

ABSTRACT

Umi Cholifah, 10220028, *Reconstruction of Standard Contract Clause in Sharia Contract Law (A study on Standard Contract Clause at BTN Sharia)*. Thesis, Sharia Business Law Department, Sharia Faculty, The State Islamic University (UIN) of Maulana Malik Ibrahim Malang, 1st Supervisor: Dr. M. Nur Yasin, M.Ag., 2nd Supervisor: Dr. Sudirman, M.A.

Key Words: Reconstruction, Standard Contract Clause, Sharia Contract Law

The agreement on business transactions is parallel with the standard contract clause that facilitates the contract drafter. In its development, the sharia agencies also use standard contract clause for transaction. Although standard contract clause has put the sharia elements in it, but there are some weaknesses, either in the side of philosophical, sociological, or juridical. Therefore, the ease in transaction does not become the absolute reason to ignore these weaknesses. It needs to reconstruct and makes it more similar to the sharia contract law, either in principle or theory.

The focus of this research is about the form of sharia standard contract clause which has been applied at BTN Sharia and its ideal concept in Sharia Contract Law. The purpose of this reasearch is to identify the applicable form of sharia standard contract clause either from its advantage or its disadvantage, and afterwards they are analized. The result of this analysis is used as matter to reconstruct the sharia standard contract clause at BTN Sharia, thus it becomes the ideal standard contract clause in Sharia Contract Law.

This research is normative or doctrinal research focused on what is written in the legislation. It uses statute and conceptual approach. The method of data collection is conducted by doing literature study on primary, secondary, and tertiary legal materials. The analysis method of legal materials which is used is qualitative analysis by reduction, classification, display, and interpretation. It is focused on objective methods of interpretation.

The results of this research show that standard contract clause at BTN Sharia uses the general anatomy. However, it has the advantage and the disanvantages as matter of reconstruction. Finally, from this research it can be found the ideal concept of standard contract clause at BTN in Sharia Contract Law, such as: it must be simple and easy to understand, it defines the complex terms, it must be consistent with the contract used, it must be clear and not to burden one of the parties, it does not contain contrary clause in the contract, it must be coherent and clear in its placement parts and elements of contract clause. Afterward, this reconstruction concept becomes restriction which is able to accommodate all field of positive law relevance to remove logical contradiction within it and to provide clear and simple description in standard contract clause at BTN Sharia.