

## ANALYSIS OF BOAT BUILDING AGREEMENT BASED OF ISTISHNA' CONTRACT: A CASE STUDY IN SAWANG SOUTH ACEH - INDONESIA

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### Abstract

This study examines the transaction of boat building agreements in Sawang Ba'u village, Sawang sub-district, South Aceh district. The problem that wants to be studied in this paper is how the application of the *istishna'* contract in the practice of boat ordering agreements in the village of Sawang Ba'u, besides that the author wants to identify the problems that exist in the application of the *istishna'* contract in the boat manufacturing agreement in the village of Sawang Ba'u. To answer these problems, the author conducted field research and used a qualitative approach by collecting data through interviews, observation, and documentation. The main objective of this research is to see the application of the *istishna'* contract in boatbuilding transactions, as well as identify obstacles that may arise during the process of applying the contract. The results of this study are that in general the *istishna'* contract has gone well when viewed from the *istishna'* principles which include price agreements and clear specifications of goods. Then there are several obstacles in the implementation of the *istishna'* contract including the inaccuracy of the boat's construction time, the boat's durability when used for two to three months, but after the author conducted further interviews, these obstacles were caused by force majeure or events that occurred beyond human ability such as bad weather factors that made the boat's quality decrease and the boat's construction took a long time so that it did not damage or cancel the *istishna'* contract.

**Keywords:** Business Transaction, Istishna Agreement, Islamic Economic law, and Indonesia

## Abstrak

Penelitian ini mengkaji tentang transaksi perjanjian pembuatan *boat* di desa sawang ba'u kecamatan sawang kabupaten aceh selatan. Adapun masalah yang ingin dikaji dalam tulisan ini adalah bagaimana penerapan akad *istishna'* pada praktik perjanjian pemesanan boat di desa sawang ba'u, disamping itu penulis ingin mengidentifikasi masalah-masalah yang ada dalam penerapan akad *istishna'* pada perjanjian pembuatan boat di desa sawang ba'u. Untuk menjawab permasalahan tersebut penulis melakukan penelitian lapangan (*field research*) dan menggunakan pendekatan kualitatif dengan mengumpulkan data melalui wawancara, observasi, dan dokumentasi. Tujuan utama dari penelitian ini adalah untuk melihat penerapan akad *Istishna'* dalam transaksi pembuatan *boat*, serta mengidentifikasi kendala-kendala yang mungkin muncul selama proses penerapan akad tersebut. Adapun hasil dari penelitian ini adalah secara umum akad *Istishna'* sudah berjalan dengan baik jika ditinjau dari prinsip-prinsip *Istishna'* yang mencakup kesepakatan harga dan spesifikasi barang yang jelas. Kemudian terdapat beberapa kendala dalam pelaksanaan akad *Istishna'* diantaranya ketidaktepatan waktu pengerjaan *boat*, ketidaktahananan *boat* ketika dipakai selama dua hingga tiga bulan, akan tetapi setelah penulis melakukan wawancara lebih lanjut, kendala tersebut disebabkan oleh hal yang bersifat *force majeure* atau kejadian yang terjadi di luar kemampuan manusia seperti faktor cuaca buruk yang membuat kualitas *boat* menurun dan pembuatan *boat* menjadi lama sehingga tidak merusak atau membatalkan akad *Istishna'*.

**Kata Kunci:** Akad Istishna, Hukum Ekonomi Syariah, Indonesia dan Sawang

## INTRODUCTION

Islam is a comprehensive religion that is not limited by time and space and is open to the changes of an increasingly modern era but still has firm principles based on the Qur'an and Hadith. Islam came down with a set of rules that cover all aspects of human life. The existence of this rule is of course intended so that humans can live in peace and away from things that harm themselves and many people. One of the things regulated in Islam is the field of muamalah, the field of muamalah is important to regulate because muamalah includes social and economic interactions so that it requires guidance to ensure justice and harmony.<sup>1</sup>

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<sup>1</sup> Yusnedi Achmad, *Legal Aspects in Economics* (Yogyakarta: Deepublish, 2015).

One of the muamalah activities is *Istishna'*. According to DSN-MUI Fatwa No: 06/DSN-MUI/IV/2000, the *Istishna'* contract is a sale and purchase contract in the form of an order for the manufacture of certain objects with criteria agreed by both parties. The type, type, size, quality and quantity of goods ordered must be clear. The agreed selling price is stated in the agreement. If the terms of the order change and the price changes and the price changes after the agreement is signed, the consumer must pay all additional costs. The practice of *Istishna'* carried out by the community is growing rapidly, so it needs a fiqh review that can answer and provide a legal basis related to various contemporary muamalah practices today.<sup>2</sup>

Fiqh muamalah is a set of rules relating to human social activities, whether related to property (*maliyah*) or not tied to property (*ghairu maliyah*) such as criminal, civil and state administration. There are distinguishing features between fiqh muamalah and fiqh ibadah, one of which is that fiqh ibadah has a flexible nature. That is, the law in fiqh muamalah will continue to evolve along with the development of time and change of place, according to human needs. This of course happens because fiqh muamalah talks about human social activities, including economic activities that are very fast growing.<sup>3</sup> Sharia actually provides a fairly free space for creativity as long as it does not collide with the prohibitions that have been outlined by Sharia.<sup>4</sup>

In the contract, the specifications of the asset ordered must be clear. If the product ordered is a house then, the building area, house model and other specifications must be clear. The price must also be agreed in advance, through instalments or deferred until a certain time. Once the price is agreed, during the contract period the price cannot change even if productive costs increase, so the seller must take this into account. Price changes are only possible if the specifications of the goods ordered change.<sup>5</sup> Basically, people who work will definitely get a reward or wage for what they do, so that each party does not feel disadvantaged and justice is created between the two. The work done by

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<sup>2</sup> Chairul Fahmi, "The Impact of Regulation on Islamic Financial Institutions Toward the Monopolistic Practices in the Banking Industry in Aceh, Indonesia," *Peuradeun Scientific Journal* 11, no. 2 (30 May 2023): 667–86, <https://doi.org/10.26811/peuradeun.v11i2.923>.

<sup>3</sup> Daeng Naja, *Conversion of Islamic Bank Financing Agreements Novation or Addendum* (East Java: Uwais Inspirasi Indonesia, 2019).

<sup>4</sup> Chairul Fahmi, "Revitalising the Implementation of Sharia Law in Aceh (A Study of Law No.11/2006)," *Tsaqafah: Journal of Islamic Civilisation* 8, no. 2 (3 May 2016): 295–309, <https://doi.org/10.21111/tsaqafah.v8i2.27>.

<sup>5</sup> Sri Nurhayati and Wasilah, *Sharia Accounting in Indonesia* (Jakarta: Salemba Empat, 2015).

the hired person is a trust that is his responsibility, and must be done seriously. The wage is a debt that is owed by the hirer and must be fulfilled.<sup>6</sup>

The practice that is often seen in the process of making *boats* in Sawang Ba'u Village, usually part of the wages are given when the *boat* is halfway through the construction and paid when it is finished. This contract is carried out by the first two parties, the *boat* owner as the wage-earner (*mu'ajir*) and the *boat* builder as the wage-earner (*musta'jir*).<sup>7</sup>

Based on the results of interviews with Mr Kamaruzzaman, who is one of the owners of the *boat* being built, the practice that is often seen in the process of making *boats* in Sawang Ba'u Village, part of the wages are given when the *boat* is halfway through the construction and paid when it is finished.<sup>8</sup> According to Mr Kamaruzzaman, giving a portion of the wage at the halfway point of the *boat* will help the family economy of the *boat* builder. Mr Kamaruzzaman knows that *boat* builders only get money from the results of *boat* building, while *boat* building takes a long time, so most *boat* owners in Sawang Ba'u give part of the wages at the halfway point of *boat* building.

Meanwhile, the results of an interview with Karles, one of the *boat* owners, said that the wages were given after the *boat* construction work had been completed.<sup>9</sup> This is due to the large amount of funds spent on *boat* building, so that the *boat* owner can only afford to pay at the end, not only that sometimes the *boat* owner feels dissatisfied with the quality of the *boat* building materials, "sometimes the quality of the *boat* we received at the beginning of the delivery was good, in accordance with the order, but not infrequently the *boat* was damaged after 3-4 months of use".<sup>10</sup>

Based on this background, it can be seen that there are several problems that must be studied further, namely how the practice of *boatbuilding* agreement transactions in the village of sawang ba'u kec. sawang Kab. Aceh Selatan, then how the application of the *Istishna* 'contract in the practice of ordering and making *boats* in the village of sawang ba'u, whether the implementation is in accordance with the contract, and whether there are other problems in the application of the contract.

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<sup>6</sup> Nurul Maghfirah et al., "UNDERSTANDING INTELLECTUAL PROPERTY RIGHTS IN THE INDONESIAN TRADING BUSINESS," *Al-Mudharabah: Journal of Islamic Economics and Finance* 3, no. 2 (2022): 89–103, <https://doi.org/10.22373/al-mudharabah.v4i2.3384>.

<sup>7</sup> Chairul Fahmi, *Law and Social Phenomena* (Banda Aceh: Aceh Justice Resource Centre, 2015), [//ruangbaca-fsh.ar-raniry.ac.id%2Findex.php%3Fp%3Dshow\\_detail%26id%3D3123%26keywords%3D](https://ruangbaca-fsh.ar-raniry.ac.id%2Findex.php%3Fp%3Dshow_detail%26id%3D3123%26keywords%3D).

<sup>8</sup> Interview with Mr Kamaruzzaman, *Boat* Owner in Sawang Ba'u Village. 5 March 2024.

<sup>9</sup> Interview with Mr Karles. *Boat* Owner in Sawang Ba'u Village. 6 March 2024.

<sup>10</sup> Interview with Mr Karles. *Boat* Owner in Sawang Ba'u Village. 6 March 2024.

## RESEARCH METHODS

This research uses a qualitative approach which makes it easier for researchers to describe the results of research in the form of narrative text so that it is easier to understand. This approach is also able to explore as much information as possible, so as to provide answers to the formulation of the problem under study. The type of research used is *field* research, namely direct observation of the object under study in order to obtain relevant data.<sup>11</sup>

The research location that the researcher wants to study is located in Sawag Ba'u Village, Sawang District, South Aceh Regency. This research will focus on the practice of ordering boats (*boats*) from boat bookers to *boat* craftsmen, located in Sawang Ba'u Village, Sawang District, South Aceh Regency. After the practice occurs, it is then analysed into the *Istishna'* contract.<sup>12</sup>

The data sources in this study are divided into two, namely *primary* data sources and *secondary* data sources, while primary data sources are data obtained from *interviews*, observations, and documentation. And the secondary data sources are various kinds of references and documents, be it pictures, research results and books related to this research.

The technique used in this research is descriptive qualitative, which is a research aimed at describing existing phenomena, which take place today or in the past. In essence, this research describes the factual conditions obtained from qualitative data processing through documents and interviews with *Boat* makers.

## RESULTS AND DISCUSSION

### Basic Concepts of *Istishna'*

#### 1. Definition of *Istishna'* and the legal basis of *Istishna'*

*Istishna'* comes from the word *shana'a* added *alif*, *sin* and *ta'* to *Istishna'* which has the meaning of being asked to make something. *Istishna'* is one of the developments in Islamic economics, where this principle of delivery of goods is done by forging the goods first then delivering them after the goods are completed.<sup>13</sup>

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<sup>11</sup> 2003037702 Muhammad Siddiq Armia, *Determination of Legal Research Approach Methods* (Banda Aceh: Lembaga Kajian Konstitusi Indonesia (LKKI), 2022), <https://repository.ar-raniry.ac.id/id/eprint/22862/>.

<sup>12</sup> Amran Suadi, *Sharia Economic Dispute Resolution Theory and Practice Revised Edition* (Jakarta: Kencana, 2017).

<sup>13</sup> Ahmad Warson Munawwir, *Kamus al-Munawwir Arabic Indonesia Terlengkap* (Surabaya: Pustaka Progressif, 1997).



*Istishna'* is an order to a company to produce certain goods or commodities for the buyer or orderer.<sup>14</sup> *Istishna'* is a contract of sale and purchase of ordered goods (goods not yet produced or goods not available in the market). The specifications of the ordered goods must be agreed upon at the outset and the price of the ordered goods can be paid in cash or in instalments.<sup>15</sup>

*Istishna'* is a sale and purchase contract in the form of an order for the manufacture of certain goods with certain criteria and requirements agreed between the buyer (*mustashni'*) and the seller (maker, *shani'*). *Shani'* will prepare the ordered goods according to the agreed specifications which he can prepare himself or through other parties (parallel *Istishna'*). Payment for *Istishna'* is made upfront, by instalments, or deferred to a future date.<sup>16</sup>

For the *Istishna'* contract to be valid, the price must be fixed at the beginning according to the agreement and the goods must have clear specifications that have been agreed upon. In *Istishna'* payment can be made upfront, in instalments until completion, or at the end. *Istishna'* is usually applied to industrial and manufactured goods.<sup>17</sup>

According to Fiqh scholars, *Istishna'* is similar to Salam sale in terms of the object of the order, which both must be ordered in advance with specific characteristics / criteria that the buyer wants. The difference: payment in the sale and purchase of salam at the beginning at once, while payment in *Istishna'* can be at the beginning, in the middle, and at the end according to the agreement.<sup>18</sup>

According to DSN Fatwa No. 06/DSN MUI/IV/2000 on *Istishna'* sale and purchase, *Bai' Istishna'* is a sales contract between *Mustasni'* (buyer) and *Sani'* (supplier) where the supplier receives an order from the buyer according to certain specifications. The supplier endeavours through others to purchase or manufacture the goods and deliver them to the customer. Payment can be made in advance, in instalments or deferred until a certain time.<sup>19</sup>

According to the majority of scholars and fuqaha', Al-*Istishna'* is a sale and purchase contract relating to an order for the manufacture of certain goods, where the goods in question do not yet exist at the time of the contract.

<sup>14</sup> Ascarya, *Islamic Bank Agreements and Products* (Jakarta: PT Rajawali Press, 2008).

<sup>15</sup> Irma Devita Purnamasari and Suswinarto, *Complete Guide to Popular Practical Law Smart, Easy, and Wise Tips for Understanding Sharia Akad Issues* (Bandung: PT. Mizan Pustaka, 2001).

<sup>16</sup> Ahmad Wardi Muslich, *Fiqh Muamalah*, 1st ed., vol. 4 (Jakarta: Amzah, 2017). Page 253

<sup>17</sup> Ascarya, *Islamic Bank Agreements and Products*.

<sup>18</sup> Muhammad Ayub, *Sharia Finance* (Jakarta: PT. Raja Graamedia Utama, 2009).

<sup>19</sup> DSN Fatwa No. 06/DSN MUI/IV/2000

This contract is often applied in the manufacturing industry, construction, and various other sectors that require the production of goods based on specific orders from buyers. In *Al-Istishna'*, the buyer orders goods with certain criteria or specifications to the manufacturer or maker, and the manufacturer is responsible for fulfilling the order in accordance with the agreement. Since the goods ordered will only be produced after the contract is done, *Al-Istishna'* allows for a more structured production process that suits the individual needs of the buyer.<sup>20</sup>

The uniqueness of *Al-Istishna'* lies in its flexible and contractual nature. Unlike a regular sale and purchase contract that involves goods that already exist, in *Al-Istishna'*, the seller does not have to own the goods at the time of the contract. This contract gives the producer the flexibility to prepare the raw materials and carry out production according to the agreed specifications. On the other hand, the buyer gets a guarantee that the goods produced will meet his needs. Nevertheless, this contract remains legally binding on both parties, so both the buyer and seller have an obligation to fulfil the agreed terms.

Scholars agree that *Al-Istishna'* is permissible in Islam because it fulfils the principles of fairness, voluntary agreement, and transparency in transactions. In addition, *Al-Istishna'* is also considered to be in line with *maqashid sharia*, which is the purpose of *sharia* to protect and regulate human life in all aspects, including economic and trade aspects. With *Al-Istishna'*, buyers' needs can be met effectively, while producers have the opportunity to produce goods that meet market demand, which in turn promotes economic growth and community welfare. This transaction also strengthens the relationship of trust between the buyer and seller, as both must trust each other that the order will be fulfilled according to the agreement.

Thus, *Al-Istishna'* is a sale and purchase contract in Islam that provides flexibility for the producer to produce goods according to a specific order from the buyer, even though the goods do not yet exist when the contract is made. This contract is recognised and allowed by the majority of scholars because it meets the principles of fairness, voluntary agreement, and transparency in transactions. *Al-Istishna'* is also in line with the *maqashid* of *sharia* in supporting the fulfilment of economic needs and promoting sustainable growth through a mutually beneficial relationship between buyers and producers. Thus, *Al-Istishna'* becomes one of the important instruments in the Islamic economy that contributes to the welfare of society.

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<sup>20</sup> Ahmad Wardi Muslich, *Fiqh Muamalah*.

## 2. Legal Basis of *Istishna'*

*Istishna'* transaction According to the Hanafi Mahzab, *Istishna'* is permissible (ijawaz), because this has been done by the Muslim community since the early days without any party (ulama) denying it.<sup>21</sup> In the DSN-MUI fatwa, it is explained that *Istishna'* is a sale and purchase contract in the form of an order for the manufacture of certain goods with certain criteria and requirements agreed between the customer (buyer, *mustashni'*) and the seller (maker, *shani'*).<sup>22</sup>

The legal basis for the *Istishna'* sale and purchase is derived from the Qur'an and Hadith, namely:

### a. Q.S Al-Baqarah: 282

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَيْتُمْ بِدَيْنٍ إِلَىٰ أَجَلٍ مُّسَمًّى فَاكْتُبُوهُ

Meaning: O you who believe, when you do business not in cash for a fixed period of time, you shall write it down....

Verse 282 begins with Allah's call to the believers, "O you who believe, when you do business not in cash for a fixed time, write it down". The command of this verse is redacted to believers, but what is meant is those who carry out debt transactions, even more specifically those who owe debts. This is so that the creditor will feel more comfortable with writing it down, because writing it down is a command or demand that is highly recommended, even if the creditor does not ask for it. The command to write down debts and credits is understood by many scholars as a recommendation, not an obligation. This was the practice of the Companions at that time. It would have been difficult for the Muslims at the time of the revelation of this verse if the command to write down debts and credits had been obligatory, because writing skills at that time were very rare. However, this verse indicates the need to learn to write, because in this life everyone experiences borrowing and lending.<sup>23</sup>

### b. Prophetic Hadith

In addition to the Qur'an, hadith is also a source of law in Islam whose position is the second source of law after the Qur'an. So to help explain the

<sup>21</sup> Ahmad Wardi Muslich. *Fiqh Muamalah*

<sup>22</sup> Fatwa of the National Sharia Council of the Indonesian Ulema Council NO: 06/DSN-MUI/IV/2000

<sup>23</sup> Muhammad Ar-Rifa'i, *Summary of Tafsir Ibn Kathir*, trans. by Shihabuddin, 1st ed. (Jakarta: Gema Insani, 1999).



Qur'anic verse which is still general in nature, one of the prophet's hadiths discusses *Istishna* which means:

"From huzaifah that the apostle of Allah SAW.said. the angels welcomed the spirit of someone from the ummah before you. Then the angels asked him, "have you done any good?". So he said; I told my servant to give a grace period and assume payment in full to those who were unable to pay, (so I gave a grace period for payment to those who could afford it and assumed payment in full for those who had difficulty paying). (Another narration reads, "then he was forgiven," and another narration reads, "then Allaah entered him into Paradise").<sup>24</sup>

From the hadith above, it can be concluded that in the sale and purchase of *Istishna* there is a tough period or grace period given to the buyer in paying off the payment. And provide convenience for those who have not been able to pay or are in difficulty paying.

### 3. Terms and Conditions of *Istishna*'

*Istishna*' is one of the buying and selling transactions. Therefore, the pillars of buying and selling are also the pillars of *Istishna*', and the conditions of buying and selling are the conditions of *Istishna*'.

#### a. The pillars of *Istishna*'

The pillars of *istishna* according to the Hanafis are *ijab* and *qabul* but according to the majority of scholars, the pillars of *Istishna*' are three, namely:<sup>25</sup>

##### 1) Contracting parties

Buyer or orderer (*mushtasni*'), which is the party who needs or who orders goods or food and Seller (*shani*'), which is the party who produces the ordered goods.

##### 2) The object of the contract

Goods or services with the specifications ordered (*mashnu*'), Price or capital (*tsaman*).

##### 3) Akad or *Sighat*

Delivery (*ijab*), which is a statement from the buyer or orderer requesting the seller or order maker to make something for the orderer for a certain fee, and Acceptance (*qabul*), which is a response from the party receiving the order to express his agreement to his rights and obligations.

<sup>24</sup> Abu Bukhari, *Sahih Bukhari* (Cairo: Darral Ibn Hashim, 2004).

<sup>25</sup> Ahmad Wardi Muslich, *Fiqh Muamalah*.

b. Terms of *Istishna'*

The conditions of *Istishna'* sale and purchase, namely:

- 1) Both parties to the *Istishna'* sale and purchase contract must be of sound mind, and have the power to make a sale and purchase.
- 2) Both parties must be happy with each other and not break their promises.
- 3) The goods to be made must be clear, for example such as: type, type, size, quality, and nature, because the goods to be traded must be clearly known.

4. Price in *Istishna'*

Pricing in *Istishna'* sale and purchase can be in the form of cash, tangible goods or rights to the utilisation of an identified asset.<sup>26</sup> The price must be known upfront in order to avoid ignorance and disputes. The price in *Istishna'* sale and purchase transactions may vary according to the order. There is no conflict as to the number of bids to be negotiated, provided that ultimately only one bid is selected to conclude the contract of *Istishna'* transaction.

Once the price is set, it cannot be increased or decreased unilaterally. However, since the manufacturing process is likely to take longer, resulting in many changes, the price may be readjusted by mutual agreement of all parties involved due to modifications made to the raw materials or due to unforeseen events or changes in the prices of production materials. Prices can be paid in instalments over an agreed period of time and can also be linked to the stage of completion.<sup>27</sup>

5. Stipulation of Time for Delivery of Goods

In the *Istishna'* sale and purchase contract, the time of delivery of the goods is not mandatory. Although the time of delivery does not have to be specified in the *Istishna'* contract, the buyer can set a maximum delivery time which means that if the company is late in fulfilling, the buyer is not bound to accept the goods and pay the price. However, the price in *Istishna'* can be linked to the time of delivery. So it may be agreed that in case of late delivery, the price may be deducted by a certain amount per day of delay.<sup>28</sup>

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<sup>26</sup> Muhammad Ayub, *Islamic Finance*.

<sup>27</sup> Ascarya, *Islamic Bank Agreements and Products*.

<sup>28</sup> Ascarya. *Islamic Bank Agreements and Products*.

Delivery of the ordered goods (*muslam fiih*), must fulfil the following conditions:

- a. The producer (*muslam ilaih*), must deliver the ordered goods (*muslam fiih*) on time in accordance with the agreed quality and quantity.
- b. The manufacturer may deliver the ordered goods ahead of the agreed time, with the quality and quantity of the ordered goods in accordance with the agreement, and may not demand an additional price.
- c. If the ordered goods are not available at the time of delivery, or are of poor quality and the customer is not willing to accept them, then the customer has the right to choose (*khiyar*), namely to cancel the contract or continue by waiting again until the ordered goods are available. The pricing of the ordered goods shall be determined according to mutual agreement.

The period of delivery of goods must be determined and this is intended so that the work is done immediately, so that it can be completed on time. Determination of the period between the order and the delivery of goods is a must in every transaction and must be determined clearly and definitely at the beginning of the contract.

This is to preserve the interests of the orderer or buyer (*mustashni'*) so as not to suffer losses and maintain the element of pleasure (*an-taradhin*) which is a basic element in every *muamalah*. Willingness here can mean willingness to do a form of *muamalat* or willingness in the sense of willingness to accept and or surrender the property that is used as the object of the agreement and other forms of *muamalat*.<sup>29</sup>

### **Transaction Practice of *Boat Building Agreement* in Sawang Ba'u Village, Sawang Sub-district**

#### **1. Overview of Gampong Sawang Ba'u Kec. Sawang Kab. Aceh Selatan**

Gampong Sawang Ba'u is one of the Gampong located on the coast and also has fertile mountains and agricultural land, namely rice fields. The people of Sawang Ba'u are basically a fishing community because the agricultural land is not that large and the mountains are steep and full of mountain rocks.

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<sup>29</sup> Wahyu Akbar dkk., "Optimization of Sharia Banking Regulations in Developing the Halal Cosmetic Industry in Indonesia," *Jurnal Ilmiah Al-Syir'ah* 22, no. 1 (2024): 1-12, <https://journal.iain-manado.ac.id/index.php/JIS/article/view/2611>.

In this situation, it is not that no one works as a farmer, there are also many people who work daily as farmers and planters.

Gampong sawang ba'u itself has a total area of 1200 Ha (approximately One Thousand Two Hundred Kilo Meter Bujar Sangkar) Ha. Consisting of various land uses for the needs of the community, the soil conditions are mostly soil mixed with rocks found in the mountains and some are mixed with sand found in the coastal part of the land.<sup>30</sup>

## 2. Transaction Practice of Boat Building Agreement in Sawang Ba'u Village

In Sawang Ba'u village, traditional *boatbuilding* has long been an integral part of the community's life. In Islam, *boatbuilding* in this village is usually an *istisna'* contract, a contract of cooperation between the customer (*mustashni'*) and the *boatbuilder* (*şani'*). In this system, the *boat* owner, who is usually a local fisherman, will order a *boat* with certain specifications that suit their needs, such as the size, type of wood used, and additional features needed to cope with the often challenging sea conditions.

Once the specifications are agreed upon, the *boat* manufacturers, who are generally experienced craftsmen in the village, start working on the *boat* as ordered. During the manufacturing process, there is intense communication between the orderer and the maker to ensure that all aspects, from design to materials, are in line with the agreement. This process not only involves high technical skills, but also requires a deep understanding of local conditions and maritime traditions passed down from generation to generation.<sup>31</sup>

According to an interview the author conducted with Mr Abdullah, one of the *boat* craftsmen in gampong sawang ba'u said: The *boatbuilding* process begins with careful planning between the customer, who is usually a fisherman, and the *boat* craftsman, who has in-depth skills and knowledge of traditional maritime construction. The customer will specify the specifications of the *boat*, such as size, type of wood, and any other special features required. Every detail is carefully considered, given that the *boat* must fulfil the specific needs of the fisherman, both for fishing in shallow waters and for cruising in deeper seas.

Once the specifications are set, *boat* craftsmen begin to gather the required materials, especially wood that is specially selected for its resistance to seawater and extreme weather. The *boatbuilding* process begins by forming

<sup>30</sup> "Gampong Sawang Ba'u," Government, *Gampong Information System (SIGAP)* (blog), accessed 12 August 2024, <https://sawangbau.sigapaceh.id/dashboard/sejarah/>.

<sup>31</sup> Chairul Fahmi et al, "Defining Indigenous in Indonesia and Its Applicability to the International Legal Framework on Indigenous People's Rights," *Journal of Indonesian Legal Studies* 8, no. 2 (8 November 2023): 1019–64, <https://doi.org/10.15294/jils.v8i2.68419>.

the main frame, which forms the backbone of the entire structure. Each piece is cut and fitted with great precision, using traditional tools that have been used for hundreds of years. Craftsmen work meticulously, putting each piece together by hand, ensuring that the resulting *boat* is strong and reliable.<sup>32</sup>

During the manufacturing process, there is constant interaction between the customer and the craftsman. The customer often monitors the progress of the work, provides feedback, and ensures that the *boat* being built matches his expectations and needs. This relationship reflects the deep trust and mutual understanding between the two parties, which is crucial in producing a *boat* that is not only functional but also has cultural and aesthetic value.<sup>33</sup>

In the manufacturing process also sometimes the buyer can change the order specifications while the manufacturing process of the specifications has not been carried out, if there is a change in the order criteria from the buyer, it must be immediately reported to the *boat* builder as soon as possible before the *boat* is built because if the *boat* has been built there are some *boat* builders who want to fix it back there are also those who do not want to contact him again, if there is a change in shape or size then the *boat* seller asks for additional payment to the *boat* buyer, because many raw materials have been used and cannot be used anymore and must be replaced with new ones.<sup>34</sup>

According to Mr Idin's statement, *boats* are usually built on time according to a predetermined schedule. The *boat* builders are responsible for the timely completion of the *boats*. They ensure that each stage of production is well managed to avoid unnecessary delays. That said, there are sometimes minor obstacles that arise during the process, such as unfavourable weather or slightly delayed availability of materials. However, these constraints usually only caused delays of 1-2 days and did not significantly affect the overall project. In general, the *boat* was successfully completed within the target time, giving the customer confidence that they would receive a quality product on time.<sup>35</sup>

After several months of work, the *boat* is finally complete and ready to be launched into the sea. Before use, the *boat* will go through a series of trials to ensure that all parts are working properly and *the boat* can sail safely. If all

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<sup>32</sup> Chairul Fahmi, Sri Wahyuni, and Laila Muhammad Rashid, "THE ROLE OF COURTS IN RESOLVING CASES OF BANKRUPTCY OF ISLAMIC BANK CUSTOMERS," *JURISTA: JOURNAL* 6, no. 2 (1 October 2023): 1-22.

<sup>33</sup> Interview with Abdullah, one of the *boat* craftsmen in Sawang Ba'u Village, 13 March 2024

<sup>34</sup> Interview with Idin, one of the *boat* owners of Sawangan Ba'u Village. 14 March 2024

<sup>35</sup> Interview with Idin, one of the *boat* owners of Sawangan Ba'u Village. 14 March 2024

goes according to plan, the *boat* will be handed over to its owner, who will then use it to earn a living at sea. For the villagers of Sawang Ba'u, the *boat-building* process is not just about building a means of transport, but also a ritual that strengthens the community's identity and preserves the heritage of their ancestors.<sup>36</sup>

In the process of ordering a *boat* through an *Istishna'* contract, it is not uncommon to find that the journey does not always go smoothly. When the *boat* is first handed over to the buyer, it often appears to conform to the agreed specifications. In the early stages, buyers are satisfied that the *boat* looks solid and meets their expectations, so no complaints arise.

However, after a few months of use, unexpected problems start to arise. Two to three months later, the *boat* that once looked perfect starts to show signs of damage.<sup>37</sup> For example, the engine that was working well suddenly declines in performance, or the body of the *boat* that was originally sturdy begins to develop cracks or leaks.

Such a situation can lead to disappointment for buyers who feel that the *boat* ordered should have lasted longer without any problems. When the *boat* starts to break down within a relatively short period of time, the buyer may feel aggrieved because they have to incur additional costs for repairs, which should not be necessary if the quality of the *boat* was guaranteed from the start. This emphasises the importance of a warranty system and quality assurance in the *Istishna'* contract process, so that the buyer's rights are protected and the manufacturer is responsible for the quality of its products.<sup>38</sup>

According to Mr Idin, one of the *boat* buyers, "*usually the boat when we receive it seems good, sturdy, neatly made, there are no problems whatsoever, so we accept it because it suits our wishes, but later when we have been using it for 2-3 months, we find out that there is damage, for example, the board is not good, we want to protest it, we can't anymore, so we are forced to use it ourselves*".<sup>39</sup>

In response, Mr Abdullah said: As *boat* craftsmen, we are always committed to using the best materials in every production process. Every

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<sup>36</sup> Chairul Fahmi, "The Application of International Cultural Rights in Protecting Indigenous Peoples' Land Property in Indonesia," *AlterNative: An International Journal of Indigenous Peoples*, 8 Maret 2024, 11771801241235261, <https://doi.org/10.1177/11771801241235261>.

<sup>37</sup> Ahmad Luqman Hakim dan Irfa Munandar, "THE LEGALITY OF MURABAHAH CONTRACTS SYSTEM IN ISLAMIC FINANCING INSTITUTIONS: An Analysis of Muḥammad Bin Ṣāliḥ Al-Uṣaimīn's Thought," *JURISTA: Jurnal Hukum Dan Keadilan* 7, no. 1 (2023): 24–36, <https://doi.org/10.1234/jurista.v7i1.66>.

<sup>38</sup> Chairul Fahmi, "Revitalisasi Penerapan Hukum Syariat Di Aceh (Kajian Terhadap UU No.11 Tahun 2006)," *TSAQAFAH* 8, no. 2 (30 November 2012): 295–310, <https://doi.org/10.21111/tsaqafah.v8i2.27>.

<sup>39</sup> Interview with Idin, one of the *boat* owners of Sawangan Ba'u Village. 14 March 2024



component, from wood to machinery, is carefully selected to ensure that the *boats* we make are of high quality and can fulfil customer expectations.

However, we must point out that the durability of a *boat* is not entirely within our control as the builder. External factors such as weather conditions especially frequent rain or intense sun exposure can affect the durability of the *boat*. In some cases, extreme weather changes can accelerate the deterioration of materials, even if the *boat* initially appears solid and perfect. So sometimes it's not something we can predict.<sup>40</sup>

The buying and selling of *boats* in Sawang Ba'u sub-district generally goes well, reflecting the positive dynamics of the local economy. The buying and selling process involves interaction between experienced *boat* craftsmen and buyers from all walks of life, both for personal and commercial transport purposes. Overall, the craftsmen were able to fulfil orders well, producing *boats* that met the specifications and needs of the customers. This suggests that the *boatbuilding* sector in Sawangan Ba'u is of reliable quality.<sup>41</sup>

However, in the course of this business, some obstacles remain unavoidable. One of the challenges that arise is *boat* breakdowns that occur after a few months of use. Although the *boat* initially appears perfect and in line with expectations, there are cases where the *boat* starts to experience problems after two to three months of use. This problem is usually caused by external factors such as unpredictable weather conditions, especially exposure to heavy rain or intense sunlight that can affect the durability of the *boat's* materials.

Despite this, the relationship between craftsmen and buyers is well maintained. Craftsmen in Sawang Ba'u are known for their responsibility in handling customer complaints, as well as their openness in finding the best solution to any problems that arise. Buyers, on the other hand, generally understand that certain environmental factors are beyond the control of the craftsmen, and that this is part of the normal risk involved in using *boats*.

Overall, despite some technical challenges, the process of buying and selling *boats* in Sawang Ba'u Sub-district continues to run smoothly. Trust between buyers and craftsmen has been maintained, thanks to good communication and the commitment of both parties to work together to resolve problems. As such, the sector continues to grow and make an

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<sup>40</sup> Interview with Abdullah, one of the *boat* craftsmen in Sawang Ba'u Village, 13 March 2024

<sup>41</sup> Fahmi, Wahyuni, dan Rasyid, "THE ROLE OF COURTS IN RESOLVING CASES OF BANKRUPTCY OF ISLAMIC BANK CUSTOMERS."

important contribution to the local economy, while maintaining harmonious relationships between all parties involved.

### **Analysis of the Application of *Istishna'* Akad in Boat Building Agreement Transactions in Sawang District, Sawang Ba'u Village**

Looking at the practice of buying and selling by order carried out by *boat* sellers in Sawang Ba'u Village, and referring to several sources of law which are the basis for the permissibility of *Istishna'* sale and purchase, then according to the author's opinion, in terms of the specifications of the goods ordered, the *boat* makers make sales by order in Sawang Ba'u with buyers partly not in accordance in terms of delivery and quality of goods with the concept of *Istishna'*. And some are in accordance with the concept of *Istishna'* in Islamic economics.<sup>42</sup>

The problems that arise in the application of the *istisna* contract in the boatbuilding agreement transaction in Sawang Subdistrict, Sawang Ba'u Village can be said to be problems outside the agreement, these problems are not directly related to the *istisna* contract, because this contract only covers up to the delivery of goods, namely the boat that has been completed and the *boat* has been used by the boat owner, so it is outside the responsibility of the boat maker, besides that the damage to the boat is not something that arises from the boat maker's deliberate choice of boat raw materials, because in the process of delivering the boat, the owner has really checked the quality of the boat before the delivery process is carried out.<sup>43</sup>

The process of *boatbuilding* in Sawang Ba'u village generally fulfils the provisions and principles contained in the *istisna'* contract. This conclusion is based on several important reasons and factors that reflect the compatibility between local practices and the concept of *istisna'* contracts regulated in sharia law.<sup>44</sup>

First, the *istisna'* contract emphasises the importance of an initial agreement between the customer (*mustaşni'*) and the *boat* maker (*şani'*) regarding the specifications of the goods to be made. In Sawang Ba'u village, the process of planning a *boat* begins with an intensive dialogue between the customer and the craftsman, where every detail of the specifications such as

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<sup>42</sup> Cut Azzahra Muly dan Chairul Fahmi, "PRAKTIK JUAL BELI DESAIN GRAFIS MELALUI SISTEM HIRING DALAM PERSPEKTIF AKAD ISTISNA' PADA MARKETPLACE SRIBU. COM," *Al-Mudharabah: Jurnal Ekonomi dan Keuangan Syariah* 5, no. 1 (2024): 57–75, <http://journal.ar-raniry.ac.id/index.php/mudharabah/article/view/4545>.

<sup>43</sup> Munir Fuady, *Hukum Bisnis dalam Teori Praktek Buku Ketiga* (Jakarta: PT Citra Aditya Bakti, 2018).

<sup>44</sup> Abdul Aziz, *Ekonomi Politik Monopoli* (Surabaya: Airlangga University Press, 2019).

size, type of wood, design, and additional features are discussed and agreed upon. This agreement creates a clear and binding framework for both parties, ensuring that the end result will match the needs and expectations of the customer.<sup>45</sup>

Secondly, the payment process in *boatbuilding* in this village also follows the principles of the *istisna'* contract, where payments are made in stages based on the progress of the work. The customer provides a down payment when the contract is agreed upon, and then payments are continued according to the progress of the *boatbuilding*. This payment pattern is not only fair for both parties but also reflects transparency and trust, two important elements in *istisna'* contracts.

Thirdly, the quality and timeliness of the *boats* are also consistent with the *istisna'* contract. The craftsmen in Sawang Ba'u village work with dedication and expertise, using selected materials that conform to agreed standards. The manufacturing process is closely supervised by the customer, who is often involved in monitoring progress and providing feedback to ensure that the *boat* is built to the desired specifications. This reflects the *boatbuilder's* commitment to fulfilling their contractual obligations, a core principle in *istisna'* contracts.<sup>46</sup>

A *boat's* resistance to extreme sea conditions is often considered a form of *force majeure*, a circumstance that cannot be avoided or anticipated in advance. In this context, *force majeure* refers to a situation where a *boat* suffers damage or malfunction due to extraordinary forces of nature, such as violent storms, high waves, or sudden extreme weather changes. Although *boats* have been built to strict specifications and using high-quality materials, there are limits to man's ability to control or counter the immense forces of nature.

Finally, the existence of good and transparent communication between both parties throughout the manufacturing process is a key factor that ensures that all stages of the *boat's* construction proceed in accordance with the agreement. This also reflects the values of honesty and integrity that underpin the *istisna'* contract. Thus, the *boatbuilding* process in Sawang Ba'u village not only complies with the sharia norms governing *istisna'* contracts, but also upholds good business ethics, which ultimately results in a product that meets the expectations and satisfaction of the customer.

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<sup>45</sup> Fahmi, "The Impact of Regulation on Islamic Financial Institutions Toward the Monopolistic Practices in the Banking Industrial in Aceh, Indonesia."

<sup>46</sup> Fathurrahman Djamil, *Hukum Ekonomi Islam: Sejarah, Teori, dan Konsep* (Jakarta: Sinar Grafika, 2023).

## CONCLUSIONS

Based on the analysis of the *boatbuilding* agreement transaction in Sawang Sub-district, especially in Sawang Ba'u Village, from the perspective of the *istisna'* contract, it shows that the process has complied well with sharia principles. The process begins with a detailed agreement between the customer and the builder regarding the specifications of the *boat*, including the desired size, materials and design. This agreement is an important step in the *istisna'* contract, as it ensures that all aspects of the product to be manufactured are clearly defined, avoiding potential disputes later on. Then the payment applied in *boatbuilding* in this village also reflects the principles of the *istisna'* contract. Payment is made in stages, starting with a down payment when the contract is signed and followed by further payments according to the progress of the work. This method ensures transparency and fairness in the transaction, and provides the financial certainty necessary to maintain a smooth production process. The quality of the *boat's* materials and workmanship are strictly maintained throughout the production process. The customer is actively involved in monitoring progress and providing feedback to ensure that the *boat* is built in accordance with the agreed specifications. This demonstrated the commitment of the builders to fulfil their contractual obligations and reflected the application of the principle of responsibility in *istisna'* contracts. Although there were issues regarding the durability of the *boat*, it was not a problem as it was considered an unpredictable matter.

Although there are problems in the process of implementing the *istishna* contract, such as boat work that is delayed and the quality of the boat is not what the buyer wants due to weather factors, it is not considered a problem that damages the *istishna* contract because this happens outside the boatbuilder's ability or is referred to as *force majeure*, so that in the application of the *istishna* contract there are no significant obstacles that can damage or cancel the contract.

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