

COMPARATIVE TRANSLATORY ON THE SYARIAH AND CONVENTIONAL CONTRACT LEGAL SYSTEMS: INDONESIA'S PERSPECTIVES

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Abstract

The study aims to conduct a comparative study of the Shariah and conventional contractual legal systems from an Indonesian perspective. In the context of Indonesia, the Sharia law system is based on the principles of Islamic Shariah, while the conventional legal system is founded on the general principles that apply in the country. The method of research carried out is the study of literature by searching for literature that fits the context of research. The research shows that the Sharia law system emphasizes the principles of Shariah, such as the prohibition of interests and charges, and encourages dispute settlement through arbitration and arbitrations mechanisms. On the other hand, conventional legal systems are more flexible and focus on commercial aspects in the execution of contracts, using common dispute resolution mechanism, like courts, mediation, or negotiations. Although the Sharia law system provides special legal protection for the parties involved in a Sharia contract, the conventional legal system provides general legal protection to all parties engaged in a contract.

Keyword: Comparative Studies, Legal Systems, Sharia Contracts, Conventional, Indonesia.

Introduction

The contractual legal system is an important foundation of the economic activity of a country, which governs the agreement between the parties involved in a transaction. In Indonesia, the contract law system has two main approaches, namely Shariah contracts based on the principles of Islamic law, and conventional contracts that are based on positive law that generally applies in society. (Hermalin et al., 2007).

Sharia and conventional contractual legal systems are two different systems in terms of views and basic principles used in forming a contract. The Shariah contract law system is based on Islamic law, while the conventional contract legal system is founded on general law principles. (Chen-Wishart, M. 2012; Dewi, G. 2019).

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The Shariah contract law system, also known as Islamic contract law, is the legal framework that governs transactions and agreements according to Islamic principles. These principles aim to create a fair and fair contract system that guarantees certainty and benefits all parties involved. Islamic contract law emphasizes the importance of mutual agreement, honesty, and fulfilment of obligations in agreements. (Dahash et al., 2022).

Islamic contracts differ from conventional contracts in some ways. One of the main differences is the ban on interest, known as *riba*, in financial transactions. Instead, Islamic contracts may involve profit-sharing, rent, or partnership agreements to abide by Islamic financial principles. Furthermore, Islamic contract law takes into account the concept of *Gharar*, which refers to uncertainty or ambiguity in the contract. Contracts with excessive *Gharars*, such as those containing unexplained or unknown terms, are considered invalid in Islamic contractual law. (Khoiriyah, N. M., & Santoso, L. 2017; Lestari, T. W. S., & Santoso, L. 2018).

Islamic contract law also considers the concept of *sharia*, ensuring that contracts comply with Islamic ethical standards and principles. This includes avoiding contracts related to prohibited activities such as gambling, alcohol, or anything that violates Islamic teachings. Islamic contract law can vary in implementation and interpretation between Muslim majority countries and legal systems. Islamic scholars and legal experts are constantly debating and developing guidelines on how to apply Islamic principles in modern contracts.

Meanwhile, conventional contract law is the law that governs agreements between parties based on principles conventionally or generally recognized in society. Conventional contracts generally refer to agreements made on the basis of positive law in force in a country. For example, in Indonesia, conventional contract law is regulated in the Code of Civil Procedure Law (CUHPerdata) which regulates agreements between parties. (Hidayat, R., & Komarudin, P. 2017).

In conventional contracts, the parties are free to make binding agreements, as long as they do not conflict with applicable law. However, there are restrictions on freedom of contract that must be observed in a conventional contract in order for the agreement made to have validity and legal force.

Historically, conventional contract law in Indonesia has been influenced by the legacy of Dutch Indian colonial law, but with the flow of globalization, there have been attempts to modernize the law of contracts more in line with the conditions and demands of the times.

Both Sharia and conventional laws have been enforced in Indonesia with the largest Muslim majority in the world and have recognized Sharia law as a source of law in the country. Therefore, the comparison between the sharia law system and the conventional law system has become very important in the Indonesian context.

In recent years, there has been a rise in interest in the sharia contract legal system, especially among societies that want to adopt the principles of Islamic law in their economic life. Meanwhile, the conventional contract law system remains the primary choice for most parties involved in business transactions.

In this comparative study, the basic principles used in the Shariah and conventional contract law systems will be discussed and a comparative analysis will be carried out in terms of the effectiveness, efficiency, and user satisfaction of the two systems in their practice in

Indonesia. This is done to gain a better understanding of both systems in the Indonesian context and to help people in choosing the right contract law system for their needs. This research is expected to help improve public understanding of Shariah and conventional contract law as well as provide a more holistic view in the selection of contract law systems that fit their needs.

Research Method

The method used in this research is literature. Literature research is a method used to study and analyze existing literature on a research topic. In this method, researchers collect, read, and manage various library sources or literature related to the problem or purpose of the research that they want to study. Through the method of literature research, the researchers can gain a comprehensive understanding of the topic of research and use the information that they already have to support the research they are undertaking. (Earley, M. A. 2014; Gentles et al., 2016).

Methods of literary research relating to the comparative study of Shariah and conventional contract law systems: Indonesia's perspective may involve the following steps; 1) Identification of Research Objectives. 2) Selection of Relevant Literary Sources. Identify literary sources related to the Shariah and conventional contractual legal systems, as well as Indonesian perspectives. Relevant literary resources may be books, journals, conference papers, theses, and other publications, which have credibility and authority in the field of law. 3) Data collection. Reading and researching literary sources that have been thoroughly identified. Then analyze comprehensively about the differences, similarities, and development of the legal system of Shariah and conventional contracts, as well as the perspective of Indonesia. Identify differences in concepts, principles, implementation, constraints, and implementation from an Indonesian perspective. Also, a review of the advantages and disadvantages of both legal systems. 5) Interpretation of results and drawing of conclusions. Based on data analysis, interpretation of the results of the research carried out. 6) Write a Research Report. Summarize the results of research in the form of a systematic and structured research report. (Patten, M. L. 2016; Shek et al., 2005).

Result and Discussion

The Basic Principles of Sharia Contract

A Shariah contract involves two or more parties agreeing to establish a legal relationship or regulate business transactions in accordance with the rules of the shariah (Susanto, B. 2009). While other interpretations of, a Shariat contract is an agreement or commitment between two or several parties that have binding legal implications, and agreed on the basis of the principles of the Shariat in Islam. A Shariat contract is a valid agreement according to Islamic law, which involves the exchange of one or both parties to such agreement (Ardi, M. 2016). (penawaran dan penerimaan atau persetujuan atas kesepakatan). Islamic jurists usually conclude the basis of consensusism in Shariah contracts, which means that the agreement must be mutually agreed without any coercion or element of coercive from either side. (Aswad, M. 2016).

The principles of Shariah or Islamic law are principles that are based on the teachings of Islam and form the basis of the legal system in Islamic religion. Understanding Islamic legal principles is essential to understanding the beliefs, practices, and regulations that govern the

daily life of Muslims (Ardi, M. 2016). These principles are the guiding framework for Islamic laws and shape various aspects of Muslim life, including personal ethics, family matters, business transactions, and governance.

Principles in Islamic law include: 1) Tawhid: The Tawhid principle refers to the Unity of God and the belief in His uniqueness and absolute sovereignty. It is the principal principle of Islam and the foundation of Islamic belief. 2) Adl: Adl signifies justice and justice in all aspects of life. Islamic law puts great emphasis on justice, not only in individual interactions but also in social, economic, and political spheres. It encourages individuals to act with integrity, honesty, and perfection in their personal and social behavior. It enables flexibility in the application of Islamic law to ensure the well-being and wellbeing of individuals and societies as a whole. 5) Al-Amana: Al-Amanah signifies faith and responsibility and encompasses personal and social commitment. It emphasizes to fulfil duty and obligation faithfully (Al-Dawoody, A. 2017; Burns, J. G. 2014).

The principles to be adhered to in a Sharia contract are: 1) The principle of agreement (Musaqah): Sharia contracts must involve agreement between the parties involved in the contract. There's no coercion or fraud involved in this deal. (2) The principle of concern (Gharar): Sharia contracts must not contain elements of uncertainty that are excessive or speculative. This is done to protect the interests of both parties. (4) The principle of justice and certainty applies: Sharia contracts must be fair to both parties and provide legal certaintys regarding the rights and obligations in such contracts. (Abdal-Haqq, I. 2002; Hourani, H. 2004).

Some common examples of Sharia contracts include Sharia sale contracts (Murabahah), Sharia lease contracts, and income contracts. (Mudharabah atau Musyarakah).

Murabahah is one of the forms of transactions in Shariah finance that is commonly used in the financing of sales and purchases. In the financial context of the Shariah, the term "murabahah" refers to an agreement between a seller (financier) and a buyer (muqtarid) in which the seller discloses the purchase price (original purchase cost) to the buyer by adding the previously agreed profit. (Ismail, M. 2015).

Murabahah is commonly used in the financing of assets such as houses, cars, equipment, and other items. The purpose is to provide funding to consumers without involving interest, because interest is considered unlawful in Islam. In a bargaining transaction, the profit obtained by the seller is a substitute for the usual interest associated with conventional financing. (Faozan, A. 2009).

Murabahah also involves transparency regarding the original purchase price and added profits, as well as agreed time limits and payment methods. It aims to ensure that all parties are clearly aware of the information related to the transaction and there are no elements of fraud or injustice in the process.

The application of murabahah must be in accordance with the principles of Shariah which include the existence of agreement, transparency, absence of interest, and other Islamic rules. Therefore, it is necessary to consult with a Sharia finance expert or a reliable Sharia financial institution to understand in detail about murabahah and its legal implications.

Meanwhile, the Shariah rental contract, also known as "ijarah" or "ijara", is a form of lease contract that conforms to the principles of Sharia in Islam. This contract involves the tenant or the party using the property or asset (mu'jir or musta'jir) and the owner of the asset

or property (mu'jir or must'jir) who authorizes the landlord to use the property within a certain period of time with the payment of the lease that has been agreed. In Sharia rental contracts, the principles of mutual agreement, transparency, and fairness are highlighted. The contract must clearly disclose the identity of the property or assets to be leased, the duration of the lease, the rent costs to be paid, and other terms agreed upon jointly. (Tehuayo, R. 2018).

In addition, Sharia rental contracts also involve the principle of prohibition of interest or interest. In these contracts, the owner of the asset or property is not allowed to gain more than just the rental costs previously agreed. Shariah lease contracts tend to be priceless, in which the property owner acts as a capital provider and the tenant acting as an asset manager with the agreed profit sharing. In practice, Sharia rental contracts can be applied to various types of assets, such as property (houses, apartments, etc.), vehicles, equipment, companies, and so on. The aim is to provide an alternative in line with Sharia principles for people who want to use assets or property without involving interest. In order for Sharia rental contracts to be valid and legally binding, it is important to comply with the provisions of Sharia law and consult with a Sharia financier or an institution that has expertise in Sharia lease contracts. (Maksum, M. 2017).

As for, a contract for income, also known as "mudharabah" in the context of Shariah finance, is a form of cooperation contract in which one party (ra's al-mal) provides capital and the other party (mudharib) provides labor, expertise, and effort to run a business or project. The profits obtained from the business or the project are then divided between the two parties based on the previously agreed percentage (Pradesyah, R. 2021). In the contract for the profit, ra's al-mal as the owner of the capital obtains a share of the profit on the basis of the agreed percent. However, if a loss occurs, ra's al-mal usually bears the entire loss unless the loss is caused by negligence or a serious mistake committed by mudharib.

Contracts for income can be applied in various types of business or projects, such as trade, investment, construction projects, and other enterprises. The aim is to create a partnership between capital owners and managers by sharing risk, workload, and potential profits. (Ishak et al., 2021).

In the sharia financial context, contracts for income support the principle of fairness, mutual cooperation, and no interest or interest. These contracts also encourage the parties involved to cooperate actively and responsibly in running a business or project. In order for contracts to be valid and legally binding, it is important to comply with the provisions of Sharia law and consult with a Sharia finance expert or a trusted Sharia financial institution to understand in detail the contracts for the result. (Ishak et al., 2022).

Sharia contract law paths in Indonesia

In Indonesia, the basis for Sharia contracts is based on several legal sources. Islamic law, or Shariah law, is the primary source and comes from the Qur'an and Hadith (ucapan dan tindakan Nabi Muhammad). In addition, the Indonesian Constitution recognizes the right of citizens to religion, including the adoption and application of Sharia principles. (Rachman, A. 2022).

In addition, the legal framework for Sharia contracts is also supported by specific regulations and laws for Islamic banking and finance in Indonesia. This includes Law No. 21 of 2008 on Sharia Banking and Government Regulation No. 74 of 2008 concerning Sharia Effects.

The Sharia Banks Act No. 21, of 2008, is the law governing the establishment and operation of Sharia banks in Indonesia. Some important points in the Sharia Banking Act include: 1) Establishment and supervision of sharia banks. 2) Licensing, minimum capital, and obligations of sharia banks; 3) Provisions concerning products and services that may be offered by sharia banking. 4) Requirements relating to transparency, audit, and financial reporting.

Meanwhile, Government Regulation No. 74 of 2008 on Sharia Effects is a regulation that regulates sharia effects or financial instruments that are in line with Sharia principles in Indonesia. Some important points in this Regulation include: 1) Conditions for issuing and trading Sharia effects. 2) Related provisions of companies eligible to issue Sharia effects. 3) Regulations on schemes and mechanisms for transactions with sharia effect. 4) Supervisory and reporting procedures related to Sharia effects.

Both regulations provide legal basis and operational regulations for financial institutions and companies that wish to operate on the basis of Sharia principles in Indonesia.

Thus, that Shariah contract in Indonesia is governed not only by Islamic principles but also by the general legal provisions of the treaty contained in the Indonesian Code of Personal Law (KUHPerdata). The legal provisions of this general agreement apply to all types of contracts, including contracts governed by Sharia principles.

Basic Principles of Conventional Contracts

The basis of a conventional contract is the legal basis which governs an agreement between two parties made on the basis of positive law in force in a country. (Rachman, A. 2022).

A positive law is a law that is in force at a particular time in a particular territory of a particular country. It consists of a written law or a judge's decision as long as it is binding. A positive Law is also described as a law which is in effect at a certain time (in the past or in the present) and in a certain place. Examples are customary law, written law, and formal law. Positive law is intended to regulate all aspects of public life, whether private or public, which concern the interests of the individual or the State. The concept of positive law differs from natural law, which includes inherent rights, given not through the act of legislation, but by "God, nature, or common sense" (Koesnoe, M. 2010).

The basic principles of conventional contracts in treaty law generally cover the following: 1) Consensus: This principle states that there is a valid agreement between the parties involved in the contract. These deals can be offerings and acceptances, and must be made with free will and without coercion. 2) Legal Capacity: This principle states that both parties to a contract must have legal capacity to perform a contract. It means that they have to be old enough, conscious and able to make contracts. 3) Lawful and Definite Purpose: This principle states that the purpose of a contract must be legitimate and specific. 4) Error: This principle states that the contract can be cancelled if there is a fundamental error in the agreement between the parties involved. 5) Lack of Mutual Agreement: This principle states that contracts can be cancelled if there is no mutually binding agreement between the parties involved or if misunderstanding occurs. 6) Proper and Complete Performance: This principle states that the parties involved in a contract must perform their obligations in accordance with the terms of the contract. 7) Fair Compensation: This principle stipulates that the party fulfilling its obligations in the contract shall be awarded fair and reasonable compensation. 8) Validity and

Completeness of Contract Documents: The principle states that the contract must be drafted in writing and meet the requirements of applicable law. (Fadhilah, N. 2023; Hasanah, O., & Wirdayaningsih, W. 2023).

These basic principles are the main lines of the principles underlying conventional contracts in general contract law. However, each country may have slightly different rules and terms relating to conventional contracts, so it is important to check the laws applicable in that region.

Conventional Contract Law Track in Indonesia

In Indonesia, the legal basis of conventional contracts is governed by the Civil Code Act (KUHPPerdata) in force in Indonesia. In conventional contracts, there are some foundations known in the science of civil law. (Fuady, M. 2014).

Civil law is one of the fields of study in legal science that deals with the legal regulations that regulate relations between individuals or individuals in society. (Wardiono et al., 2021).

Civil law has several purposes, including to protect the rights of individuals, regulate relations between individuals in society, and provide legal certainty in the implementation of civil relations. Moreover, civil law also aims to resolve conflicts arising between individuals through the rules of law in force. (Tutik, D. T. T., & SH, M. 2015).

The sources of law in civil law come from various sources such as laws, regulations of laws, judgments of courts, as well as customs in society. These legal sources are the reference in determining the rights and obligations of individuals in civil relations. (Pnh Simanjuntak, S. H. 2017).

Some of the foundations used in civil law include freedom of contract, consensusism, legal certainty, goodwill, and personality. These foundations form the basis for the formation and implementation of civil contracts between individuals (Ali, A. 2012). The freedom to contract, which states that each individual has the freedom or not to enter into contracts, as well as to determine the terms of contracts. Meanwhile, the basis of consensusism, which states that a valid contract is formed when there is an agreement between the parties through offer and acceptance. This foundation emphasizes the importance of a vote agreement between the parties involved. The Pacta sunt servanda is also the legal basis of conventional contracts in Indonesia. This basis stipulates that the parties that have concluded the contract must comply with the content of the contract in accordance with what has been agreed upon. As for the Goodwill Fundament, it is also part of the legal framework of conventional contracts, which means that the parties to contracts must act with good intentions and trust each other. Finally, the personality foundation is also the legal foundation of conventional contracts. This basis states that the contract must reflect the personality or interests of each of the parties involved. (Muqaddas, B. 2002; Hapsari, D. R. I., & Ratna, D. 2014).

By understanding the legal foundations and foundations of civil law, individuals can have a better understanding of rights and obligations in civil relations as well asining justice and legal certainty.

The Difference Between Sharia Contract and Conventional Contract

The difference between Sharia and conventional contracts lies in the legal basis, the principles applied, and the elements contained in the contract. (Ibrahim, Y. 2022; Rosidah, N. H. 2010; Fauzi et al., 2023)

1) Law Track

Shariah Contracts: The legal basis of Shari'ah contracts is the Islamic sharia, which is mainly based on the Quran and the Hadith. Principles in Shari'ah law must be adhered to. Meanwhile, the Conventional Contract: The law of conventional contracts regulated by the Book of Personal Law (KUHPerdata) or the regulations of the laws in force in a particular country.

2) Principles

Sharia Contracts: The principles applied in Sharia contracts are the principles of fairness, certainty, agreement, and non-payment of interest.

3) Contract Elements

Shariah contracts: Shari'ah contracts have the main elements such as akad (deal), aqad (transaction), property or commodities traded, and sharia law that governs their implementation.

4) Contract Example

Shariah Contracts: Examples of sharia contracts include mutyarah (joint contract), mudharabah (contract with capital), murabahah (sale-buy with fixed profits), and hijacking (lease-lease). Meanwhile, conventional contracts: examples of conventional contract include sale, lease, loan, and employment agreements.

Shariah Contract Law in Indonesia

Constitutional Trail

Sharia contract law in Indonesia on a constitutional basis is based on the Basic Law of the Republic of Indonesia of 1945 (UUD 1945). UUD 1945 provides the constitutional foundations for religious life and upholds the principles of social justice.

Although Indonesia is not a country with basic characteristics of Sharia law, article 29, paragraph (2) of UUD 1945 states that the State respects and guarantees the freedom of every citizen to embrace religion and worship according to his or her religion and belief. It provides a constitutional basis for the implementation of Shariah contracts in Indonesia, as a form of division of business and economic activities carried out by Muslim communities to obey Sharia law.

Furthermore, within the legal framework, the implementation of Sharia contracts is governed by various related legal regulations, such as the Law on Personal Data (CUHPerdata) and other legislative regulations relating to Sharia economic and banking activities.

Therefore, although based on a constitutional foundation that respects religious freedom, the implementation of Sharia contract law in Indonesia is still limited to certain areas, such as Sharia banking, Sharia insurance, and other business activities that conform to Sharia principles.

Thus, that constitutional foundation does not directly regulate in detail the law of Shariah contracts, but provides a basis for the recognition of religious freedom and economic activity in accordance with Sharia law in Indonesia.

Rules governing Sharia Contracts

The rules governing sharia contracts in Indonesia include: 1) Law No. 21 of 2008 on Sharia Banking: This law regulates all aspects related to sharia banking, including sharia contracts relating to sharia banking products and services. 2) Law No. 40 of 2014 on Insurance: This law regulates the insurance sector in general, including Sharia insurance. Sharia contract insurance is regulated in this law and must be in accordance with the principles of Sharia. 3) Consumer Protection Act No. 8 of 1999: This Act applies generally to all types of contracts, including Sharia contracts. This law clarifies the rights and obligations of consumers as well as the legal protection provided in any contract they follow. 4) Act No. 19 of 2011 on Wakaf: This law regulates the wakaf in Indonesia. Wakaf sharia involves a wakaf contract that must abide by the principles of sharia law.

In addition to the above regulations, there are also other regulations relating to sharia contracts, such as the Bank of Indonesia Regulations, the Financial Services Authority Regulations (FATF), and Ministry regulations that regulate specific areas such as trade, investment, and the financial sector.

Thus, it is important to always pay attention to and abide by the rules in force in the implementation of Shariah contracts so that economic activities are in accordance with the principles of sharia and comply with the provisions of the law applicable in Indonesia.

Conventional Contract Law in Indonesia

Constitutional Track

Conventional contract law in Indonesia is based on the Basic Law of the Republic of Indonesia of 1945 (UUD 1945). Article 33 (2) UUD 1945 states that the economy is national and based on family. Furthermore, article 28D, paragraph (1) of UUD 1945 also guarantees everyone the right and freedom to associate, assemble, and express opinions.

In the legal framework, conventional contract law is governed by the Code of Commercial Law and other legislative regulations relating to contracts, such as Act No. 7 of 2014 on Trade and Law No. 8 of 1999 on Consumer Protection. In this case, a conventional contract is an agreement made in written or unwritten form between two or more parties. This contract was created with the aim of creating a linguistic in the legal relationship between the parties and providing certainty for each party in the exercise of the rights and obligations associated with it.

As a law-based country, Indonesia has always ensured that all types of contracts are executed in accordance with the principles of fairness and compliance with applicable legal provisions. Legislative regulations create a clear legal environment and provide protection for the parties involved in a contract.

In executing the contract, the parties involved must pay attention to the applicable legal provisions and ensure that the contract is made carefully so as not to give rise to disputes later on.

Rules governing conventional contracts

Some of the regulations governing conventional contracts in Indonesia include: 1) The Code of Civil Procedure Law (KUHPerdata): KUHPerdata is one of the rules that regulate conventional contract in general. It contains provisions concerning the validity of a contract, types of contracts, proof, execution, and settlement of contractual disputes. 2) Act No. 2 of 2017 on Amendments to Law No. 28 of 2002 on Buildings: This Act regulates construction

contracts or works that cover various aspects, such as obligations, rights, liabilities, and disputes in construction contract. 3) Act No.5 of 2014 on State Civil Equipment: This Law regulates employment contracts between the government and State Civil Appliances (ASN). It includes the arrangements for the appointment, dismissal, obligation, rights and responsibilities of US employees. 4) Law Number 18 of 2011 on Oil and Natural Gas: This law regulates contracts in the oil and natural gas sectors such as mining contracts and contracts of entrepreneurship. 5) Treasury Minister's Regulation No. 200/PMK.010/2017 on Payment Procedures and Mechanisms for the Public (Non-Cash Mechanics): This Regulation governs contracts related to non-cash or electronic payments, such as contracts for the use of electronic payment systems.

In addition to the above, in practice, conventional contracts may also be subject to the provisions contained in the regulations of other laws that are appropriate to the type of contract, such as Consumer Protection Act No. 8 of 1999 (for consumer contracts) or regulations applicable in a particular business sector.

Therefore, it is important to understand and comply with the rules in force in a conventional contract in order to enforce it properly and in accordance with the provisions of the law applicable in Indonesia.

Conclusion

After conducting a comparative study of the Shariah and conventional contractual legal systems from an Indonesian perspective, the following conclusions can be drawn:

First, the legal context; (a) the conventional legal system is based on the general principles that apply in Indonesia, whereas the sharia law system of contracts is founded on the principles of Islamic Shariah; (b) Indonesia as a country with a Muslim majority population has a strong legal foundation for implementing the legal system of shariah contracts.

Second, Sharia and Conventional Contract Principles; (a) Sharia contractual legal system has principles that are based on Islamic Sharia principles, such as the prohibition of interest and the gharar; (b) the conventional legal system follows the general principles of the law applicable in Indonesia, like freedom to conclude contracts and freedom of negotiation.

Third, Contract Enforcement; (a) the Sharia law system emphasizes common justice and well-being, taking into account moral and ethical aspects; (b) the conventional legal system is more flexible and takes into account commercial aspects of contract enforcement.

Fourthly, Dispute Settlement; (a) the Shariah contractual legal system encourages the settlement of disputes through arbitration mechanisms and procedures, taking into account the aspects of justice and adherence to the Islamic shariah; (b) the conventional legal system uses more general dispute settlement machinery such as trial, mediation, or negotiation.

Fifth, the legal protection; (a) the Sharia law system provides special legal protection for the parties involved in a Sharia contract; (b) the conventional legal system provides general legal protection to all parties engaged in a contract.

Thus, there is a fundamental difference between the legal system of Shariah and conventional contracts in the context of Indonesia. Although the sharia law system has principles based on Islamic sharia, the conventional legal system remains valid and provides more flexible contractual freedom. The choice between Sharia and conventional contractual law systems will depend on the preferences and needs of each party involved in the contract.

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