

ABSTRACT

Pujiarso, Teguh. 09220014. 2013. *An Islamic Law Review on Fines in Wakalah Muqayyadah Contract in the Optimization System of Drinking Water Development Project (SPAM)*. Thesis. Department of Sharia Business Law. Faculty of Sharia. Maulana Malik Ibrahim State Islamic University, Malang ,
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Fines given to providers are the forms of financial sanctions as a punishment for breach of contract or failure to fulfill the provider's obligations under the contract of optimization system of drinking water development projects (SPAM) that has been agreed by the government. In the study of Islamic law, the applicable contract within the project is known as *wakalah muqayyadah* contract. It is an authority given from *muwakkil* to the vice accompanied by certain conditions. Fines are not written in the study of *wakalah muqayyadah* contract though.

There are two problems in this study that is how is the mechanism of *wakalah muqayyadah* contract in the optimization system of drinking water development projects (SPAM)? The second problem discusses about how is Islamic law review on the fines given in *wakalah muqayyadah* contract in the optimization system of drinking water development projects (SPAM)?

This study is a normative juridical research or literature research that examines the principles of Islamic law as relate to fines in the provision of goods or services. The approach used is analytical normative juridical approach since it needs no numeral data. This study employs a conceptual approach and legislation rule. It uses primary and secondary legal sources. The primary legal source is obtained from legislation rule associated with the procurement of goods and services as well as the study of Islamic law. It is then edited, checked, carefully arranged and analyzed using descriptive qualitative method.

After looking for the principle of law, this study uses a verse of the Qur'an لا يَنْفِخُ فِيهِمْ اللَّهُ as *al-Ashlunya* by determining the *'llat* contained in it discussing about the terms in a contract regarding the imposition of fines in a case if the contract terms are not completed. The origin of the law contained in the hadith is *wakalah* contract, a contract that is allowed but is not required (that can be dissolved). Its *al - far'u* is the *ta'zir* in the form of *madhbuut* financial fines. The researcher has analyzed the characteristics within *wakalah muqayyadah* contract and also decided the *'illat* contained in it namely *madhbuut* fine.