

Analysis of Sociology and Anthropology of Sharia Economic Law On Murabahah Dispute Settlement at The Cirebon Religious Court

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Abstract

This research explores the settlement of Murabahah disputes through sociological and anthropological studies of Islamic economic law. The focal point of this analysis is Case Number 1/Pdt.G.S/2020/Pa.Cn, which is a lawsuit related to the Murabahah transaction heard at the Cirebon Religious Court. This study utilized qualitative research methods, which were collected through secondary data. The result of this study is that the decision-making process in resolving Murabahah disputes at the Cirebon Religious Court significantly reflects the socio-anthropological dimensions of Islamic economic law. This includes recognizing the social and economic impacts of sharia transactions, particularly the large material losses resulting from defaults. This underscores the importance of Sharia norms, ethical considerations in transactions, and social responsibility in ensuring fairness in the Sharia economy. In addition, it recognizes the challenges faced in reaching solutions within the framework of Sharia economics and emphasizes the importance of collaboration among the parties involved in the process. Ultimately, the implications of this judgment highlight how social and cultural elements in Sharia-compliant societies influence economic transactions and provide a comprehensive understanding of the dynamics of Sharia economic law in a practical context and its implications for case resolution in Religious Courts.

Keywords: Murabaha disputes; sharia economic law; sociology anthropology



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Introduction

In the era of globalization and modern legal complexity, multidisciplinary analysis is becoming increasingly important in understanding legal phenomena. One area of interest is the convergence between Sociology and Anthropology with Sharia Economic Law. In this context, the analysis of Murabahah settlements in the Religious Courts is a major concern. This raises profound questions about how social and cultural factors influence the interpretation and application of Islamic economic principles in the legal system.¹

The Sociology and Anthropology of Islamic Economic Law provides a deep insight into the way people accommodate sharia values in their economic transactions. Through a sociological perspective, we can explore how social norms and cultural values influence the practice of Islamic finance. On the other hand, the anthropological approach opens a window into the structure of social and cultural life that serves as a foundation for economic decision-making that follows sharia principles.²

Murabahah is a financing in Islamic financial institutions, which often causes devastation between banks and customers. Settlement resolution can be through litigation in court. In court, the parties involved present arguments and evidence. The judge then issues a decision based on the applicable law. However, settlements often arise because one party breaches the contract without acceptable reasons, resulting in disagreements.³

Article 49 of Law No. 3 of 2006, which remains unchanged in Law No. 50 of 2009, grants the Religious Courts authority in several aspects. This includes adjudicating marriage, such as divorce, annulment of marriage, and maintaining joint property. The authority also includes resolving inheritance settlements in Islam, waqf issues, polygamy permits, religious education, as well as religious matters such as worship and fatwas. These powers remain in place without significant change.

Case Number 1/Pdt.G.S/2020/Pa.Cn which is the object of this analysis is a battle related to Murabahah transactions in the Cirebon Religious Court.⁴ In this context, multidisciplinary analysis from the perspective of Sociology and Anthropology of Sharia Economic Law is important. The Sociology perspective allows us to understand how social and cultural norms influence the practice of Islamic finance, while the Anthropology perspective opens a window into the structure of social and cultural life that underlies economic decision-making that follows sharia principles.⁵

¹ Azharsyah Ibrahim and Arinal Rahmati, "Analisis Solutif Penyelesaian Pembiayaan Bermasalah di Bank Syariah: Kajian pada Produk Murabahah di Bank Muamalat Indonesia Banda Aceh," *Jurnal Kajian Ekonomi dan Bisnis Islam* 10, no. 1 (2017): 75.

² Mohd Winario, "Masalah Hukum Islam Perspektif Sosiologi Antropologi Hukum," *Jurnal Al Himayah* 1, no. 2 (2017): 269.

³ Erna Damayanti, "Aplikasi Murabahah pada Lembaga Keuangan Syariah," *el-Jizya : Jurnal Ekonomi Islam* 5, no. 2 (November 1, 2018): 215.

⁴ Yeni Triana et al., "Wanprestasi Akad Murabahah Nasabah terhadap Bank Syariah," *Journal Of Social Science Research* 3, no. 2 (2023): 6.

⁵ Tajul Arifin, *Antropologi Hukum Islam*, (Pusat Penelitian dan Penerbitan UIN Sunan Guung Djati Bandung, 2016), 9.

In this context, we are about to explore how social, cultural and economic factors play a role in the interpretation and implementation of Islamic economic principles in the legal system. Murabahah disputes provide an interesting entry point to delve deeper into how Islamic economic law is reflected in court decisions and the extent to which social and cultural factors influence the final outcome of such agreements.

By diving into this issue, we can better understand how sharia economic law thinking interacts with social and cultural realities in Cirebon, as well as how these legal interpretations influence court decisions in concrete cases. This analysis will provide a more comprehensive insight into the dynamics of sharia economic law in the context of real practice and its consequences in the settlement of cases in the Religious Courts. Through this multidisciplinary approach, we hope to provide a more in-depth and contextual understanding of the role of sharia economic law in this case, which in turn can make an important contribution to the development of sharia economic law and legal thinking in the future.

METHOD

The methodology used in this research is qualitative research. In this context, qualitative research methods will allow researchers to explore the social, cultural and legal dynamics involved in the enforcement of Murabahah.⁶ The author uses secondary data as a source of data collection, namely through literature studies such as analysis of books, journal articles and analysis of documents such as Murabahah contracts and previous court settlements will be done textually.⁷ The data will be analyzed using the theoretical approach of sociology and anthropology of Islamic economic law to identify the social, cultural, and economic factors that influence these conditions. Data analysis techniques in this research include tracing or exploring the understanding of the viewpoints of the parties involved in conservation, and presenting the findings in the form of in-depth narratives to provide richer insights into the context of Islamic economic law in concrete cases.

RESULT AND DISCUSSION

Decision of the Cirebon City Religious Court Case Number 1/Pdt.G.S/2020/Pa.Cn regarding Murabaha Dispute

A court decision is the final stage in the trial process to resolve a particular case. The provisions regarding the court are regulated in Article 57 paragraph (2) of Law Number 48 of 1989, which designs the structure of the head part of the decision, including the name of the court that handed down the decision, the identity of the parties involved in the case, describing the problem, witness testimony, consideration of the judge and the

⁶ Anggito, Albi, and Johan Setiawan. *Metodologi Penelitian Kualitatif*, (CV Jejak Publisher, 2018), 7.

⁷ Rukajat, Ajat. *Pendekatan Penelitian Kualitatif Qualitative Research Approach*, (Deepublish, 2018), 21.

law, the ruling of the decision, the explanation part of the decision, and the part of the decision endorsement in detail.⁸

Case Number 1/Pdt.G.S/2020/PA.CN follows the same structure and content of the decision, including the identity of the parties, the subject matter, and case chronology. This case involved a lawsuit for default on a murabaha financing product filed by PT Bank Mandiri Cirebon Branch through its attorney Tatang Muliawan as the plaintiff, against Minsya Malik as the defendant. This case began when the defendant applied for a financing facility to the plaintiff in January 2012 for the purchase of a house, and the plaintiff approved it.⁹

After the financing contract was executed, the respondent was obliged to pay the installments, but he failed to do so in accordance with the agreement. The plaintiff had given several warning letters to the defendant, but there was no adequate response. Therefore, the plaintiff decided to bring this matter to the Cirebon Religious Court, which had the desire to resolve it.

The plaintiff requested for the court to declare that the defendant had fulfilled the promise in the financing, to order the defendant to pay an obligation of Rp 189,561,570.90, and to confiscate the property used as collateral, namely a plot of land in Villa Casablanca Housing. In addition, the plaintiff also requested that the defendant pay the court costs incurred.¹⁰

During the conference process, the defendant was never present, despite being officially summoned. The plaintiffs have provided written evidence to support their claim, including letters, deeds of financing, and other evidence. In addition, the plaintiffs also called two witnesses who provided evidence regarding this case.

In the final decision, the court decided to partially grant the plaintiff's claim, stating that the defendant had breached the promise in the murabaha financing contract. The court ordered the defendant to pay the entire obligation of Rp. 189,561,570.90, including principal, margin/profit sharing, and penalty. The court also stated that a security seizure of a piece of land should be made. The costs of the case were borne by the defendant. Thus, the court decision concluded this settlement by establishing the defendant's obligation to pay to the plaintiff in accordance with the terms described in the financing contract.

Considerations of the Cirebon City Religious Court in Deciding Case Decisions

Consideration of the Panel of Judges in Answering the Plaintiff's Request in the Sharia Economic Dispute regarding Default in the Murabahah Agreement. The Panel of Judges considered the request submitted by the Plaintiff in discussing sharia economics related to default in the Murabahah contract. In essence, this resolution occurred in the breach of promise made by the

⁸ Pasal 57 Ayat (2) Undang-Undang Nomor 48 Tahun 1989.

⁹ Triana et al., "Wanprestasi Akad Murabahah Nasabah terhadap Bank Syariah," 6.

¹⁰ Triana et al., "Wanprestasi Akad Murabahah Nasabah terhadap Bank Syariah," 8.

Defendant in the context of the Al-Murabahah financing contract Number 19 which occurred on February 13, 2012 before Notary Amilia, S.H. in Cirebon City. As a result of this breach of promise, the Plaintiff suffered a material loss of Rp 189,561,570.90.¹¹

The Judges noted that the Defendant never attended the conference despite being formally invited, so there was no response or defense from the Defendant. Therefore, the Judge assumed that the Defendant indirectly admitted and confirmed all of the claims and demands made by the Plaintiff. The Defendant's confession, which in this case included a mummy confession, became strong evidence based on Article 174 of the Law of Civil Procedure (HIR).¹²

In addition, the Panel of Judges also considered the validity of the Al-Murabahah financing contract that was the basis for the rescue. They stated that the contract fulfills these conditions and the pillars of the contract based on various legal considerations, including Article 22 of the Compilation of Sharia Economic Law which regulates the pillars of the contract.¹³ This contract is an agreement between PT Bank Syariah Mandiri Cirebon Branch as the Plaintiff and Minsya Malik as the Defendant. The agreement letter has been signed by both parties, indicating their understanding and acceptance of all contents as well as obligations and rights arising from the contract.¹⁴

In addition, based on Articles 44 and 46 of the Compilation of Sharia Economic Law, a valid contract is valid in accordance with sharia principles for the parties that enter into it. This confirms that the Al-Murabahah financing contract No. 19 dated February 13, 2012 made by the Plaintiff and the Defendant must be considered valid.¹⁵

Finally, the Panel of Judges also considered the claim for compensation submitted by the Plaintiff. Based on legal considerations in accordance with Article 36 of the Compilation of Sharia Economic Law and Article 1238 of the Civil Code, the Judge concluded that the Defendant had broken its promise (default) and this had caused material losses to the Plaintiff. Therefore, the Judge decided to punish the Defendant by paying material losses of Rp. 189,561,570.90 in accordance with the Plaintiff's demands.

In the overall analysis and discussion, the Panel of Judges held that the Defendant had reneged on its promise in the Al-Murabahah financing contract and that the contract was valid under sharia law. In addition, the claim for damages filed by the Plaintiff was also accepted. Thus, the Judge's decision was in favor of the Plaintiff in this settlement, and the Defendant was ordered to pay material damages in the amount determined.

Analysis of Sociology and Anthropology of Sharia Economic Law on Murabahah Dispute Decisions in the Cirebon City Religious Court

Sociology is the scientific study of human society, including interactions, social structures, institutions, and social dynamics. It focuses on understanding human social patterns and behaviors in a variety of contexts, such as urban, rural, communities, families, and

¹¹ Triana et al., "Wanprestasi Akad Murabahah Nasabah terhadap Bank Syariah," 6.

¹² Pasal 174 Hukum Acara Perdata (HIR).

¹³ Pasal 22 Kompilasi Hukum Ekonomi Syariah.

¹⁴ Triana et al., "Wanprestasi Akad Murabahah Nasabah Terhadap Bank Syariah," 6.

¹⁵ Pasal 44 Dan 46 Kompilasi Hukum Ekonomi Syariah.

organizations.¹⁶ Sociology uses scientific methods such as surveys, interviews, statistical analysis, and experiments to collect data that describe and explain social phenomena. The goal is to identify social trends, conflicts, changes, as well as factors that affect society and individuals within society.¹⁷

Anthropology is a branch of social science that emerged from Europeans' interest in the physical, customary and cultural differences in their societies. Anthropology mainly focuses on people living in one geographical area, while sociology focuses more on patterns of social interaction and community life. In essence, anthropology and sociology are similar, but their focus is different in understanding and researching people and societies.¹⁸

Sociology and anthropology are two social science disciplines that focus on understanding society, culture, and human behavior, albeit with different approaches. Sociology is the scientific study of human society, observing social interactions, structures and dynamics. Anthropology, meanwhile, focuses on human cultures around the world, exploring the differences and similarities in how people live and interact with the environment.¹⁹ Both use different research methods, such as surveys and ethnography, and have different goals in explaining culture and society. Despite their different focuses, they work together to answer basic questions about people and society.²⁰

The Sociology and Anthropology of Islamic Economic Law provides a deep understanding of how societies integrate sharia values in their economic transactions.²¹ From a sociological perspective, we can investigate the impact of social norms and cultural values on the implementation of Islamic financial practices. Meanwhile, the anthropological approach opens up a view of the social and cultural structures that form the basis for economic decision-making that adheres to sharia principles.²²

In the sociological context of sharia economic law, the decision of the Cirebon Religious Court Case Number 1/Pdt.G.S/2020/PA.CN on murabaha exemption reflects how sharia law and values influence and push into the judicial system. In this context, several social and legal aspects emerge:

The decision shows an effort to integrate sharia economic principles into the judicial system. The provisions stipulated in Article 57 paragraph (2) of Law No. 48 of 1989 serve as guidelines for judges in drafting decisions that are in accordance with sharia principles. Article 57 paragraph (2) provides a foundation for judges to consider the values, norms and principles of sharia economics when they have to make decisions in cases relating to the economy. This includes

¹⁶ Janu Murdiyatomoko. *Sosiologi: Memahami Dan Mengkaji Masyarakat*, (PT Grafindo Media Pratama, 2007), 6.

¹⁷ Sunarto, *Kamanto. Pengantar Sosiologi*, (Universitas Indonesia Publishing, 2005), 3-12.

¹⁸ Tajul Arifin, "Antropologi Hukum Islam," 1.

¹⁹ Damien Short. *Sociological and Anthropological Approaches*, (Human Rights: Politics and Practice, 2009), 93.

²⁰ Delamont, Sara, and Paul Atkinson. "The Two Traditions in Educational Ethnography: Sociology and Anthropology Compared." *British Journal of Sociology of Education* 1. 2 (1980): 141.

²¹ Henrika Kuklick, "Assessing Research in the History of Sociology and Anthropology." *Journal of the History of the Behavioral Sciences* 35. 3 (1999): 230.

²² Winario, "Masalah Hukum Islam Perspektif Sosiologi Antropologi Hukum," 269.

matters such as the prohibition of usury, the principle of fairness in business transactions, and other aspects that are in accordance with the principles of sharia economics.

Thus, Article 57 paragraph (2) becomes an important tool in bridging between positive law and sharia economic principles. This creates a legal framework that is more in line with sharia economic values in the context of economic law in Indonesia. In a sociological analysis, we can understand how the application of this article affects the actions and decisions of judges and its impact on the development of sharia economics in society. This reflects how religious and ethical aspects play a role in the judicial process.²³

The ruling underscores the need to protect the rights of parties who are aggrieved by defaults in murabaha contracts. The court ensured that the aggrieved party was given justice, which is a fundamental principle in Islamic economic law that emphasizes social justice.²⁴

This case involves PT Bank Syariah Mandiri Cirebon Branch, an Islamic financial institution. It reflects how Islamic financial institutions play a role in facilitating economic transactions that comply with sharia principles. These institutions play an important role in encouraging usury-free financial practices.²⁵

The absence of the defendant in the judicial process reflects the challenges in resolving Islamic economic rescues. The presence of the disputing party is an important part of the judicial process, and absence can affect the legal proceedings. This represents the importance of the cooperation of the parties involved in finalizing the settlement.²⁶

These rulings reflect how the public can understand and accept the use of sharia economic law in resolving economic settlements. Courts play an important role in educating the public about the importance of complying with sharia principles in economic transactions.²⁷ In the decision of the Cirebon Religious Court Case Number 1/Pdt.G.S/2020/PA.CN regarding the enforcement of murabaha, there are significant anthropological aspects of sharia economic law. This decision reflects the complex interaction between law, economics, and social values in a society that adheres to sharia principles.²⁸

In the view of legal anthropology, conflict has two meanings, namely negative and positive. The negative meaning is that conflict can damage social relations and community cohesion. Meanwhile, the positive meaning is that conflict can strengthen social ties and restore balance

²³ Erie Hariyanto, "Integrasi Mediasi Sebagai Model Penyelesaian Sengketa Perbankan Syari'ah Masa Depan," *Jurnal Proceedings of Annual Conference for Muslim Scholars* 1, no. 110 (2017): 1.

²⁴ Puteri Asyifa Octavia Apandy, Melawati, and Panji Adam, "Pentingnya Hukum Perlindungan Konsumen dalam Jual Beli," *Jurnal Manajemen & Bisnis Jayakarta* 3, no. 1 (Juli 25, 2021): 14.

²⁵ Ayief Fathurrahman, "Prospek Pengembangan Ilmu Ekonomi Islam di Indonesia dalam Prespektif Filsafat Ilmu (Sebuah Kajian Epistemik)," *Jurnal La Riba* 4, no. 2 (Desember 31, 2010): 314.

²⁶ Ahmad Mujahidin, *Prosedur Penyelesaian Sengketa Ekonomi Syariah di Indonesia*, (Ghalia Indonesia: Bogor, 2010), 61.

²⁷ Uswatun Khasanah, "Perkembangan dan Penerimaan Masyarakat terhadap Perbankan Syariah di Indonesia," *AL-MUTSLA* 2, no. 2 (Desember 30, 2020): 150.

²⁸ Muhammad Ilham and M Taufiq, "Penyelesaian Sengketa dalam Perspektif Antropologi Hukum," *Jurnal Teraju* 3, no. 01 (Maret 14, 2021): 19.

between individuals or groups.²⁹ To achieve the positive meaning, the parties involved in the conflict need to manage it maturely and peacefully, with or without a third party.

Legal anthropology shows that law is not only limited to written rules or customs, but also involves cultural elements in the resolution of a case. Although courts are a common way to seek justice, mediation is also an important alternative to resolve conflicts.³⁰ Analyzed from the anthropological perspective of Islamic economic law, this decision reflects how Islamic economics, particularly in the context of murabaha contracts, can have a significant social and economic impact on individuals and communities. The default in this transaction resulted in a material loss of Rp. 189,561,570.90 for the plaintiff, which illustrates how serious the economic impact of breaches in the context of Islamic economics can be.³¹

When viewed from the aspect of sharia norms and ethics, this decision highlights the influence of sharia norms and ethics in regulating economic transactions. The court confirmed that the murabaha financing contract met the requirements and principles of sharia. This reflects the importance of ethical values and adherence to religious principles in doing business and transactions in an Islamic society. In terms of social responsibility in economic transactions, this decision shows the importance of social responsibility in Islamic economic transactions.³² Although the defendant was not present in the judicial process, the court ensured that the plaintiff's rights were protected and the claim for compensation was in accordance with sharia law. This reflects social responsibility in ensuring fairness in economic transactions.³³

In the Integration of Islamic Financial Institutions, this case involves PT Bank Syariah Mandiri Cirebon Branch, which is an Islamic financial institution. This reflects the integration of Islamic financial institutions in the economy of a society that adheres to sharia principles. These institutions play a role in providing financing assistance in accordance with sharia principles.³⁴

The absence of the defendant in the judicial process reflects the challenges in resolving Islamic economic settlements. The court has to work on the assumption that the defendant recognizes the plaintiff's claim, which highlights the importance of collaboration of the parties involved in resolving Islamic economic settlements.

Overall, the decision of the Cirebon Religious Court in the murabahah settlement reflects how anthropological aspects of economic law affect social and economic dynamics in a society that adheres to sharia principles. By ensuring the fulfillment of ethical values and religious principles in economic transactions, it participates in maintaining justice and integrity in the context of Islamic economics.

²⁹ Abdullah Taib, *Asas-Asas Antropologi* (Kuala Lumpur: Dewan Bahasa dan Pustaka, 1985), 1.

³⁰ Ilham and Taufiq, "Penyelesaian Sengketa dalam Perspektif Antropologi Hukum," 21.

³¹ Sahlan, *The Other Laws Di Era Otonomi Daerah*, (Studi Antropologi Hukum), 153.

³² Achmad Fikri Oslami, "Kedudukan Pengadilan Agama dan Basyarnas dalam Menyelesaikan Sengketa Ekonomi Syariah," *AT-TASYRI: Jurnal Ilmiah Prodi Muamalah*, (Juni 26, 2022): 30.

³³ Rina Trisnawati, "Pengukuran Tanggung Jawab Sosial Perusahaan Perbankan Syariah di Indonesia," *Jurnal Akuntansi dan Auditing Indonesia* 16, no. 2 (2012): 103.

³⁴ Dewi Sukma Kristianti, "Integrasi Prinsip Syariah dalam Fungsi Intermediasi Lembaga Keuangan Syariah," *Undang: Jurnal Hukum* 3, no. 2 (Desember 1, 2020): 318.

CONCLUSION

The conclusions drawn from the case analysis are as follows: First, the Cirebon City Religious Court ruled that the defendant had breached the Murabahah financing contract and ordered them to pay the outstanding obligations, totaling Rp. 189,561,570.90, including the principal, profit-sharing margin, and penalties. The court also ordered the confiscation of the collateral property, and the defendant was responsible for the case costs. This decision resolved the case by enforcing the defendant's obligation to fulfill the terms of the financing contract. Secondly, the panel of judges, in their decision, carefully considered the plaintiff's claims regarding the Murabahah Agreement and found the defendant in default. They confirmed the validity of the contract under Sharia economic law and accepted the plaintiff's claim for damages. Consequently, the court ruled in favor of the plaintiff, ordering the defendant to pay the specified amount in material damages.

Overall, the Cirebon Religious Court's decision in resolving the Murabahah dispute highlights the significant influence of sociological and anthropological aspects in Islamic economic law within a society adhering to Sharia principles. It emphasizes the intricate interplay between law, cultural values, and social dynamics in Sharia economic case resolutions. Furthermore, it underscores the integration of Islamic financial institutions into the economy and underscores the importance of social responsibility in Islamic economic transactions. This conclusion underscores the complexity and relevance of sociology and anthropology in Sharia economic law within Indonesia's economic legal context.

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