the largest Muslim-majority country in the world. Due to the long colonization era, it nonetheless recently, democratically rejected the possibility of mentioning Islamic law in its Constitution.³² Even though it is not an Islamic State, it does apply some important aspects of Islamic law to Muslims (family law, inheritance, Islamic banking etc.) but most of its law is secular.³³ As the consequent Islamic Law which exist in the regulation and applied in court are a very limited. Tim Lindsey in her presentation mentioned that:

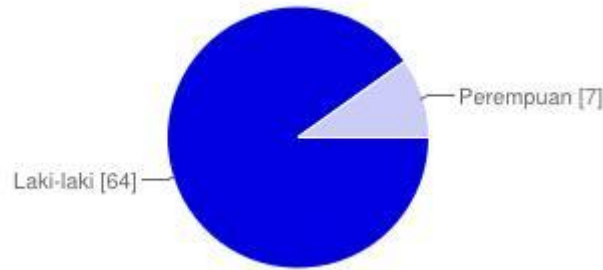
“Shari’ah in the Indonesian system of courts for Muslims is thus largely symbolic, atleast as a formal source of law. With the exception of Aceh (where its jurisdiction as the Mahkamah Syar’iyah is much wider) , the Religious Courts jurisdiction is limited by statute to only few aspects Islamic legal tradition.”³⁴

In the era of economic progress and the contemporary Islamic financial institutions, many issues that arise, such as hedging (swaps, forwards, options), Margin During Construction (MDC), the profit equalization reserve (PER), trade finance etc. All becomes problems. Dozens of cases of hybrid contracts, instruments on inter-bank money market, sukuk schemes, repo, interbank syndicated financing with sharia or conventional, restructuring, financing indent property, ijara maushufash fizz-zimmah, hybrids takeover and refinancing, forfeiting, overseas financing, “KTA” scheme, multi-purpose financing, credit card design, laws related fiduciary assurance, hypoteik and security rights, maqashid of annuities, Tawarruq, net of revenue sharing, installment gold, gold investments, as well as the number of new cases continue to emerge. These cases are subjects to be solved by court system and other dispute resolutions bodies in Indonesia. In this case need the rule on Islamic contract law as the source of judgement in decision making.

THE IMPORTANCE OF THE CODIFICATION OF ISLAMIC CONTRACT LAW IN SOLVING ISLAMIC BANKING AND FINANCIAL DESPUTES FROM THE PRACTITIONERS POINT OF VIEW.

According to the research that the authors made during March to August 2014, which is involved 71 judges from 10 Province in Indonesia, can be seen in general the importance of the codification of Islamic contract law to give solution in disputes settlement between banks and its customers in religious courts. In this research also we can see the opinion of what is the better form of codification to be chosen by the government of Indonesia.

In this study, is expressed the opinion of the legal profession, especially the religious court’s judges in the District Court. Questionnaires have been carried out to 10 provinces. Of the 100 questionnaires sent to respondents, who filled out questionnaires only 71 respondents. The following will explain the results of these studies.



Based on the data obtained through the questionnaire, 92% of respondents are Males and 8% of respondents are Females. All respondents (100%) answer that they knew about the contract (contract) sharia. Some 56% of respondents knew about the contract sharia through school / training, 18% of respondents knew through other means, 16% of respondents know through the mass media and 10% of respondents knew through the environment. All respondents / equal to 100% of respondents agreed that knowledge of contract law sharia important in carrying out their duties this.

According to practitioner in terms of sufficient or who has not rule on the law of Sharia contract in solving problems of respondent's profession as a judge, as many as 21% of respondents said enough, while 79% of respondents said not enough.

The reason given in the answer sheets which is rule of the law of sharia contract is enough to solve the problems in the profession as a judge performs are:

1. It is not yet clear and detailed set of procedural law and the law of his material.
2. Existing rules, such as Law No. 7 of 1989, first and second change (Law No. 3/2006 / Law No. 50/2009) on judicial Religion, Law No. 21/2008 about Islamic banking, banking law, PBI and DSN lated to Contract Law Compilation of Islamic Economics as well as other rules are adequate.
3. Compilation of Islamic Economic Law (KHES) complete enough to guide the judge in settlement syaria-economic but it would be better if the KHES passed into law.
4. Regulation on the law of sharia contract can be used as guidelines in solving the problems of my work, but it still need improvement, especially to address the growing practice of Islamic economics which is answer the matters of a technical nature

As for the reason stated in reply that the regulation of sharia contract law today is not enough to solve the problems in the profession as a judge performs are:

1. Syariah contract scattered about in various regulations.
2. Currently sharia rules on the contract have not been codified in a strong legal framework.
3. Regulations is not enough and even if it is not adequate enough to represent in solving the problem, only to a degree strength can not force (it need to be increased to the level of the Act).
4. Provisions on Islamic economics is still incomplete (insufficient amount of rules) so it is still quite difficult for the judges to resolve disputes of Islamic economics. For example, there are some laws that specifically regulate or services about the practice of Islamic economics as the Law 21/2008, 19/2008 For Islamic insurance and while the other has not.
5. So far, sharia law related to contracts is in the Qur'an, hadiths of prophet and opinions of the scholars found in book of fiqh. and last born Compilation Economic Law Sharia legal basis relied on the Supreme Court Rules (PERMA). KHAES and PERMA is legal basis only emergency measures taken to prevent a legal vacuum and legal disparities in economic disputes sharia in Indonesia. Sharia should be the basis of contract law is based on a higher law, namely Law.

100% of respondents answered yes that means agreed with the matter of law contract is important for codified sharia. The reasons respondents chose the answer is as follows:

1. There is uniformity of law.
2. In order to create the legal entity making it easier to track
3. To provide a more certain legal powers and became a reference in the event of a dispute.
4. Because the rules regarding it is still possible to based on al-Qur'an, hadith, expert opinions and discuss books about Islamic economics, and regulatory BI, so it is quite a source of formation of the rules and the judge's decision disparities are unlikely to turn.
5. As an organizing principle in Shariah economic practice, providing legal certainty for investors and all stakeholders related to Islamic economics.
6. Codification produce clarity, regularity over codification system parameters so that a source in making

contracts on the contract agreement.

By 98% of respondents replied shape codification of sharia law contract is Not Strong Enough (need to shape legislation) in KHES, and 2% of respondents answered yes (Strong Enough). By 85% of respondents replied matter of law contract should make Sharia Law in separated. While 15% of respondents replied matter of law contract is made by Converge sharia in the Act of the National Contract Law.

The reasons respondents chose the answer that the matter of law contract should be made in the Sharia Law Separated are as follows:

1. More specifically set forth in a separate rule.
2. Because of the difference principle agreement that needs to be dealt with specifically.
3. Because the contract is based on sharia principles different than the national contract law that a conventional nature.

The reasons respondents chose answer that the matter of law contract should be made in the Sharia Law blends are as follows:

1. For more introduce contract sharia law to the public and legal practitioners.
2. To provide unification of law and order do not overlap and contradict one another, the law should be the law relating to contracts made in one package.
3. Separate sharia legislation and regulation of legislation and regulation in general potentially the onset of the impression that the issue of Shariah contracts that are part of certain groups for political efforts to make Indonesia an Islamic state / sharia, which certainly is not essential For further discussed.

68% of respondents answered No which means the nomenclature of the term sharia Islamic law on the contract can not be adjusted with the same concept in civil law or customary law in Indonesia. While 32% of respondents replied yes that means agrees with the nomenclature of the contract term Islamic sharia law.

The reasons respondents chose the answer is yes as follows:

1. Should be made separately. but taken together, the nomenclature of the term Islamic law should be adapted to the habits of the application of the transactions contract in Indonesia, without leaving the terms were used in the concept muamalah (read: using the term Arabic as the language of the Qur'an and the hadith).
2. Because it can provide ease of understanding of the term.
3. National general contract law was viewed from all sides in accordance with the Islamic civil, but there are some things that need to be observed, that for the context, if the nomenclature of Islamic legal terms included in contract law .

It will pros and cons causes among legal practitioners and legal academics, but personally I do not mind and could not agree at all.

5. Because there are similarities between them, but the provisions of sharia must remain unfulfilled.

While the reasons respondents chose the answer is no:

1. Different type of sharia contract with general civil contract.
2. So far not all of the nomenclature in the national law has same meaning with the nomenclature of Islamic economy
3. Syaria contract law is philosophically very different from the general civil law and customary law, economics transcendentally Shariah law should be above both.
4. In episteme and ontological, sharia contrast to conventional contracts, hence its nomenclature should be separated to avoid misleading in the description of the operational definition of nomenclature.

By 87% of respondents answered "no" which means the term contract forms in Arabic does not need to be paired in Indonesian. 13% of respondents answered "yes", which means a term contract forms in Arabic language support needs to be paired in Indonesian.

The reasons respondents answer yes, are as follows:

1. National general contract law was viewed from all sides in accordance with the civil Islam, but there are some things that need to be observed, that for the present context, if the nomenclature of Islamic legal terms included in national contract law would lead to pros and cons causes among legal practitioners and legal academics, but personally I do not mind and could not agree at all.

2. Because there are similarities between them, but the provisions of sharia must remain unfulfilled.
3. Of course only the rules of substantive contract law is the same between Islamic law, civil law, and customary law can be incorporated use of the term Islamic law in the legal language of Indonesia.
4. To be more comprehensive and dynamic.

While the reasons respondents chose the answer is no as follows:

1. Type of sharia contract different from general civil contract.
2. Because of different systems can not be put together, although the nomenclature of these terms can be adjusted but in practice can cause problems in interpretation of technical terms and definitions also set forth in the codification.
3. Because contract law sharia broader scope than the national contract law

60% of respondents said National Contract Law which would be realized should not only deals with the problem alone but Contract Law Legal is provisions in general, while 40% of respondents replied National Contract Law embodied just about Contract Law only

The reasons underlying the answers only on the contract are as follows:

1. Legal Commitments generally have been arranged in Book III of the Civil Code, so that there is no overlap rule this new law regulating the contract just enough
2. More easy and practical
3. Contract that sharia law can stand alone

The underlying reasons respondents chose law answer engagement in general is as follows:

1. In order to put together all under one umbrella law nationally
2. Act that products will be delivered and covering other forms of engagement that are regulated in Islamic economics
3. Because of an agreement made not only of individuals but also the law regarding a person's material wealth and
4. For if the set is legal commitments in general, it will give you room to move more freely to the perpetrators, than if only a set of contract law.

By 87% of respondents Disagree about BPHN's program in preparing National Contract Law that do not involve elements of sharia. While in the other hand, the other 13% of respondents agree with the policy.

The reasons respondents chose the answer is agree because the sharia contract should specifically regulated in other laws and in order to meet 2015 era of the free market would not hurt the law on contract law in this state must accommodate all possibilities, including international business transactions.

While the reasons respondents chose the answer does not agree is because the development of sharia contract is very rapid because the regulation is needed to be a reference and guidance for the development of Shariah contract.

By 93% of respondents say yes or agree that Islamic law can synergize with the provisions and principles of CISG and UNIDROIT Principles of International Commercial Contracts in the future. While 7% of respondents answered No, which means do not agree and do not believe that Islamic law can synergize with the principles of CISG and UNIDROIT Principles of International Commercial Contracts.

The reasons respondents chose the answer is yes as follows:

1. Because it is the greatness of Islamic law that can evolve with the times and any place
2. Because of the economic contract law of sharia in principle always leads to the common interests of the parties bound by agreement.
3. Throughout the implementation of business is not based on strong suppress the weak, the new economy can be in balance, the weak need the strong, the strong helping for synergy, Islam does not recognize about the capitalist, al- quran teaching beridar money not only on capital

While the reasons respondents chose the answer is no sharia law is different from other business law, would require a separate contract system.

Of 100% or all respondents are willing to be a pioneer in the discovery of law of engagement in order to

realize that the National Engagement Law that has elements of Islamic law. The reasons respondents chose the answer is described in the table below for the participation of Muslims is needed especially as judges who are directly involved in resolving problems or disputes relating to the engagement of Islamic law.

CONCLUSION

1. There are dualism of usage between the law of engagement, based on Indonesia civil law or *Borgelijk Wetboek* (BW), which is used by district court and law of convention based on sharia economic law compilation (KHES), used by Religious court authority, in solving sharia economic lawsuit in banking and finance.
2. The regulation of sharia contract law today is not enough to solve the problems in the profession as a judge in a district court. So, in the sharia economic lawsuit solution steps through litigation needs that a judge should able to dig material justice, including in civil law so her/his decision aimed to reform and invention of law (*rechtsvinding*). However, the formulation of sharia economic law decision should not be separated from sharia law of engagement (Islamic contract law).
3. While Islamic contract law still as a new jurisdiction to sharia court and the sharia economic lawsuit has still a few law instruments that also would imply the need for a judge to oversee justice values living in people. However the judges still need more knowledge on Islamic contract law principles. So in this case the codification on Islamic contract law become necessary.
4. The perception in general of the respondents in the research shows the importance to codify the Islamic contract law. However, the form of the codification has variation answer depend on their judgments, some say that because of the Sharia law is different from other business law, would require a separate contract system in the codification, the other could say need a unification in one National Contract Law Act, due to variations of ethnics of islamic banks customers.

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²²Erna Priliasari, <http://www.djpp.kemenkumham.go.id/hukum-bisnis/86-mediiasi-perbankan-sebagai-wujud-perlindungan-terhadap-nasabah-bank.html> accessed on 17 Juli 2013

²³*Ibid.*

²⁴That rule is the Law No. 10 of 1998 on Banking, Law No. 23 of 1999 concerning Bank Indonesia and the latter Act No. 21 of 2008 on Islamic Banking

²⁵Indonesia, Act 3 of 2004 on the Amendment Act. 23 of 1999 concerning Bank Indonesia, LN.2004 No. 7.

²⁶Indonesia, Law No. 21 Year 2008 on Islamic Banking. LN.Tahun 2008 No. 94.TLN. 4867.

²⁷A. Wangsawidjaja, Z, *Pembiayaan Bank Syariah*, (Jakarta: Gramedia Pustaka Utama, 2012), hlm.10.

²⁸M. Yahya Harahap, *Beberapa Tinjauan mengenai Sistem Peradilan dan Penyelesaian Sengketa*, (Bandung: Citra AdityaBakti, 1997), p. 167.

²⁹*The American Haritage Dictionary*, p. 287

³⁰Gary F. Bell, Chapter3, "Codification and Decodification: The State of the Civil and Commercial Codes in Indonesia", dalam Wen-Yeu Wang (Ed.), *Codification in East Asia*, Selected Papers from the 2nd IACL Thematic Conference, Series: ius Comparatum-Global Studies in Comparative Law, Vol. 2, 2014, p. 39.

³¹*Id.*

³²*Id.*

³³*Id.*

³⁴Tim Lindsey and Cate Summer, *Unexpected Reformers: Indonesia's Religion Courts And justice for the poor, Thelawin the State Fair, setwithin the framework of Purna bakt iProf.Thought Dr.H.Bagir Manan, S.H., M.CL*, Bandung: Centre for Policy Studies Faculty of Law, Padjajaran University, Bandung, 2011, p.656.