

THE LEGAL IMPLEMENTATION OF PARTNERSHIP AGREEMENT (*AKAD SYIRKAH*) AMONG Y GENERATION ENTREPRENEURS DURING COVID-19 PANDEMIC

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Abstract: The outbreak of Covid-19 has affected all aspects of life, including the economic sector. Business people have to pay more attention to the future of business uncertainty due to the outbreak; which limits communication access only to online mode in running a business. Therefore, some changes need to be done. Y generation Entrepreneurs (Millennials) modify their business, in the technical or non-technical matter. On one side, in the technical matter, they utilize more digital technology; On the other side, non-technically, they should also modify their partnership agreements owing to the pandemic uncertainty. Because of the massive population, the new normal during pandemic also becomes an uneasy challenge to be maximally and directly conquered in all regions of Indonesia, especially in Banjarmasin where the people and economic state is heterogeneous. Currently, there is a gap between the government authority to strictly limit people's activity for flattening the virus and the urgency of business people of meeting the need and improving their economic condition. From this study, the researchers aim to find what has been by the entrepreneurs in Banjarmasin region in practicing the partnership agreement during the CoViD-19 pandemic. This study also aims to inform future entrepreneurs about partnership agreements during the pandemic. The data were collected through direct interviews of Y generation (Millennial) entrepreneurs born in and after 1980 who employ partnership agreements in their business treaty. The findings showed that some entrepreneurs change their ways of doing partnership agreements. The changes includes principles, requirements, and technical matters of the agreements with the support of media and technology. In addition, they also seek to increase their discretion from the detrimental impact on their respective roles.

Keywords: Islamic Economic Law, Partnership Agreement, CoViD-19, Qualitative.

Introduction

The current COVID-19 pandemic is destructive or disruptive on various fronts. The impacts that are felt are not only in the health, social, legal, political, cultural, religious fields, but also felt from international relations to domestic relations, from global education to family education, and from the country's economy to the citizens' economy.¹ The Young entrepreneurs who are commonly referred to as Y generation (millennials) also feel these impacts.

Y generation entrepreneurs in transacting using the Syirkah Contract before COVID-19 were carried out according to the basic concept of the Syirkah contract itself in a simple manner. This can be seen in the pillars and conditions used by respondents in transacting with syirkah contracts. Through the syirkah contract, a good partnership will be established. A good partnership relationship is based on justice and oriented to "function" not "power".²

¹ Adi Sumarsono and others, 'Optimalisasi Keterampilan Merajut Sebagai Solusi Peningkatan Ekonomi Warga Saat Pandemi', *Jurnal Inovasi Hasil Pengabdian Masyarakat (JIPEMAS)*, 4.2 (2021), 220–30.

² Masyithah Umar, 'Indahnya Kemitraan Laki-laki dan Perempuan Dalam Hukum Islam', *Journal Of Islamic And law Studies*, 3 (2019), 18 (p. 166).

The shigat ijab qabul they say was directly clear, such as “would you like to be a partner/do syirkah with me in production...?” then answered with "yes I agree" this shigat was carried out in one place and time and the position of the two parties was facing each other directly.

Next, the parties who have a Syirkah contract were clear about each other, they could face each other and see directly who and what the profile of the potential partner was. Even if they have known before, in this case it will be better, because in this partnership or syirkah there were only those who related as friends, brothers, or between husband and wife.

Furthermore, The object that is used as material for them to enter into a syirkah contract must be clear that its existence and form can be captured by the five senses directly and clearly, without any intermediaries or barriers. So, there is no possibility for gharar to occur in the form or type of nature of the goods that are syirkahated.

Since the beginning of COVID-19 being discovered in Wuhan City, Hubei Province (China) until it spreaded to all corners of the world, including Indonesia, there are many new regulations made to address the impact of the presence of this virus, both at the level of Large-Scale Social Restrictions regulations and at the lowest level, from vaccine distribution issues to prison overcapacity.³ Some of these new regulations are causing problems, there were pros and cons in them, including in Indonesia, starting from the use of the AstraZeneca vaccine for Santri⁴ to the face-to-face learning discourse.⁵

Basically, these regulations had very good aims, for example, such as Presidential Decree No. 7 of 2020 concerning the formation of the Covid-19 Task Force for the Acceleration of Handling, until the emergence of INMENDAGRI NO. 15 of 2021 concerning the Enforcement of Restrictions on Community Activities (Also known as PPKM.) which was forwarded to the Governor and Regent/Mayor. The main goal was preventing this COVID-19 from spreading further and causing many deaths.⁶ This regulation, which had been ratified and had strong legal force, is conveyed to people throughout the archipelago from Sabang to Merauke, from urban to rural areas.

After being examined directly on the reality in the field, these regulations seem to be restrictive for some members of the community, including those of Y generation entrepreneurs. There was a contradiction or commonly known as the gap between *dass sein* and *dass sollen*. The Efforts to advance the business from starting to running is a hard struggle for Y generation entrepreneurs, long before COVID-19 they have encountered various problems in running their business, especially with the existence of the virus and Enforcement Of Restrictions On Community Activities. regulations

³ Azis Idris, ‘ANALISIS HUKUM TERHADAP REKOMENDASI PBB ATAS PEMBEBASAN NARAPIDANA PADA PENJARA YANG OVERCAPACITY SAAT PANDEMI COVID-19’, *JUSTITIA: Jurnal Ilmu Hukum Dan Humaniora*, 8.1 (2021), 174–84.

⁴ Konik Naimah and Dwi Runjani Juwita, ‘Urgensi Pesantren Dalam Penggunaan Vaksin AstraZeneca Di Masa Pandemi C-19’, *Jurnal Ilmiah Abwal Syakshiyah (JAS)*, 3.1 (2021), 33–48.

⁵ Asri Kusuma Dewanti, ‘Polemik Wacana Pembelajaran Tatap Muka Di Surabaya’, *Arsip Publikasi Ilmiah Biro Administrasi Akademik*, 2020.

⁶ Raihan Saiful and Fairuz Arta Abhipraya, ‘EFEKTIVITAS PEMERINTAH DALAM SOSIALISASI GERAKAN 5M KEPADA MASYARAKAT’, *Warta Governare: Jurnal Ilmu APemerintahan*, 2.1 (2021).

which are arguably strict and burdensome.⁷ There had even been cases where traders or lower-middle-level entrepreneurs who violate these regulations are subject to fines.⁸

Moreover the problems that had often been faced by Y generation entrepreneurs, such as low capital, having no a permanent place, having no a lot of permanent consumers/customers, and bad managerial HR s. Y generation entrepreneurs were faced with new problems during the COVID-19 pandemic, including when Enforcement Of Restrictions On Community Activities was implemented, there would be a reduction in the number of chairs and tables for Y generation entrepreneurs in the culinary field, purchasing or procuring health protocol supporting items such as sinks (handwashing areas) as well as anti-bacterial soap, bacteria, hand sanitizers, disinfectants and masks that drain a lot of business capital, then the time to eat in place is only 20 (twenty) minutes for Y generation in the culinary field, including restrictions on the time they can open a business which seems there is also an imbalance between those of Y generation entrepreneurs who are active during the day with them Y generation entrepreneurs who are active at night. Those who are active during the day are allowed to open from morning to evening, while those who are active at night are only allowed until 8 (eight) at night. So here, in general, there seems to be a conflict between the legal regulations being enforced, namely about Enforcement Of Restrictions On Community Activities. and the actual situation in the community, especially for Y generation entrepreneurs who really feel the impact.⁹

For Y generation entrepreneurs with a variety of businesses and techniques in the use of business contracts, responding to current conditions is not easy and so they have to modify or innovate properly to be able to solve the problems they face, such as in an effort to make face-to-face transactions, to checking the items to be syirkah, how to pronounce consent, how to share the results, and all other activities that are usually carried out normally, it will experience a change in the way or technique in its implementation during the COVID-19 pandemic.

In Banjarmasin which is a heterogeneous city, there are many Y generation entrepreneurs who try their luck in various types of businesses and various types of contracts used. One of the contracts that are often encountered is the Syirkah contract or cooperation with profit sharing. Syirkah contracts are generally easy to implement and have a legal basis on positive law and Islamic law. Long before the COVID-19 pandemic, the Syirkah contract had been used in accordance with the pillars and conditions, namely the presence of both parties who performed Syirkah properly (legally/mumayyiz), the form of the goods being traded or attempted to be seen by the five senses and the halal substance (allowed to be traded in Islam), then the occurrence of direct cash transactions (ijab-qabul) in one time and place.¹⁰

⁷ Aldi Kurnia Wahyu and others, 'EFEKTIVITAS PEMBERLAKUAN JAM OPERASIONAL BAGI SEKTOR UMKM DI KOTA SURABAYA', *Jurnal Sosial Ekonomi Dan Politik (JSEP)*, 2.2 (2021).

⁸ Sukendar Sukendar and others, 'Kebebasan Berdagang Di Tengah PPKM Darurat Ditinjau Dari Sudut Pandang Sociological Jurisprudence Dan Konsep Keadilan', *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)*, 5.3 (2021).

⁹ Muhammad Rizal, Ria Afrianti, and Iman Abdurahman, 'Dampak Kebijakan Pemberlakuan Pembatasan Kegiatan Masyarakat (PPKM) Bagi Pelaku Bisnis Coffe Shop Pada Masa Pandemi Terdampak COVID-19 Di Kabupaten Purwakarta', *Jurnal Inspirasi*, 12.1 (2021), 96–105.

¹⁰ Abdul Rahman Ghazaly, 'Fiqih Muamalat, Cet. 1', *Jakarta: Kencana*, 2010.

Formulation of the problem

The main problem that the author wants to raise in this study which is the formulation of the problem is to find out how the Y generation entrepreneurs in the city of Banjarmasin have done in terms of using Syirkah contracts during the COVID-19 pandemic. as well as to find out whether there were certain impacts from the implementation of the Syirkah contract during the COVID-19 pandemic.

Identification of problems

Due to the COVID-19 pandemic, various regulations and their consequences have emerged, even though these regulations have noble goals, but in reality in the field their implementation is difficult for Y generation Entrepreneurs, so Y generation Entrepreneurs need to have a method or technique as an effort to modify the implementation of the syirkah contract which carried out by them and bring innovation in its implementation.

Research purposes

This study aims to add to the scientific treasures for legal practitioners and share the experiences presented in this scientific paper to other entrepreneurs in the field of Islamic economics who are also experiencing the same problems during the current COVID-19 pandemic. As well as being a reference in continuing research in the field of sharia economic law, especially syirkah material for Y generation entrepreneurs.

Utility

The utility of this research is that it can be used for efforts to improve the quality and innovation of the economy in the future especially for entrepreneurs who use syirkah contracts in their business. With the theme "The Legal Implementation Of Partnership Agreement (Akad Syirkah) Among Y generation Entrepreneurs During the Covid-19 Pandemic" and a very new problem faced, namely the issue of implementing the Syirkah contract during the COVID-19 pandemic, as well as tracking several references and journals discussing Regarding the Syirkah contract, of course, it can be ascertained that this article is a new article, and there have been no previous researchers who have raised the theme and substance with the same discussion.

Method

This research was a case study research that used an empirical juridical method or commonly called a field research. The researcher directly examined the spaciousness where there were or could be found those entrepreneurs of Y generation (millennials) who carried out the Syirkah contract in trying to obtain data. The approach that the researcher uses in this research phase was the sociology of law approach.

Data collection was obtained from data sources, namely the Y generation entrepreneurs themselves, as well as respondents from various questions asked through interview techniques related to the data to be extracted and analyzed by interpreting the data with the owned theory related to Syirkah. So it is expected to

obtain a result that can answer the formulation of this research problem. The length of this research process is approximately 6 (six) months, from planning until making this scientific work. The research location is Banjarmasin, where this city is a reflection of a heterogeneous city and is the center of the capital city of the South Kalimantan Province of the Republic of Indonesia.¹¹ Banjarmasin is also a strategic location for the economy.¹² There are many companies, export and import docks, as well as many other businesses both at the upper and lower middle levels.

There were two kinds of data used in this research, namely primary data and secondary data. The primary data is data on the implementation of the Syirkah contract during the COVID-19 pandemic which was obtained directly in the field through interviews with respondents, namely Y generation (millennial) entrepreneurs in the Banjarmasin city area. Meanwhile, the secondary data is data obtained from reference journals and books/e-books related to the discussion in scientific papers resulting from this research.

The object of this research is the method or technical contract used by Y generation entrepreneurs in responding to the current situation, namely the new normal side by side with COVID-19. Meanwhile, the subject is the Y generation entrepreneurs themselves, who will later respond to some of the questions posed by the researchers.

All data obtained were analyzed by theme analysis, which was to describe the data in sentence form so that it became orderly, coherent, logical, not mixed up and effective in order to facilitate understanding and interpretation of the data.

Findings and Discussion

A. Y generation (millennials)

The Y generation, also known as Millennial Generation, is a group of young people who are in their teens to early thirties, they were born from 1980 to early 2000. Y generation has characteristics, some are good and some are bad. The good qualities of Y generation include a strong sense of belonging to the community, both locally and universally, confident and tolerant. While among his bad traits is narcissism.¹³

Y generation are individuals who work to be able to apply creativity, and seek a relaxed work environment full of fun. In terms of work they are not so serious because work is not for a living or supporting a family as has been applied by previous generations. They are very technologically minded and interact more with devices. They also want to look different from their peers in the world of work.

The existence of Y generation, with all its advantages and disadvantages, cannot be ignored. Because the role of Y generation in shaping the nation's civilization is also very important. So it deserves attention. All their works effort must be channeled, lest the negative traits develop more strongly than the positive ones. One solution for the good attitude of Y generation is to channel it to the business sector, or the economy.

¹¹ Rizal, Afrianti, and Abdurahman.

¹² Arif Rahman Nugroho, Su Rito Handoyo, and Luthfi Muta'ali, 'Preferensi Pemukim Tetap Tinggal Di Kawasan Sempadan Sungai Martapura Kota Banjarmasin', 2018.

¹³ William Strauss and Neil Howe, *Generations: The History of America's Future, 1584 to 2069* (Quill New York, 1991).

There was so many respondents and even interviewed informants, that was 8 (eight) respondents who can provide answers to all the questions posed by the researcher. The rest respondents couldn't because they were busy and didn't want to be interviewed during the COVID-19 period.

The Respondents who are willing to be interviewed are entrepreneurs of Y generation (millennials) aged 22 (twenty two) years to 35 (thirty five) years who run their business using a Syirkah transaction contract in Banjarmasin. With the majority having a bachelor's degree education (S1), ethnic Banjar and Muslim, as for the businesses they run as well as businesses studied by researchers are very varied, there are culinary businesses, convection, cafes, and others, but most of them are in the culinary business/business. There are at least 15 (fifteen) respondents who have been successfully researched to date, as outlined in this work, only 3 respondent data are presented as representatives.

Here are some of the respondents' statements regarding the implementation of the Syirkah contract during the COVID-19 pandemic in Banjarmasin:

The first respondent

The first respondent revealed that he knows about Syirkah and is currently running Syirkah/cooperation in small-level business with his friends. In this business, The first respondent who provides capital and friends who help in marketing. The percentage of profit sharing is 80% for The first respondent and 20% for friends who market the product.

According to the first respondent, the business that he has been running since 2019 every time he gets results is always interspersed with routine activities of issuing zakat, infaq and sadaqoh from some of the results obtained. Besides that, The first respondent also said that the business he was running during the COVID-19 pandemic was even more in demand than before the pandemic.

According to the first respondent, the family or especially his mother at first forbade doing this business or business, and sneered with the words "why selling like this, does anyone really want to buy?". After time passed, slowly his mother did not doubt this anymore, because more and more customers were buying his Cireng. And in general the family is very supportive.

The first respondent also explained that his biggest motivation in continuing to run his business was to make his parents happy, because he believes that the pleasure of parents is the blessing of Allah SWT. Then according to him, in this business, it was not uncommon sometimes there are times when the reseller took the goods and cannot bail out money from the buyer or consumer, then he gave trust to the reseller to wait for money from the buyer or the consumer pays to the reseller. The sentence that was often spoken in the banjar language for transactions like this is "take it first" where the reseller is directed to just bring the item before being paid, but there was an element of trust and responsibility for the item, and the reseller already understood that what he meant was to bail him out first with a loss of capital on top of the trust he has given to the reseller, therefore the reseller tries his best to maintain the trust that has been given and must be maintained properly, until the reseller finally gets money from consumers or buyers and then handed it over to The first respondent. This happened because of the sense of brotherhood, so that The first respondent could give trust.

Regarding helping consumers, according to the first respondent, there has been an intention if it is possible, but at this time it has never happened directly, because

they rarely deal directly with consumers or buyers. The first respondent said that although this business had not held a prayer ceremony before starting the business, at least he did not forget to say Basmallah in starting his business.

The first respondent stated that at first he was running this business himself, but in the end his friend asked him to become a reseller and until now the reseller has grown to 4 people. For the *Syirkah* technique, the first respondent gave the price to the reseller Rp. 8.000,- where the standard market price is Rp. 10,000, - but it is possible for resellers to overdo it to take profits. And every time someone wanted to buy, the agreement was that the reseller must first bail out money from the buyer, then the item can be handed over to the reseller and the reseller forwarded it to the buyer.

In *Syirkah* the first respondent as an investor and also occasionally can sell directly to consumers or buyers if possible, in addition to resellers. The scope of the business selling area of the first respondent is around Jalan Kolonel Sugiono, Kelayan B, Pekapuran Laut, Sei. Tabuk, and Gatot Subroto. If there is a dispute, then there is no sanction given by the first respondent, it's just that The first respondent will not hire that person again. And will not be trusted again.

The second respondent

According to The second respondent, I know the terms *Syirkah*, *bakakawanan*, *basamaan* because he am from Hulu Sungai. Currently implementing *Syirkah* with the category of small business type, this rational coffee business is a collaboration/*Syirkah* between 3 people, that was him, Ananto and Rizal. For profit-sharing technical, He got 60%, Ananto and Rizal each 20% of the profit. And this business has been around since April 2020, it's been more than a year. Every time I get a result, I always issue ZIS.

During the COVID-19 pandemic, in order to carry out the protocol and comply with government regulations, we limit the number of café visitors every day. At this cafe, he didn't do this business with Ananto at first, but with another friend of mine. However, due to a number of reasons, this effort was made by the three of him with Rizal and Ananto. The technique we run for profit is mutual discussion. For this business agreement, he was the one who manages and is the investor, as well as Rizal and Ananto as the investor. If there was a violation of the promise then there is no special sanction, only left to Allah SWT. And the effort for peace is trying to find the best problem solving.

The second respondent explained that in this effort, They have trusted each other because they were in the same organization, and had gone to boarding school together. Regarding COVID-19, it was seen by visitors that there were still not enough implementation procedures. However, even in the current state of COVID-19, they still have market segmentation, that was students and friends in organizations who usually have meetings and discussions here, and try to maintain their trust so that the business continues.

The second respondent also said that his family was very supportive, because the family was also a trader. His motivation to open this cafe business is because of his habit of hanging out outside. So instead of spending money while hanging out (hanging out with knowledge), it's better for him to open this café business. For our partners to help in times of trouble and for consumers who are less well off, they have a special price for them and also every Friday there will be a sharing for those who can't afford

it. Long before this business was started, there was a Blessing event and every time He started a business, He always said Basmallah.

The third respondent

The third respondent explained that he knew about Syirkah, but didn't know much about it in detail, currently running a business in the small economy class, implementing Syirkah since 5 (five) years ago, namely in 2016, with a profit sharing technique of 50%: 50% with sister and already has two branches. He routinely always pays Zakat Infaq Sadaqah, and due to COVID-19 his business sales have decreased and opening hours have changed due to the rules for the Enforcement of Restrictions on Community Activities. However, we are still trying to keep the business running, including by creating new menus and sometimes doing promos. And thankfully this is very supported by the family.

According to The third respondent, at first, he only ran the business alone, because he was already married, he invited his younger brother to manage it. The agreement between me as an investor and my brother as a manager was obtained, and the results were equally distributed, namely through discussion. If there is a violation of the agreement/agreement then I will not give any special sanctions, just surrender, your name is also brother. And for peace efforts, if there is a problem, it is still through a family discussion.

The third respondent explained that, of course, in managing this business, there is an element of mutual trust, especially since we are siblings. My response to the current state of the COVID-19 pandemic in the area around my place of business is very sad, because many people in the village area are still not wearing masks.

The third respondent said that the strongest motivation in doing this was that I had always enjoyed entrepreneurship, with my sister helping each other with any problem, sometimes even to consumers I really couldn't afford for free. This is simply hoping for the pleasure of Allah SWT. At the beginning of starting the business, we used to carry out safety activities and of course every day we started activities we didn't forget to say Basmallah.

B. Syirkah contract

According to the Compilation of Sharia Economic Law Article 20 (3) the definition of Syirkah is cooperation between two or more people in terms of capital, skills or trust in a particular business with profit sharing based on a ratio agreed upon by the unionized parties.¹⁴

In the language of Syirkah, it means *al-Ikhtilab* (mixing) or the association of two or more things, so that each is difficult to distinguish. Such as partnership of property rights or business syirkah. According to Hanafiah scholars, Syirkah in terms is the combination of assets (and/or skills, pen.) to be used as business capital and the results in the form of profit or loss are shared together.¹⁵

A transaction that involves many people focused on combining capital, material or labor and expertise for a business or business which in the end gets the results to be shared together and bears the risk together is the general concept of Syirkah.

¹⁴ Tim Redaksi, *Kompilasi Hukum Ekonomi Syariah* (Bandung: Fokusmedia, 2008), h. 14.

¹⁵ Al-Sayyid Sabiq, *Fiqh Al-Sunnah* (Beirut: Dar al-Fikr, 1983), III, h. 294.

Among the arguments related to Syirkah in the Qur'an is in Q.S. Shaad: 24.

Allah says:

قَالَ لَقَدْ ظَلَمَكَ بِسُؤَالِ نَعَجِكَ إِلَىٰ نَعَاجِهِ ۖ وَإِنَّ كَثِيرًا مِّنَ الْخُلَطَاءِ لَيَبْغِي بَعْضُهُمْ عَلَىٰ
بَعْضٍ إِلَّا الَّذِينَ ءَامَنُوا وَعَمِلُوا الصَّالِحَاتِ وَقَلِيلٌ مَّا هُمْ ۗ وَظَنَّ دَاوُدُ أَنَّمَا فَتَنَّاهُ فَاسْتَغْفَرَ
رَبَّهُ وَخَرَّ رَاكِعًا وَأَنَابَ

Meaning: "David said: "Indeed he has wronged you by asking your goat to be added to his goat. And indeed most of the people who are in union some of them do wrong to some others, except those who believe and do good deeds. the pious; and these are very few of them." And David knew that We tested him; So he asks forgiveness from his Lord and prostrates and repents.

From the verse above, it can be seen that the comments or decisions of the Prophet Daud As. For the problems he is facing, this statement of Prophet Dawud (as) is not a verdict but a commentary on the complainant's words, as if he was saying, actually I swear that he has wronged you if the complaint is true.

While the hadith relating to Syirkah is a hadith narrated from Abu Hurairah that Rasulullah SAW. said:

أَنَا ثَالِثُ الشَّرِيكَيْنِ مَا لَمْ يَخُنْ أَحَدُهُمَا صَاحِبَهُ، فَإِذَا خَانَ أَحَدُهُمَا صَاحِبَهُ خَرَجْتُ مِنْ
بَيْنَهُمَا

Meaning: "I am the third of two people who are in union, as long as one of them does not betray his friend. When one of them has betrayed his friend, I will come out of them." (History of Abu Dawud).¹⁶

Sayid Sabiq emphasized that Allah SWT will bless the wealth of the association and maintain both (working partners) as long as they maintain good relations and do not betray each other. If one cheats, then Allah SWT will take away the blessings from his wealth.¹⁷

To carry out a transaction in Islam, it must meet the pillars and conditions in accordance with Islamic law, the purpose of the pillar is an element that is an inseparable part of an act or institution that determines whether the act is legal or not and the presence or absence of something. And in general, the pillars of Syirkah are of three kinds, namely: Shigat/ijab-qabul, the person who has the contract, the object of the contract.¹⁸ As for the requirements according to hanafiyah, it is divided into three parts.

First, the conditions relating to all forms of syirkah, both property and others. In this case, there are two conditions: first, with regard to the object to be contracted (transacted) it must be an object that can be accepted as a representative. Second, with regard to profits, the distribution must be clear and agreed upon by both parties, for example 50%: 50%, 80%: 20%.

Second, the conditions related to property (mal). In this case, there are conditions that must be met, namely the capital used as the object of the syirkah contract is from legal means of payment (nuqud) such as riyals, rupiahs, and dollars.

¹⁶ Sayyid Sabiq, *Fikih Sunnah Jilid 13* (Bandung: Al-Ma'arif, 1987), p. 194.

¹⁷ Sabiq, III, p. 294.

¹⁸ Dimyauddin Duwaini, *Pengantar Fiqh Muamalah* (Yogyakarta: Pustaka Pelajar, 2008), p. 213.

The existence of principal assets (capital) when the contract takes place, whether the amount is the same or different.

Third, the conditions related to *syirkah mufawwadhab*, namely the basic capital must be the same, people who are Syirkah are experts in kafalah, the object of the contract is required to be in general syirkah, namely all kinds of buying and selling or trading.¹⁹

By using the basic foundation of Syirkah theory, the researcher tries to analyze how the Syirkah concept carried out by Y generation entrepreneurs in Banjarmasin during the COVID-19 pandemic is included in the category of part of Syirkah in general that is in Islamic Law.

C. Modification and Innovative use of Syirkah Contracts during COVID-19

After COVID-19 began to spread widely, and also affected the country of Indonesia and especially in the city of Banjarmasin, several regulations emerged that were considered burdensome for Y generation entrepreneurs to run their businesses.

By reason of the Y generation entrepreneur was a generation who likes creativity, with their ideas, creativity, and fighting spirit in doing business/business, they modified the implementation of syirkah contracts and innovate for the sake of the sustainability of their business. At least there was one technical modification of the contract and four innovations that have been made by Y generation entrepreneurs during the COVID-19 pandemic in Banjarmasin today:

Modification

1. Using the Syirkah contract with an online system

Before the Covid-19 pandemic, Syirkah contracts were mostly carried out face to face, the shigat ijab-qabul words could be heard clearly and could communicate with each other smoothly. Meanwhile, after the Covid-19, the technical changes, in order to maintain the health, security and safety of both parties, the syirkah contract is carried out online through electronic media (smartphones) that have application features that support video calls. So they can communicate even at a distance.

Therefore, the contract technique has changed. What used to be face-to-face, now can't face-to-face. There are several changes in it, namely:

- a. The first is the presence of both parties, when using a video call if the resolution of the camera used is not large, it will result in a blurry and unclear image, so that one party, or between the two parties, cannot clearly see who the current partner is. carry out the syirkah contract.
- b. Next, the voice or voice in communicating for the contract through video call media can be disturbed (dashed/unclear) resulting in several bad impacts for the sustainability of the contract, including:
 1. The contract cannot be pronounced with just one utterance, because if when pronouncing the contract there is a possibility that the device (smartphne) has signal/network interference, the pronunciation will be paused or stopped, and must be restarted from the beginning, in the end this can be done time-consuming for Y generation entrepreneurs.
 2. The voice that comes from the speaker is not heard clearly, resulting in misperception and wrong responses. Consequently, it must be repeated.

¹⁹ Abdurrahman al-jaziri, *al-fiqh 'Ala Madzhab al-Arba'ah* (Beirut: Dar al-Qalam, tt).h. 78-80

c. Then the goods that are used as business in syirkah also cannot be seen directly to know the material, size, and substance. Unless sent through a goods delivery agency so that it can be seen directly. Remembering to keep your distance and stay at home. By many changes and possible impacts faced by Y generation entrepreneurs, they continue to endure them patiently, in order to carry on their business.

According to Ibn Taymiyya's book, *Buying and Selling Online* (a method of *istinbath* Ibn Taymiyya's law on the Law of Buying and Selling Online) he explains that contracts through video calls or video conferences have never been put forward by all school of law scholars about the law because this kind of buying and selling has only happened in modern times. But if we look at the basis of the contract in this transaction, we can conclude that the scholars of the madhhab agree on the legal permissibility of it because of bargaining, and the agreement is spoken verbally in showing the pleasure of both parties. As the opinion of Ibn Taymiyya.²⁰

Innovation

1. Using social media as a promotional technique or give away (Instagram, Facebook, & Whatsapp Status).

Before the COVID-19 pandemic, efforts to increase customer interest were not so pushed to be done, while during the COVID-19 pandemic, inevitably, circumstances forced Y generation entrepreneurs to be more active and increase their efforts to attract customer interest by holding several product promotions, then held a give away and this effort was carried out through social media such as Instagram, Facebook, and Whatsapp Status. The giving of this give away is basically allowed only, if there is the pleasure of the give away winner.²¹

2. Holding endorsements with public figures as an effort to attract customers.

Working together with public figures to promote the products they are working on is one way to get customers interested in the products offered, because they are used by their public figures. In the perspective of Sharia Economic Law, this endorsement is also allowed because its nature is still included in the rental of services or people's work.²²

3. Maintaining market segmentation, by fostering mutual trust and brotherhood.

Maintaining the balance of market segmentation, realized by providing great service and trust to consumers, added by polite communication, has become a historic moment for consumers, and hopes to come back again. Coupled with a strategy formulation that is suitable for use is an online market development strategy to increase the number of consumers by making product variations to make it more attractive, the sales window neatly arranged, providing the best service by implementing, greeting and greeting customers and providing affordable prices for all among.²³

4. Increasing prudence as a result of the new technical and pattern applied in transactions.

²⁰ SHI Ariyadi, *JUAL BELI ONLINE IBNU TAIMIYAH Sebuah Metode Istinbath Hukum Ibnu Taimiah Tentang Menemukan Hukum Jual Beli Online: Diandra Kreatif* (Diandra Kreatif, 2018), p. 121.

²¹ Sisi Soleha, 'PERSPEKTIF ULAMA BANJARMASIN TERHADAP AKAD DALAM PRAKTIK GIVEAWAY BERSYARAT', 2020, p. 1.

²² Nisa Gumati, 'Endorsement Sebagai Media Pemasaran Melalui Instagram Perspektif Hukum Ekonomi Syariah', 2018, p. 1.

²³ Muhammad Jihad Arrafi, 'ANALISIS STRATEGI PENGEMBANGAN USAHA JAMU TRADISIONAL MELALUI SEGMENTASI PASAR ONLINE BERDASARKAN PRINSIP EKONOMI SYARIAH', 2020, p. 1.

We must always remain vigilant in modifying new contracts, because it is not impossible that new problems will arise, if we are not vigilant, it can have a bad impact on the business being carried out. For example, the decrease in customer interest, the occurrence of fraud, or even being abandoned by partners. In an effort to apply the precautionary principle, it means that the basic rights of consumers as well as the rights of Y generation entrepreneurs themselves are protected.²⁴

Conclusion

According to the findings and discussion above, it can be concluded that the efforts made by Y generation entrepreneurs in responding to the COVID-19 pandemic and in order to improve their business is to change the usual syirkah contract technique into a syirkah contract that is familiar with electronic media. As well as creating new innovations for the sake of business continuity and in order to attract the interest of consumers.

Increasing prudence towards some of the impacts that may arise from changing the technical contract, from what was previously normal syirkah - to the technical implementation of the syirkah contract must be wrapped in a health protocol, to avoid the spread of the COVID-19 outbreak.

Recommendation

This research definitely has its shortcomings, and the main recommendation given to further researchers in the same field of discussion, namely syirkah, is to research and analyze regulations that are balanced between the application of limits on business hours during the day and limits on business hours at night, in order to maintain the convenience of Y generation entrepreneurs in running their business.

In addition, as for our advice is that the makers of legal regulations can be more optimal in forming it, they should consider aspects of justice for various parties, from various perspectives. In this way, any regulations that are enacted are expected to be perceived as an effort to protect the small community as a nation of the Indonesian state.

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²⁴ Septiana Ayu Estri MAHANI, 'Buku Panduan Kehati-Hatian Transaksi Transaksi e-Commerce', 2018, p. 1.

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