

# The Notary's Responsibility for Unlawful Acts in Making Murabahah Contracts: Perspective of Islamic Law

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**Abstract:** This study aims to analyse the arrangements regarding the responsibility of notaries for unlawful acts in making contracts and analyse the implementation of notary responsibilities for unlawful acts in making murabahah contracts based on the perspective of Islamic law. This research uses a normative juridical approach method that is descriptive-analytical with literature data collection techniques and with legal interpretation analysis techniques. Based on the results of the study, it was obtained that based on the perspective of Islamic law, everyone will be held accountable for the actions they do through the process of qada'i or diyani and are prohibited from doing acts that cause harm both intentionally and unintentionally so that the form of notary responsibility can be personal responsibility, moral responsibility, social responsibility of society, and responsibility to God. The implementation of the responsibility of a Notary who is proven to have committed an unlawful act is the responsibility of the position (*fautes de services*) which is based on errors or omissions. Notaries, as defendants or co-defendants who are proven to have committed unlawful acts are decided to submit to the judge's decision and the murabahah contract made before the Notary and its derivative contracts, are declared void.

**Keywords:** Responsibility, Notary, Unlawful Acts, Deeds, Islamic Law

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## 1. Introduction

Legal acts such as sale and purchase agreements, leases, loans and loans, exchanges, debt transfers, and other economically motivated agreements are increasing and complex and human activities are changing rapidly and simultaneously in order to meet human needs and interactions.<sup>1</sup> Human being are social beings, creatures whose nature is social, who are interconnected with each other to meet each other's needs for life.<sup>2</sup> One of these needs is the need for financing for certain investment capital or consumption needed by each individual. However, not all individuals have sufficient capital or funds to meet these investment or consumption needs so some individuals use

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<sup>1</sup> Cooter Robert and Ulen Thomas, *Law and Economics*, 6th Editio (Boston: Pearson Education, 2012), 283, [http://www.econ.jku.at/t3/staff/winterebmer/teaching/law\\_economics/ss19/6th\\_edition.pdf](http://www.econ.jku.at/t3/staff/winterebmer/teaching/law_economics/ss19/6th_edition.pdf).

<sup>2</sup> Syarafuddin, *Studi Islam 2* (Surakarta: Lembaga Pengembangan Ilmu-ilmu Dasar Bidang Studi Islam dan Kemuhammadiyah UMS, 2006), 137.

the services of financial institutions.<sup>3</sup> There are two types of financial institutions that provide financing services, namely conventional financial institutions or Islamic financial institutions.<sup>4</sup> Islamic financial institutions (LKS) have objectives, mechanisms, scopes and responsibilities aimed at helping to achieve the socioeconomic goals of the community in accordance with Islamic principles.<sup>5</sup> One of the most dominant types of financing used by Islamic financial institutions is financing with the murabahah principle as stated in the Financial Services Authority (OJK) as of January 2022 that financing receivables with the murabahah principle are products with the highest value compared to financing products with other contract principles.<sup>6</sup>

The murabahah financing contract is a sale and purchase agreement through pricing and profit agreed between Islamic banks as sellers and customers as buyers with the type and quantity of goods explained in detail and payments made in instalments.<sup>7</sup> Murabahah financing is a form of raising funds carried out by LKS, both for productive business activities and for consumption.<sup>8</sup> The murabahah financing agreement carried out by LKS and customers is stated in written form.<sup>9</sup> The murabahah financing agreement in written form is generally in the form of an authentic deed made by a Notary to ensure certainty, order, and legal protection for the parties. Guarantees of certainty, order, and legal protection as perfect evidence can be fulfilled if the deed is in the form of an authentic deed made by the parties in the presence of an authorized official based on the provisions of applicable legislation such as a Notary in the form of a notarial deed.<sup>10</sup>

Notaries have a very important role in supporting the sustainability of business carried out by LKS and customers as entities that have the authority to construct legal actions to be carried out by LKS and customers in written form.<sup>11</sup> The need for written evidence can be met by a Notary as a general officer who has the task of serving the community whose final product of work is an authentic deed as in the case of legal acts of buying and selling with the principle of murabahah carried out between LKS and customers.<sup>12</sup> The financing agreement with the principle of murabahah made by LKS and customers before a Notary aims to provide justice, balance, benefit, and benefit to the parties in order to avoid emergencies and to avoid the emergence of disputes between the parties.<sup>13</sup> Although these objectives have been anticipated, in reality the dispute over

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<sup>3</sup> Sri Imaniyati Neni and Adam Agus Putra Panji, *Pengantar Hukum Perbankan Indonesia* (Bandung: Refika Aditama, 2016), 25.

<sup>4</sup> Neni Sri Imaniyati, Neneng Nurhasanah, and Toto Tohir, "The Concept of Contract in Financial Technology Era Connected with Sharia Principles," *Opcion* 35, no. 24 (2019): 1058–73, <https://produccioncientificaluz.org/index.php/opcion/article/view/30730/31779>.

<sup>5</sup> Andri Soemitra, *Bank Dan Lembaga Keuangan Syariah*, Edisi Kedu (Jakarta: Kencana, 2010), 29.

<sup>6</sup> Zainuddin Ali, *Hukum Perbankan Syariah* (Jakarta: Sinar Grafika, 2010), 26.

<sup>7</sup> Bambang Hermanto, *Lembaga Keuangan Syariah* (Pekanbaru: Suska Press, 2008), 63.

<sup>8</sup> Ali, *Hukum Perbankan Syariah*.

<sup>9</sup> Al-Qur'an Surat Al-Ma'idah Ayat 1, Allah Subhanahu Wata'ala mengatakan bahwa "wahai orang-orang yang beriman, penuhilah janji-janji".

<sup>10</sup> Felix The, "Perlindungan Hukum Atas Kriminalisasi Terhadap Notarsi," *Jurnal Masalah-Masalah Hukum* 46, no. 3 (2017): 217–27, <https://doi.org/https://doi.org/10.14710/mmh.46.3.2017>.

<sup>11</sup> Wawan Tunggal Alam, *Memahami Profesi Hukum* (Jakarta: Dyatama Milenia, 2004), 87.

<sup>12</sup> Habib Adjie, *Sekilas Dunia Notaris Dan PPAT* (Jakarta: Bina Aksara, 2009), 106.

<sup>13</sup> H.R. Ridwan, *Hukum Administrasi Negara* (Jakarta: Rajagrafindo Persada, 2006), 335.

the murabahah financing agreement continues to increase as per the Supreme Court portal data, as follows:<sup>14</sup>

Categories	Year (Number of Verdicts)					
	2016	2017	2018	2019	2020	2021
Register	77	87	137	202	197	265
Break	58	88	136	189	231	351
Uploaded	28	39	87	226	330	390

Source: Mahkamah Agung, Data Jumlah Putusan Sengketa Murabahah Tahun 2012-2021 (Edited).

The purpose of authentic deeds is as a strong and perfect evidence at the time of becoming evidence in court. However, often authentic deeds made by the parties in the future become a problem because one of the parties feels aggrieved over the deed which makes the Notary sued because it is considered to have committed an unlawful act in a lawsuit made by one of the parties to the murabahah contract. As in the murabahah contract dispute based on the Decision of the South Jakarta Religious Court Number 1957 / Pdt.G / 2018 / PA.JS, one of the parties to the murabahah contract, namely the customer sued the Notary on the pretext that he had committed an unlawful act in making the murabahah contract.<sup>15</sup>

An unlawful act is an act that intentionally or neglects to do an act that can be estimated or taken into account by the normal human mind and the act done or not done for the act causes harm to one or both parties.<sup>16</sup> The notary is responsible for the consequences arising and must be borne for failure to meet certain standards contained in the legislation for which the consequences or losses incurred must be recovered.<sup>17</sup>

The other case is the dispute over the murabahah agreement as decided by the Serang District Court Number 66/Pdt.G/2020/PN.Srg which also ensnared the Notary to be a defendant with a lawsuit that the Notary had committed an unlawful act on the guarantee of the murabahah contract. The lawsuit is made by the owner of the collateral object, the object of the guarantee is made collateral without the knowledge of the actual owner.<sup>18</sup> Furthermore, the dispute over the murabahah contract as determined by the Bandung Religious Court Class IA Number 4399/Pdt.G/2020/PA. Badg in this dispute, the

<sup>14</sup> Mul Irawan, Edi Hudiata, and Sri Gilang Muhammad, *Implementasi Small Claim Court Dalam Penyelesaian Perkara Ekonomi Syariah Di Pengadilan Agama* (Jakarta: Badan Litbang Diklat Kumdil Mahkamah Agung RI, 2018), 53.

<sup>15</sup> The Decision of the South Jakarta Religious Court Number 1957/Pdt.G/2018/PA.JS dated June 13, 2019 concerning the decision on the dispute over the murabahah financing agreement that dragged Notary Francisca Susi Setiawati, S.H., Notary domiciled in EC 1, Nomor 1, Jalan Kelapa Cengkir Timur II, RT. 18, RW. 9, Kelapa Gading, Kota Jakarta Utara.

<sup>16</sup> R. Wirjono Prodjodikoro, *Perbuatan Melanggar Hukum* (Bandung: Sumur, 2003), 72.

<sup>17</sup> Ida Bagus Wyasa Putra, *Tanggung Jawab Negara Terhadap Dampak Komersialisasi Ruang Angkasa* (Bandung: PT Refika Aditama, 2001), 54.

<sup>18</sup> Serang District Court Decision No. 66/Pdt.G/2020/PN.Srg on the judgment of the dispute between the guarantee of the murabahah contract that dragged Down Notary Hj. JULIA CHAIRANI RACHMAN. SH Notary And PPAT domiciled in Thamrin Residences Apartement Office Park Rc/11 G, Jalan Kebon Kacang Raya RT 02/05 Kebon Melati Kecamatan Tanah Abang Jakarta Pusat 10230.

Notary was sued by the customer for committing an unlawful act between the LKS and the Notary which seemed to have been the goods being traded, when in fact the customer borrowed money from a Sharia bank with the obligation to pay installments plus a profit margin with a guarantee of immovable objects.<sup>19</sup> Then, the dispute over the murabahah contract in the decision of the Bandung Religious Court Class IA Number 4398 / Pdt.G / 2020 / PABadg on the pretext that the murabahah contract made before the Notary was deliberate by LKS so that it seemed as if there had been a sale and purchase of goods between Islamic banks and customers when what actually happened was borrowing money with the obligation to pay interest margins to banks with guarantees of immovable objects.<sup>20</sup>

Previous research on the responsibility of a Notary for the deed made before him such as Ferty Litaswari's research with the title "Notary Legal Responsibility for Deeds Cancelled by the Court (Case Study of Medan District Court Decision Number 635 / PDT.G / 2013 / PN.Mdn Juncto Medan High Court Decision Number 367 / PDT / 2014 / PT.Mdn)".<sup>21</sup> The results of his research concluded that the Notary was not burdened with legal responsibility even though he was a defendant because he was not involved in unlawful acts as the plaintiff's posita and petitum. The notary's position as a defendant is necessary only to complete the subject in the suit so that the suit does not error in persona. On the other hand, if the Notary is proven to be unlawful, then the Notary can be held liable either civilly, criminally, or administratively.<sup>22</sup> Then, Rudy Iskandar Ichlas's research with the research title "Legal Analysis of notary status as a defendant in the Gono Gini Property Dispute (Study of the Decision of the Ungaran District Court Number 105 / Pdt.G / 2016 / PN. Unr)", the results of his research stated that the notary's responsibility for the dispute was not appropriate or misdirected because he was not a party to the deed.<sup>23</sup> Wahid Ashari Mahaputera's research in the Indonesian Notary Journal with the title "Legal Protection and Accountability for Notaries Who Are Also Defendants against the Deeds He Has Made".<sup>24</sup> The results of his research concluded that the form of responsibility for the existence of losses arising from the actions of the Notary

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<sup>19</sup>The Decision of the Bandung Religious Court Class I A Number 4399/Pdt.G/2020/PA.Badg February 26, 2021 regarding the decision of the dispute between the murabahah agreement that dragged the Notary ELISA KURNIATI, S.H., M.H., Notary, who is domiciled in Bandung Jl. Jend. Ahmad Yani No. 296, Komp. Ruko IBCC, Kav. Heritage, Kota Bandung.

<sup>20</sup>The Decision of the Bandung Religious Court Class I A Number 4398/Pdt.G/2020/PA.Badg dated April 16, 2021 regarding the decision of the dispute between the murabahah contract that dragged the Notary ELISA KURNIATI, S.H., M.H., Notary, who is domiciled in Bandung Jl. Jend. Ahmad Yani No. 296, Komp. Ruko IBCC, Kav. Heritage, Kota Bandung.

<sup>21</sup> Ferty Litaswari, "Tanggung Jawab Hukum Notaris Terhadap Akta Yang Dibatalkan Oleh Pengadilan (Studi Kasus Putusan Pengadilan Negeri Medan Nomor 635/Pdt.G/2013/Pn.Mdn Juncto Putusan Pengadilan Tinggi Medan Nomor 367/PDT/2014/PT.MDN)" (Universitas Sriwijaya, 2020), [https://repository.unsri.ac.id/45509/9/RAMA\\_74102\\_02022681721055\\_0012046302\\_01\\_FRONT\\_REF.pdf](https://repository.unsri.ac.id/45509/9/RAMA_74102_02022681721055_0012046302_01_FRONT_REF.pdf).

<sup>22</sup> Litaswari.

<sup>23</sup> Rudy Iskandar Ichlas, "Analisis Hukum Terhadap Status Notaris Sebagai Turut Tergugat Dalam Sengketa Harta Gono Gini (Studi Atas Putusan Pengadilan Negeri Ungaran No:105/Pdt.G/2016/PN.Unr)" (Universitas Islam Sultan Agung, 2019), <http://repository.unissula.ac.id/16740/2/abstrak.pdf>.

<sup>24</sup> Wahid Ashari Mahaputera, "Perlindungan Hukum Dan Pertanggungjawaban Bagi Notaris Yang Menjadi Turut Tergugat Terhadap Akta Yang Telah Dibuatnya," *Jurnal Indonesia Notary* 3, no. 2 (2021): 657–76, <http://notary.ui.ac.id/index.php/home/article/download/1541/379>.

against the parties must be proven before the court and if it is proven that the Notary can be held accountable.<sup>25</sup> Anita Afriana's research published in *Jurnal Poros Hukum Padjadjaran* with the title "Kedudukan dan Tanggung Jawab Notaris Sebagai Pihak dalam Penyelesaian Sengketa Perdata di Indonesia Terkait Akta yang Dibuatnya", the results of his research concluded that a Notary in a civil dispute in court can be a defendant, the notary's responsibility for this depends on his position in the dispute that occurs and depends on the decision of the judge who decides the case that dragged the Notary concerned, if the Notary is proven to have committed an unlawful act based on the judge's decision then the form of liability is civil responsibility, criminal, or administration.<sup>26</sup>

If previous studies examined the responsibility of a Notary for unlawful acts based on the law on the position of Notary, then this research will examine the responsibility of a Notary for unlawful acts in making contracts based on the perspective of Islamic law. In Islamic law, when the contract is agreed upon by the parties, the contract is binding on the parties and the law is obliged to be implemented without exception. However, a Notary who is not a party to the contract becomes a defendant or a co-defendant for the contract made before him. This is a phenomenon that becomes the object of study in terms of regulating responsibility for unlawful acts and a form of implementation of Notary responsibility for unlawful acts in making contracts. Therefore, based on the description of the research background above, there has been no research that fully examines the responsibility of notaries for unlawful acts in making contracts, especially murabahah contracts based on the perspective of Islamic law.

## 2. Method

This research is an analytical descriptive research because this research analyzes and describes the rule of law, legal principles, and legal doctrines in order to answer legal issues that are problems in this study.<sup>27</sup> This research approach is a normative juridical approach because it examines the sources of Islamic law in order to answer research problems.<sup>28</sup> In addition, it can also be said to be a statutory approach, namely an approach using applicable legislation and regulations.<sup>29</sup>

## 3. Results and Discussion

The authority of a Notary can be said to be a formal power because the authority it carries is an authority derived from the law so that on the basis of this authority the Notary is authorized to act and act in accordance with the corridors in Law Number 30 of 2004 concerning the Position of Notary (UUJN) as amended by Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary

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<sup>25</sup> Mahaputera.

<sup>26</sup> Anita Afriana, "Kedudukan Dan Tanggung Jawab Notaris Sebagai Pihak Dalam Penyelesaian Sengketa Perdata Di Indonesia Terkait Akta Yang Dibuatnya," *Jurnal Poros Hukum Padjadjaran* 1, no. 2 (2020): 246–61, <https://doi.org/https://doi.org/10.23920/jphp.v1i2.250>.

<sup>27</sup> Narbuko Cholid and Rachmad Abu, *Metodelogi Penelitian* (Jakarta: Bumi Aksara, 2013), 44.

<sup>28</sup> Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: Univesitas Indonesia Press, 2014), 10.

<sup>29</sup> Soekanto.

(UUJN-P) which is the basis for law in the exercise of his office. That is, juridically the Notary has the authority to carry out actions that give rise to legal consequences on the deeds made before him for the parties as binding as the law. The authority of the Notary is certainly not to grow and cause authority that will cause losses to the Notary himself or also losses to the parties. Therefore, the Notary basically has personal obligations and positions, the personal obligations that he must do are when doing or carrying out his position, the Notary is obliged to act and do in accordance with UJN and UJN-P as well as other binding provisions both in office and personally.

The authority and obligation mentioned in Article 15 and Article 16 Paragraph (1) of UJN-P is a legal basis for notaries in carrying out their duties as entities appointed by the state to make authentic evidence that is needed or desired by law or by the parties about a legal act. Notaries as general officials appointed by the state to carry out services to the community through UJN and UJN-P prove that Notaries have attributive authority. This is in line with Habib Adjie's opinion that the authority obtained by the Notary does not come from other institutions.<sup>30</sup> Thus, it is clear that the authority and obligations of a Notary are attributive authorities as stipulated in UJN and UJN-P.

The notary is given freedom in service to the community in accordance with the authority granted over his office as in the case of constructing the will of the parties in the deed. However, the Notary is bound by the format or composition in the preparation of the deed such as the initial composition of the deed, the body of the deed, and the end of the deed as per articles 38 of the UJN-P. These authorities and obligations are very important for all Notaries to be supervised in every performance of their duties and authorities as Notaries. If these authorities and obligations are ignored or not authorized, it will result in violations of both administrative, civil, and criminal in nature. These violations will certainly have legal consequences against the Notary himself, which in turn will harm the Notary himself both personally and in office. Therefore, the Notary must really pay attention to every item of his authority and obligations that have been positive as in UJN and UJN-P in making deeds made before him.

### **3.1. Regulation of Notary Responsibility for Unlawful Acts in Making Contracts Based on the Perspective of Islamic Law**

The regulation of responsibility for unlawful acts in the concept of Islamic law is not specifically regulated but is regulated in the context of actions in general, both acts that concern muamalah (relationship with man) and worship (relationship with god). The term unlawful act in the concept of Islamic law often called al-fi'lu al-dharar is al-'udwan which gives birth to dhaman al-'udwan (satisfaction guarantee of trespass) or also al-taqshir (careless deed) which gives birth to mas'uliyah al-taqshiriyah and also 'amal ghar al-masyru.<sup>31</sup> Unlawful acts are basically acts that are not in accordance with the provisions

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<sup>30</sup> Habib Adjie, *Hukum Notaris Indonesia Tafsir Tematik Terhadap UU No. 30 Tahun 2004 Tentang Jabatan Notaris* (Bandung: Refika Aditama, 2009), 4-6.

<sup>31</sup> Syamsul Anwar, *Hukum Perjanjian Syariah: Studi Tentang Teori Akad Dalam Fikih Muamalat* (Jakarta: RajaGrafindo Persada, 2010), 56.



of the law that harm other parties and give birth to responsibility (dhaman) for the perpetrators.<sup>32</sup>

When viewed from the side of the responsibility of the Notary in making contracts based on Islamic law, basically the Notary is a registrar as in the Qur'an surat al-Baqarah (2) Paragraph 282 which states that when committing acts of debt receivables, there should be a clerk who writes it down and there are witnesses who witness it. Surat al-Baqarah (2) Paragraph 282 according to the ministry's interpretation that Allah commands people of faith that they carry out the provisions of Allah every time they make a debt receivable transaction, supplementing it with evidence, so that it can be used as a basis for resolving disputes that may arise in the future. The proof can be written evidence or the presence of witnesses. So in the concept of surah al-Baqarah (2) Verse 282, Allah Subhanhu Wata'ala explains the importance of the role of the scribe and witness in every legal act of the muamalah, especially with regard to accounts receivable. The clerk referred to in the order of people's life in Indonesia is a Notary.<sup>33</sup>

Based on the Ministry of Religious Affairs' interpretation of Surat al-Baqarah (2) Paragraph 282 states that "written evidence" should be written by a "clerk", who writes down the contents of the agreement that has been agreed upon by both parties. The scribe's terms were: (a) a just person, impartial to one of the parties to the agreement, so as not to benefit the one party and harm the other; (b) know the laws of God especially those relating to the laws of treaties and transactions, so that he may give correct advice and instructions to the promising parties. The clerk is also responsible for the recording process he carried out and is a witness between the parties who promised, in case of a dispute in the future.<sup>34</sup>

The task of the clerk is to write down the provisions that have been agreed upon by the parties who promised. The trick is that the parties dictate to the clerk the manner and execution of the agreement and so on. The purpose of dictating the content of the agreement by the promising party, is that what is written is an acknowledgment of the indebted party, because by writing solely without any utterances made by the indebted party, then what is written alone cannot be used as a confession. In addition, this paragraph provides a requirement regarding a witness, namely a Muslim, and there is a provision regarding the number of witnesses when the witness is male or female, which is to equate a male witness with two female witnesses.<sup>35</sup>

The concept of unlawful acts in muamalah as mentioned in the Qur'an surat al-Baqarah (2) Verse 194 that if someone attacks us, then attack him, balanced with his attack on us. If referring to the Ministry of Religious Affairs' interpretation of this verse that if the musyrikins attack the Muslims in the haram month, then the Muslims are allowed to retaliate against the attack in the haram month, including if the Muslims are attacked by the musyrikins on the 'umratul qadha'. This verse makes it clear that he may

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<sup>32</sup> Imron Rosyadi, *Akad Nominat Syariah: Implementasi Dan Penyelesaian Sengketa* (Jakarta: Kencana Prenada Media Group, 2019), 27.

<sup>33</sup> Kementerian Agama, *Tafsir Ringkas* (Jakarta: Lajnah Pentashihan Mushaf Al-Qur'an, 2016), Tafsir Surat al-Baqarah Ayat 282..

<sup>34</sup> Kementerian Agama.

<sup>35</sup> Kementerian Agama.

retaliate with a recompense commensurate with any violation of the provisions to be respected. However, in carrying out vengeance should not be allowed excessively and they should be careful not to go beyond the limits and stay in the corridors of piety to Allah.<sup>36</sup>

Likewise, in the Quran surah al-Nahl Verse 126 which gives an explanation that in carrying out retribution, the retribution should be worth or balanced with the torments placed on us. According to the interpretation of the Ministry of Religious Affairs this verse is basically a verse that gives us guidelines that when there is an act that deprives us of our rights then we have the right to repay with the same deed or the same deed, but of course while still upholding the truth and devotion to God.<sup>37</sup>

The above verses of the Qur'an are arrangements in a general context that are not specialized in the deeds of the muamalah alone but also in the context of worship. In addition, there is a general basis in naming which is a measure of actions that harm or cause harm or in other words actions that make mudharat, namely the footing of the basic principle of la dharara wa la dhirara, meaning that Islamic law prohibits acts of harm and harm.<sup>38</sup> This is based on the statement of the Messenger of Allah narrated by Imam Ahmad that it should not fade and should not be recited. This means that it is not justified to make or do an act that is detrimental or an act that is detrimental. If it is connected with the concept of unlawful acts of the Notary in making the contract, it is not justified for the Notary to do acts that make mudharat both to himself and to the parties.

Responsibility in Islamic law provides a provision that every human act will be held accountable and any wrongdoing or unlawful act will basically return to the person who did it. This is like the Qur'an surah al-An'am Verse 164 which gives a definition of responsibility for the mudharat made by a person with the redaction the meaning of the verse is "... not a man makes sin but his impropriety returns to himself and a sinner will not bear the sins of others". The meaning of the Qur'an surah al-An'am Verse 164 is clearly a form of responsibility that a person must bear for his mistakes or unlawful acts committed and that person cannot be held responsible for the mistakes committed by others.<sup>39</sup> This is emphasized by the Qur'an Surat al-Mudatstsir Verse 38 that every self is responsible for the deeds he has done, meaning that every soul is bound by the deeds he does.<sup>40</sup>

Islam affirms that every human movement will never escape supervision and recording so that every good deed of good deed or bad deed done in the slightest, will certainly be recorded and in the end will be held accountable. This is in accordance with the Qur'an Surah Yasiin Verse 12 which states that Allah Almighty writes down everything that man does and writes down the traces of deeds left by man. So, it is clear that in Islamic law the responsibility for unlawful acts is a special concern that basically affects the person who has committed the act. This means that in this context the responsibility

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<sup>36</sup> Kementerian Agama.

<sup>37</sup> Kementerian Agama.

<sup>38</sup> Amran Suadi, *Wanprestasi Dan Perbuatan Melawan Hukum: Dalam Penyelesaian Sengketa Ekonomi Syariah* (Jakarta: Rajagrafindo Persada, 2020), 107.

<sup>39</sup> Kementerian Agama, *Tafsir Ringkas*, Tafsir Surat al-an'am Ayat 164.

<sup>40</sup> Kementerian Agama, Tafsir Surat al-Muddatstsir Ayat 38.



is the responsibility for personal mistakes. According to Kranenburg and Vegtig there are two forms of responsibility namely: a. The theory of fautes personnelles, which is the theory that states that losses to third parties are charged to the personal of officials who have caused losses; b. The theory of fautes de services, that is, the theory that states that losses to third parties are imposed on the agencies of the officials concerned. According to this theory, the responsibility is charged to the post.<sup>41</sup>

Islam also provides arrangements regarding responsibilities based on the leadership of a person and even everyone. Islam provides an arrangement that everyone without exception is a leader, at least a leader for himself, and every leader a person has will be held accountable. This is like the words of the Prophet Muhammad SAW who stated that everyone is a leader and every leader will be held accountable for his leadership. This concept is certainly related to the concept of liability based on fault and absolute responsibility from Hans Kelsen and Abdulkadir Muhammad.<sup>42</sup>

The regulation of unlawful acts based on Islamic law is not specific to acts against a particular law but is still general because Allah Subhanu Wata'ala and the Apostle understand that those who better understand world affairs are the people themselves as the Hadith of Prophet Muhammad Sallahu'alai Wasalam that "antum a'lamu bi amri dunyakum". It means that we know better the affairs of our world.<sup>43</sup> Islam does not regulate in detail the affairs of the world (amru dunya), let alone regulate technical matters, but Islam regulates the matters of muamalah maliah in general. It is nothing but human beings are given the freedom to think and determine the actions and deeds to be carried out as long as they are still within the limits of sharia.

Regulation of the responsibility of a Notary for unlawful acts constructed in Article 84 of the UUJN which states that an act of violation committed by a Notary resulting in a deed only having the power of proof as a deed under the hand or a deed being null and void can be a reason for the party who suffers the loss to demand reimbursement, compensation, and interest to the Notary. Article 85 of the UUJN which states that violations of the provisions can be subject to sanctions in the form of: verbal reprimands; written reprimand; temporary dismissal; respectful dismissal; or disrespectful dismissal.

Article 84 and Article 85 of the UUJN if viewed from the theory of responsibility put forward by Mustari, the responsibility imposed on the Notary is a responsibility related to the implementation of duties and obligations that should be carried out by the Notary and the form of responsibility is personal responsibility, society and the environment, the state, and God.<sup>44</sup> This implies that when a Notary is proven to have committed an unlawful act in making an agreement, the Notary is responsible personally, society and the environment, the state, and God. This concept of responsibility from Mustari has two aspects that are qada'i and diyani. However, the regulation of responsibilities in UUJN does not adhere to responsibility to God.

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<sup>41</sup> Zainal Asikin, *Pengantar Hukum Perusahaan* (Jakarta: Prenadamedia Group, 2016), 365.

<sup>42</sup> Abdulkadir Muhammad, *Hukum Perusahaan Indonesia* (Bandung: Citra Aditya Bakti, 2020), 503.

<sup>43</sup> Muhammad Fu'ad Abdul Baqi, *Kumpulan Hadits Shahih Bukhari Muslim, Insan Kamil* (Sukoharjo: Insan Kamil, 2016).

<sup>44</sup> Mohamad Mustari, *Nilai Karakter Refleksi Untuk Pendidikan* (Jakarta: Rajagrafindo Persada, 2014), 14.

This means that the personal responsibility proved before the court is the realm of qada'i which is expressed through the judge's ruling. This responsibility causes responsibility to the community, the environment, and the state whose responsibility is in the form of a contract that is made null and void or becomes an underhand contract. Meanwhile, in general, the Notary is responsible to God, of course, it will be accounted for later in the hereafter. So, it is true what Mustari said that Notaries when committing unlawful acts are basically personally responsible, morally, and socially.

Then, the regulation of unlawful acts in Articles 84 and 85 of the UUJN if viewed from the theory of responsibility according to Nasr which states that a person has a responsibility as a result of resignation and impending to Allah so that what he does must be accounted for to Allah. Arrangement of notary responsibility for unlawful acts in UUJN according to Nasr is included in personal responsibility and responsibility to the community and responsibility to its environment. Meanwhile, the responsibility to God is not part of the regulation of responsibility in the UUJN.

### **3.2. Implementation of Notary Authority and Obligations in Making Murabahah Agreements Based on Islamic Law**

Implementation of the authority and obligations of a Notary in making the murabahah contract as in the decision of the South Jakarta Religious Court Number 1957 / Pdt.G / 2018 / PA.JS, the decision of the Serang District Court Number 66 / Pdt.G / 2020 / PN.Srg, the decision of the Bandung Religious Court Class IA Number 4399 / Pdt.G / 2020 / PA. Badg, and the decision of the Bandung Religious Court Number 4398/Pdt.G/2020/PA. Badg can be obtained from the plaintiff's posita, the plaintiff's petitum, and the Notary's reply in the judgment. Based on the four cases of the murabahah contract, basically the Notary as a general officer has his duty to only provide public services based on the will of the parties interested in the guidelines in the UUJN, UUJN-P, civil code, and other provisions related to the terms and regulations in the process of making the contract.

The four cases of the murabahah contract provide information that the Notary is sued to have committed an unlawful act because he has committed an act that harms one of the parties, both parties to the contract and parties outside the contract. Unlawful acts that harm the parties to the contract. Meanwhile, the actions of the Notary who are sued are detrimental to parties outside the contract because the Notary does not act carefully and meticulously in collecting formal and material evidence in making the estuary agreement.

The notary's proficiency in making contracts is a very important aspect because if he is not capable, it will certainly have an impact on the validity of the deed he made. As Article 1869 of the Civil Code states that a deed that cannot be treated as an authentic deed, either due to the incompetence or incompetence of the general officer concerned or because of a defect in its form, then the deed has the power to be written under the hand if signed by the parties so that it becomes imperfect evidence. The notary in carrying out his authority and obligations must behave and act carefully and the contract made before him must comply with Article 1320 of the Civil Code and all elements in uujn and

UUJN-P.<sup>45</sup> Thus, the fulfilment of the implementation of UUJN and UUJN-P in terms of authority and obligations must be strictly implemented so that every role and task of the Notary is able to provide guarantees of certainty and protection to the parties and function in guaranteeing the interests of the parties.

The factors causing the lawsuit to commit acts against the law in the process of exercising the authority and obligations of a Notary in Islamic law are certainly closely related to the Qur'an Surat al-Baqarah Verse 282. Based on the Qur'an Surah al-Baqarah Verse 282 states that "... let a writer among you write it correctly. Let not the author refuse to write it as God has taught him, and let him write...". The passage gives an order that the Notary as the author or state of the will of the parties must write correctly either substantively or materially or correctly in the formal aspect. Notaries in the event of a request from the parties who will make the contract clear do not refuse not to write it down. This is related to Article 16 Paragraph (1) Letter (e) which states that a Notary is obliged to provide services in accordance with the provisions in the UUJN, unless there is a reason to refuse it.

The next fragment of the verse is "... let him not diminish a little from it...". This means that the Notary does not do things that detract from the essence of the will of the parties. If it is done, it will certainly have an impact on the agreement that has been made by the parties. If the Notary is not correct in writing down the will of the parties, then of course the contract causes the Notary to become a defendant or a co-defendant. Then, if the Notary reduces the will that has become an agreement between the parties, it will cause losses to the parties or one of the parties which leads to a lawsuit against the law.

### **3.3. Implementation of Notary Responsibility for Unlawful Acts in Making Murabahah Agreements Based on the Perspective of Islamic Law**

Unlawful acts in the concept of Islamic law are acts that are not in accordance with the provisions of the law that harm other parties and give birth to responsibility (dhaman) for the perpetrators.<sup>46</sup> This means that a Notary who commits an act against the law because it is proven to have violated the provisions of the law. If viewed based on the perspective of the Qur'an Surat al-Baqarah Verse 282, the Notary can be said not to write the will of the parties correctly and correctly even though the Notary as the recorder is instructed to write it correctly and do not reduce in the slightest the will of the parties in the murabahah agreement carried out by the parties.

The murabahah scheme is certainly subject to the mechanism of buying and selling murabahah so that the transactions carried out are guaranteed from actions that are not in accordance with sharia principles. The pillars of the murabahah contract are: the seller is the party who owns the object of the goods to be traded; the buyer is the party who wants to obtain the expected goods by paying a certain amount of money to

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<sup>45</sup> Dhody Ananta Rivandi Widjajaatmadja, "Rukun Dan Syarat Akad Pembiayaan Murabahah Dalam Bentuk Akta Otentik Di Bank Syariah," *Jurnal Aktualita* 1, no. 1 (2018): 125–38, <https://doi.org/https://doi.org/10.29313/aktualita.v1i1.3713>.

<sup>46</sup> Suadi, *Wanprestasi Dan Perbuatan Melawan Hukum: Dalam Penyelesaian Sengketa Ekonomi Syariah*, 107.

the seller; the object of buying and selling is an item that will be used as an object of buying and selling transactions; goods traded must be able to benefit or have value; and not goods prohibited from being traded; the goods are owned by the seller; the item must be known specifically and identifiable by the buyer so that there is no gharar (uncertainty).<sup>47</sup>

Meanwhile, the other conditions of the murabahah contract are sacred, unauthorized sale of unclean objects such as dogs, pigs, and so on; useful according to syara', should not buy and sell that are not taken advantage of according to syara'; not subjected to, not hindered or used certain conditions; not limited in time, buying and selling is one of the causes of full ownership that is not limited by the provisions of the syara'; transferable or surrenderable; own, it is not justified to sell the property of others with the permission of the owner of the goods; known (seen), the goods that are the object of buying and selling must be known for specifications; price, each buying and selling transaction must be clearly stated the agreed selling price; ijab kabul, is an agreement on the delivery of goods and receipt of goods traded.<sup>48</sup>

The notary can basically be held responsible for the elements of unlawful acts related to the procedure for making deeds not for the implementation of the contents of the deed, while the responsibility for the error must be proven before the court. However, in the dispute of the deed of the contract of murabahah in the object of this study it is known that the claim for compensation for unlawful acts committed by a Notary is not granted by the judge, there is only annulling the contract that has been made by him. The notary in this case cannot be held liable for compensation. The making and amendment of deeds made before him the Notary must be based on the interests of the parties not the interests of one party since this is the obligation of the Notary to safeguard the interests of the parties.<sup>49</sup>

The judge's ruling that the contract is null and void is clear if viewed according to the theory of responsibility from Mustari as an implementation of moral responsibility and social responsibility because then the Notary concerned is said to be not credible and not trusted by the public. Does not fulfil personal responsibilities because the Notary is not decided to make compensation for unlawful acts committed by him. Likewise, if viewed from nasr's theory of responsibility, the decision shows that the responsibility imposed on the Notary is a response to the community and its environment because the cancellation of the murabahah contract that has been made by the Notary makes the community no longer trust the Notary concerned.

The notary's responsibility is only in the process of making the deed of the murabahah contract, as in the Qur'an Surat al-Baqarah Verse 282 that the Notary is the author or recorder and at the same time as a witness, and his responsibility is only limited to what he did when making the contract and when he was a witness at the time of making the contract. Based on the Ministry of Religious Affairs, al-Baqarah's

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<sup>47</sup> Wasilah Sri Nurhayati, *Akuntansi Syariah Di Indonesia* (Jakarta: Salemba Empat, 2011), 173.

<sup>48</sup> Hendi Suhendi, *Fiqh Muamalah* (Jakarta: Rajagrafindo Persada, 2002), 288.

<sup>49</sup> Rizki Amalia, Muhammad Arifin, and Adi Mansar, "Tanggung Jawab Notaris Yang Membatalkan Akta Atas Permintaan Penjual Secara Sepihak Dalam Perspektif Undang-Undang Jabatan Notaris," *Jurnal Yuridis* 8, no. 1 (2021): 102–19, <https://ejournal.upnvj.ac.id/index.php/Yuridis/article/download/2878/pdf>.

interpretation of Verse 282 that the clerk was responsible and became a witness between the parties who promised, in case of a dispute in the future. The clerk is a notary or registrar of sales and purchase agreements and accounts receivable.

Based on al-Baqarah Paragraph 282, the responsibility of the Notary is as a recorder or writer at the will of the parties who must write it correctly and it is not permissible for the Notary to reject it and not to reduce in the slightest the information given by the parties. The next responsibility of the Notary is the witness to the murabahah contract, in the process of making the deed of the murabahah contract, the Notary guarantees that the witness to the contract must be two men or one man with two women. The purpose of having a Notary as the author of the contract carried out is to get certainty and confidence in the legal actions carried out by the parties.

The existence of a lawsuit against the law by the plaintiff to the Notary indicates that there is a purpose of making it difficult for the Notary, even though the order of Allah SWT clearly states that the author should not be made difficult, then if it is intended to make it difficult for the Notary then according to Allah SWT it is a ungodliness. On that basis, when there is an alleged unlawful act, then basically, the Notary cannot be held accountable for the unlawful act for the contract.

But it is different, if it turns out that the Notary performed a legal act that is manifestly in the deed does not properly construct the will of the parties in order to safeguard the interests of the parties and does not perform a series of notary obligations as in the Qur'an Surat al-Baqarah Verse 282, it is certainly a tyranny that can harm the parties. So that the responsibility of the Notary if proven to have committed a series of acts that are detrimental to the parties is that it can be claimed compensation as a relationship of adami rights as the Qur'an Surat al-Baqarah Verse 194 to compensate for losses with a value that is worth it or balanced and surat al-Nahl Ayat 126 to retaliate with a reply commensurate with the loss received.

Ayat al-Qur'an Surat al-Baqarah Ayat 194 and al-Nahl Ayat 126 provide the understanding that when there is a dispute between two parties, it is appropriate that the resistance carried out must be commensurate with the value of the budget or mistake made and the meaning of the resistance referred to above can mean compensation, or fines, diyat, and the like.<sup>50</sup> Indemnity in Islamic law, as according to Sheikh Wahbah Zuhaily, is true because: first, indemnity is applied due to the presence of factors of willful misconduct or due to the negligence of the perpetrator; second, the loss or loss of benefits of goods that can be applied for compensation is a loss that can be nominalized and is real.<sup>51</sup>

The dispute over the murabahah contract in the object of analysis of this study is islamic law in its completion is carried out by qada'i (authorized institution) namely through the courts. Settlement through the courts has indeed become a provision

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<sup>50</sup> Muhammad Syamsudin, "Ganti Rugi, Bagaimana Aturannya Dalam Islam?," 2019, <https://islam.nu.or.id/ekonomi-syariah/ganti-rugi-bagaimana-aturannya-dalam-islam-ugcUE>.

<sup>51</sup> Panji Adam Agus Putra, "Konsep Perbuatan Melawan Hukum Perspektif Hukum Ekonomi Syariah," *Gorontalo Law Review* 4, no. 1 (2021): 57–74, <https://jurnal.unigo.ac.id/index.php/golrev/article/view/1404/748>.

because religious courts have the authority to resolve the issue of al-ahwal asy-shakhsyah (civil matters). The method of settlement through qada'i through the tahkim decision is a way that can be taken in order to restore the rights of parties who feel aggrieved, but in addition to the existence of the qada'i right, there is also a diyani right which is a dispute resolution based on the religious awareness of each party, this is certainly related to sins that will be accepted by the party who makes mistakes or commits acts against the law which is a notary relationship with God.

The responsibility of the Notary is of course only limited to the responsibility for the process of making the contract, whether it is in accordance with the authority and obligations as al-Qur'an Surat al-Baqarah Paragraph 282 and UUJN and UUJN-P or not. If it is appropriate, then in terms of implementation of the contents of the murabahah agreement, it is the full responsibility of the parties, not the responsibility of the Notary as the author of the will of the parties. The responsibility of the Notary for unlawful acts, if referring to surat al-An'am Paragraph 164, it is clear that the Notary is responsible for indemnifying for unlawful acts committed by the Notary. Then, based on the Qur'an Surat al-Mudatstsir Verse 38 that everyone is responsible for the deeds he does, meaning that when the Notary is declared to have committed an unlawful act, the form of responsibility that must be carried out by the Notary should be to compensate for the losses suffered by the plaintiff.

The Notary is declared to have committed an unlawful act, but the Notary is not punished to make compensation for the losses suffered by the plaintiff. The sanction received by the Notary is to cancel the murabahah contract that has been made before him and the Notary submits to the judge's decision. This means that the concept of unlawful acts that are actually accounted for through compensation, but on the contrary, the Notary is not subject to compensation, on the arguments of the plaintiff who states that he has suffered losses as the concept of al-fi'lu ad-dharar whose elements are the existence of an act, the existence of an element against the law, the existence of errors, the existence of losses, and the existence of a causality relationship between errors and losses. This means that if viewed from the theory of responsibility according to Mustari and Nasr, it is only related to moral and social responsibilities related to the implementation of his position in the process of making the murabahah contract.

#### **4. Conclusion**

The Notary is declared to have committed an unlawful act, but the Notary is not punished to make compensation for the losses suffered by the plaintiff. The sanction received by the Notary is to cancel the murabahah contract that has been made before him and the Notary submits to the judge's decision. This means that the concept of unlawful acts that are actually accounted for through compensation, but on the contrary, the Notary is not subject to compensation, on the arguments of the plaintiff who states that he has suffered losses as the concept of al-fi'lu ad-dharar whose elements are the existence of an act, the existence of an element against the law, the existence of errors, the existence of losses, and the existence of a causality relationship between errors and losses. This means that if viewed from the theory of responsibility according to Mustari and Nasr, it is only related to moral and social responsibilities related to the



implementation of his position in the process of making the murabahah contract. The notary in carrying out his authority and obligations, before making a deed that the parties will, must find and explore all provisions related to the will of the parties in making the deed so that in constating the statements of the parties can be carried out appropriately and correctly and in accordance with the provisions of the applicable laws and regulations. When the Notary understands all the provisions relating to the information of the parties facing, then the Notary can know the formal and material requirements needed in constating the contract and all potential deviations that can harm the parties can be avoided and it also protects the Notary from a lawsuit against him.

## References

- Adjie, Habib. *Hukum Notaris Indonesia Tafsir Tematik Terhadap UU No. 30 Tahun 2004 Tentang Jabatan Notaris*. Bandung: Refika Aditama, 2009.
- . *Sekilas Dunia Notaris Dan PPAT*. Jakarta: Bina Aksara, 2009.
- Afriana, Anita. “Kedudukan Dan Tanggung Jawab Notaris Sebagai Pihak Dalam Penyelesaian Sengketa Perdata Di Indonesia Terkait Akta Yang Dibuatnya.” *Jurnal Poros Hukum Padjadjaran* 1, no. 2 (2020): 246–61. <https://doi.org/https://doi.org/10.23920/jphp.v1i2.250>.
- Alam, Wawan Tunggal. *Memahami Profesi Hukum*. Jakarta: Dyatama Milenia, 2004.
- Ali, Zainuddin. *Hukum Perbankan Syariah*. Jakarta: Sinar Grafika, 2010.
- Amalia, Rizki, Muhammad Arifin, and Adi Mansar. “Tanggung Jawab Notaris Yang Membatalkan Akta Atas Permintaan Penjual Secara Sepihak Dalam Perspektif Undang-Undang Jabatan Notaris.” *Jurnal Yuridis* 8, no. 1 (2021): 102–19. <https://ejournal.upnvj.ac.id/index.php/Yuridis/article/download/2878/pdf>.
- Anwar, Syamsul. *Hukum Perjanjian Syariah: Studi Tentang Teori Akad Dalam Fikih Muamalat*. Jakarta: RajaGrafindo Persada, 2010.
- Asikin, Zainal. *Pengantar Hukum Perusahaan*. Jakarta: Prenadamedia Group, 2016.
- Baqi, Muhammad Fu’ad Abdul. *Kumpulan Hadits Shahih Bukhari Muslim, Insan Kamil*. Sukoharjo: Insan Kamil, 2016.
- Cholid, Narbuko, and Rachmad Abu. *Metodelogi Penelitian*. Jakarta: Bumi Aksara, 2013.
- Hermanto, Bambang. *Lembaga Keuangan Syariah*. Pekanbaru: Suska Press, 2008.
- Ichlas, Rudy Iskandar. “Analisis Hukum Terhadap Status Notaris Sebagai Turut Tergugat Dalam Sengketa Harta Gono Gini (Studi Atas Putusan Pengadilan Negeri Ungaran No:105/Pdt.G/2016/PN.Unr).” Universitas Islam Sultan Agung, 2019. <http://repository.unissula.ac.id/16740/2/abstrak.pdf>.
- Irawan, Mul, Edi Hudiata, and Sri Gilang Muhammad. *Implementasi Small Claim Court Dalam Penyelesaian Perkara Ekonomi Syariah Di Pengadilan Agama*. Jakarta: Badan Litbang Diklat Kumdil Mahkamah Agung RI, 2018.
- Kementerian Agama. *Tafsir Ringkas*. Jakarta: Lajnah Pentashihan Mushaf Al-Qur’an, 2016.

- Litaswari, Ferty. "Tanggung Jawab Hukum Notaris Terhadap Akta Yang Dibatalkan Oleh Pengadilan (Studi Kasus Putusan Pengadilan Negeri Medan Nomor 635/Pdt.G/2013/Pn.Mdn Juncto Putusan Pengadilan Tinggi Medan Nomor 367/PDT/2014/PT.MDN)." Universitas Sriwijaya, 2020. [https://repository.unsri.ac.id/45509/9/RAMA\\_74102\\_02022681721055\\_0012046302\\_01\\_FRONT\\_REF.pdf](https://repository.unsri.ac.id/45509/9/RAMA_74102_02022681721055_0012046302_01_FRONT_REF.pdf).
- Mahaputera, Wahid Ashari. "Perlindungan Hukum Dan Pertanggungjawaban Bagi Notaris Yang Menjadi Turut Tergugat Terhadap Akta Yang Telah Dibuatnya." *Jurnal Indonesia Notary* 3, no. 2 (2021): 657–76. <http://notary.ui.ac.id/index.php/home/article/download/1541/379>.
- Muhammad, Abdulkadir. *Hukum Perusahaan Indonesia*. Bandung: Citra Aditya Bakti, 2020.
- Mustari, Mohamad. *Nilai Karakter Refleksi Untuk Pendidikan*. Jakarta: Rajagrafindo Persada, 2014.
- Neni, Sri Imaniyati, and Adam Agus Putra Panji. *Pengantar Hukum Perbankan Indonesia*. Bandung: Refika Aditama, 2016.
- Nurhayati, Wasilah Sri. *Akuntansi Syariah Di Indonesia*. Jakarta: Salemba Empat, 2011.
- Prodjodikoro, R. Wirjono. *Perbuatan Melanggar Hukum*. Bandung: Sumur, 2003.
- Putra, Ida Bagus Wyasa. *Tanggung Jawab Negara Terhadap Dampak Komersialisasi Ruang Angkasa*. Bandung: PT Refika Aditama, 2001.
- Putra, Panji Adam Agus. "Konsep Perbuatan Melawan Hukum Perspektif Hukum Ekonomi Syariah." *Gorontalo Law Review* 4, no. 1 (2021): 57–74. <https://jurnal.unigo.ac.id/index.php/golrev/article/view/1404/748>.
- Ridwan, H.R. *Hukum Administrasi Negara*. Jakarta: Rajagrafindo Persada, 2006.
- Robert, Cooter, and Ulen Thomas. *Law and Economics*. 6th Editio. Boston: Pearson Education, 2012. [http://www.econ.jku.at/t3/staff/winterebmer/teaching/law\\_economics/ss19/6th\\_edition.pdf](http://www.econ.jku.at/t3/staff/winterebmer/teaching/law_economics/ss19/6th_edition.pdf).
- Rosyadi, Imron. *Akad Nominat Syariah: Implementasi Dan Penyelesaian Sengketa*. Jakarta: Kencana Prenada Media Group, 2019.
- Soekanto, Soerjono. *Pengantar Penelitian Hukum*. Jakarta: Univesitas Indonesia Press, 2014.
- Soemitra, Andri. *Bank Dan Lembaga Keuangan Syariah*. Edisi Kedu. Jakarta: Kencana, 2010.
- Sri Imaniyati, Neni, Neneng Nurhasanah, and Toto Tohir. "The Concept of Contract in Financial Technology Era Connected with Sharia Principles." *Opcion* 35, no. 24 (2019): 1058–73. <https://produccioncientificaluz.org/index.php/opcion/article/view/30730/31779>.

- Suadi, Amran. *Wanprestasi Dan Perbuatan Melawan Hukum: Dalam Penyelesaian Sengketa Ekonomi Syariah*. Jakarta: Rajagrafindo Persada, 2020.
- Suhendi, Hendi. *Fiqh Muamalah*. Jakarta: Rajagrafindo Persada, 2002.
- Syamsudin, Muhammad. "Ganti Rugi, Bagaimana Aturannya Dalam Islam?," 2019. <https://islam.nu.or.id/ekonomi-syariah/ganti-rugi-bagaimana-aturannya-dalam-islam-ugcUE>.
- Syarafuddin. *Studi Islam 2*. Surakarta: Lembaga Pengembangan Ilmu-ilmu Dasar Bidang Studi Islam dan Kemuhammadiyah UMS, 2006.
- The, Felix. "Perlindungan Hukum Atas Kriminalisasi Terhadap Notarsi." *Jurnal Masalah-Masalah Hukum* 46, no. 3 (2017): 217–27. <https://doi.org/https://doi.org/10.14710/mmh.46.3.2017>.
- Widjajaatmadja, Dhody Ananta Rivandi. "Rukun Dan Syarat Akad Pembiayaan Murabahah Dalam Bentuk Akta Otentik Di Bank Syariah." *Jurnal Aktualita* 1, no. 1 (2018): 125–38. <https://doi.org/https://doi.org/10.29313/aktualita.v1i1.3713>.

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