

## ABSTRACT

The title of this dissertation is "**Reconstruction of Loss and Profit Sharing Application in Murabaha Financing in Indonesian Sharia Banks Based on Justice Perspective of Islamic Value**".

Sharia Bank is an ideal financial institution in accordance with philosophical, juridical and sociological theory that is in accordance with Pancasila, The 1945 Constitution (UUD 1945) and Indonesian culture such as *maro* and *mertelu*. However it is found in the research that Shariabanks still apply interest as in conventional banks and do not do profit and loss sharing. This conditions create make the formulation of research problem that must be tested, how is the law application about loss and profit sharing in Murabaha financing in Indonesian Sharia Bank based on justice perspective of Islamic Law? Why does not the implementation of the law in Murabaha financing in Indonesian Sharia Bank provide justice yet? And how is the legal reconstruction of the loss and profit sharing application in Murabaha financing in Indonesian Sharia Bank based on the justice perspective of Islamic Law? The goal is that the problem can be resolved through research.

This research is a constructivism research which data is qualitative and the type is empirical law research with normative, juridical and sociological approach. The data types are primary data and secondary data and legal materials used are primary, secondary and tertiary legal materials. Data was collected through interviews and documentation in Sharia Banks in Central Java and the analysis was inductive by means of data reduction, data display and data verification.

The formulation of research problem is answered with the results of the research that Sharia Banks in Murabaha financing do not apply justice law to loss and profit sharing in the absence of business, responsibility and risk sharing, all of which is charged to the customer. The factors are the weak legal substance that is contradiction between the law in Sharia banking and in conventional bank, article in Sharia banking law does not regulate loss and profit sharing, Sharia principles governed by Indonesian Council of Ulama (MUI) and Indonesia Bank are not included in legislation hierarchy. The weak legal structure of the Sharia Bank is still paradigm of capitalism, pragmatism, applying formal justice, unresolved commissioner policy and weak Sharia council, and weak legal culture that is people lack understanding of Sharia Bank products and inflationary currency values. The results of reconstruction found that Law Number 21 Year 2008 on Islamic Banking article 2 and 19, together with Loss and Profit Sharing and Bank Indonesia regulation article 3 added and applied *mudharabah wal murabaha*, *musyarakah wal murabaha* and *musharaka walijarah al-muntahabit-tamlik*. This dissertation study found the theory of *ta'awun watawazun* that is a fair murabaha financing that shares profit and loss.

**Keywords: Reconstruction, Profit and Loss Sharing, Murabahah, Sharia Bank**