
THE LAW OF BAHaupAN CONTRACTS DURING THE COVID-19 PANDEMIC (STUDY IN BANJARMASIN CITY)

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Abstract

During the co-19 pandemic there were many obstacles in the economy, inevitably also in the Banjarmasin City area of South Kalimantan Province, various efforts were made to maintain the course of the economy in this region, all strategies were carried out, but it seems that there is still one contract system that can still survive, namely the Bahaupan contract system which is a contract system owned by the Banjar community in Banjarmasin City. This research is empirical research with a legal sociology approach, through the medium of direct observation and interviews in the field to economic entrepreneurs during the Covid-19 pandemic. Some of the results found are: Akad Bahaupan can still be used during the Pandemic, entrepreneurs use the latest methods in managing their businesses during the Pandemic, and still always increase prudence in carrying out economic activities.

Keywords: Law, Akad, Bahaupan, Covid-19

Abstrak

Dimasa pandemi covid-19 banyak sekali terjadi kendala dalam perekonomian, tidak terelakkan juga pada wilayah Kota Banjarmasin Provinsi Kalimantan Selatan, berbagai upaya dilakukan untuk mempertabankan jalannya perekonomian di wilayah ini semua strategi dijalankan, akan tetapi nampaknya masih ada satu sistem akad yang masih dapat bertahan, yaitu sistem akad Bahaupan yang merupakan sistem akad yang dimiliki oleh masyarakat Banjar di Kota Banjarmasin. Penelitian ini bersifat penelitian empiris dengan pendekatan sosilogi hukum, melalui media observasi dan wawancara langsung di lapangan kepada para pengusaha ekonomi dimasa pandemi covid-19. Adapun beberapa hasil yang ditemukan adalah: Akad Bahaupan masih bisa digunakan dimasa Pandemi, para pengusaha menggunakan cara-cara terbaru dalam mengelola usahannya dimasa Pandemi, dan tetap selalu meningkatkan kehati-hatian dalam melangsungkan kegiatan perekonomian.

Kata Kunci: Hukum, Akad, Bahaupan, Covid-19

INTRODUCTION

Banjarmasin City in mid-2020 has entered the red zone status in the COVID-19 pandemic situation. Many

impacts have been felt from the outbreak of the virus. not only in terms of health, but also in the fields of education, economy,¹ social, culture and even law.

¹ "View Of Dampak Covid – 19 Terhadap Prekonomian Indonesia," Accessed May 4, 2021, <https://ummaspul.E->

Under these conditions, the government must still provide instructions for the implementation of economic development in order to maintain economic stability and safeguard the purchasing power of people in urban areas and even in rural areas throughout Indonesia.² Including the city of Banjarmasin, which has a commodity community with the Banjar tribe as the majority population,³ also carries out various instructions and regulations given by the government.

Banjar communities are spread not only in rural areas, but also in urban areas, efforts to develop the economy in Banjar communities during a pandemic are very difficult, where people are worried about the impact of contact and coupled with an appeal for discipline to implement the five Macam protocol (Cleaning hands with soap, Wearing a mask, Loosening the distance, Staying

away from crowds, not interacting frequently).⁴

However, there are still a group of people who seem to ignore the recommendation to use the health protocol, especially those who are some young people or teenagers who are still unstable, lack of attention and obedience to the current situation.⁵ Young people or teenagers today have their own social culture where social media and communication technology accelerate and bring their interactions closer to one another. So it is easy for them to meet each other offline not just online.

In the researchers' initial observations, they found that some groups of young people or other teenagers who are entrepreneurs or run businesses are also still trying to carry out economic activities, in addition to efforts to implement economic development, as well as their daily needs, without conducting business or business

² Abdul Karim, "Peningkatan Ekonomi Pedesaan Dalam Menunjang Pergerakan Pertumbuhan Ekonomi Perkotaan Di Masa Pandemi Global," 2020, 6.

³ Skripsi Oleh And Muhammad Ibrahim, "Faktor-Faktor Yang Mempengaruhi Keberhasilan Bisnis Orang Madura (Studi Kasus Di Kota Banjarmasin)," N.D.

⁴ Faura Dea Ayu Pinasti, "Analisis Dampak Pandemi Corona Virus Terhadap Tingkat

Kesadaran Masyarakat Dalam Penerapan Protokol Kesehatan," *Wellness And Healthy Magazine* 2, No. 2 (2020): 237-49, <https://doi.org/10.30604/Well.022.82000107>.

⁵ Judul Penelitian Et Al., Tinjauan Budaya Ketaatan Mahasiswa Wilayah Indonesia Tengah Terhadap Protokol Kesehatan: Studi Kasus Pada Dua Universitas Negeri Di Kota Banjarmasin (2020).

transactions, they will no longer be able to earn a living for their lives. However, they use several ways and efforts to adjust to the conditions currently experienced. Even with the conditions of having to coexist with the COVID-19 virus, entrepreneurs easily continue to run their businesses while praying for safety to God Almighty.⁶

While doing business in the midst of the pandemic, the Banjar community uses many types of transactions, but of course, some transactions can survive or can be used effectively and some have experienced a decrease in income due to the wide and deep impact of COVID-19.⁷ There are those whose businesses have gone bankrupt, but they still have to try, while their capital has been depleted or even exhausted. So another way that the Banjar people use the *Babaupan* customary system in the economy, as taught by previous generations, to make their business run smoothly.

Babaupan in the economic field prioritizes cooperation between one individual and another, either individuals or groups. It can be in the form of capital or expertise that they will use in working together *Behaupan*. *Behaupan* itself in Indonesian is the same as the meaning of working together (buying) or sharing.⁸ *Behaupan* in business or business during the COVID-19 pandemic is of course more or less, all or part of it has changed the procedure or technical implementation following the standards of the pandemic situation.

With the current condition of COVID-19, *Babaupan* is still sustainable in the economic world of the Banjar community, so this makes researchers want to know more deeply, because of course the survival of this *Babaupan* contract system with the procedures used is very important and has an impact on the advancement of the economy in Indonesia and Banjarmasin in particular.

⁶ Widya Astuti Akhmad Hulaify Iman Setya Budi, "Strategi Ekonomi Di Tengah Pandemi Covid-19 Menurut Perspektif Manajemen Strategi Syariah (Studi Fenomenologi Pada Pedagang Pasar Sentra Antarsari Kota Banjarmasin)," *Diploma Thesis*, 2019, 1–11. See Budi.

⁷ Slamet Nurdiansyah, "Pengaruh Tingkat Pendapatan Pengusaha Muslim Terhadap Pemotongan Gaji Karyawan Di Masa Pandemi Covid-19," 2020.

⁸ Abdul Djebar Hapip, *Kamus Banjar - Indonesia*, 1st Ed. (Jakarta: Pusat Pembinaan Dan Pengembangan Bahasa Departemen Pendidikan Dan Kebudayaan, 1977).

What is *Bahaupan* like today, why does it still survive and what is the law of the contract used by the Banjar community during the COVID-19 pandemic as a culture in economic transactions based on the perspective of sociology-anthropology, and Sharia Science.

METHODS

A. Research Type and Approach

The method we use in this research is the empirical juridical method which is *field* research. Researchers go directly to the field with Sharia Science, anthropology, sociology and philosophical approaches to the community of young entrepreneurs who do *Behaupan* and several other related people in the discussion of this research.⁹

The researcher worked with a team of research assistants to find and obtain the data sought from interviews with several respondents

who were young entrepreneurs and carried out their business using the *Bahaupan* contract.

The nature of the research analysis that researchers will do is to use qualitative analysis, where qualitative research analysis according to Miles and Huberman is a research method that seeks to reveal all kinds of uniqueness that exist in individuals,¹⁰ groups, communities, and / or organizations in everyday life as a whole, rigorous, basic and can be accounted for as scientific work.¹¹

B. Research Location

The research location that researchers will choose is from the scope of all sub-districts in Banjarmasin City but leads to several sub-districts from five sub-districts in Banjarmasin that are in statistical data and make it possible to be visited directly during the COVID-19 Pandemic. The reason for choosing Banjarmasin City as a research location is because Banjarmasin City

⁹ Baran L. Mette, *Mixed Methods Research For Improved Scientific Study* (Igi Global, 2016); Mestika Zed, *Metode Penelitian Kepustakaan* (Jakarta: Yayasan Obor Indonesia, 2008).

¹⁰ Gustina Gustina, Yenida Yenida, And Novadilastri Novadilastri, "Potensi Wisata Halal Dalam Meningkatkan Kesejahteraan

Masyarakat," *Jurnal Ilmiah Poli Bisnis* 11, No. 2 (November 29, 2019): 121–32, <https://doi.org/10.30630/Jipb.11.No.2.254>.

¹¹ Basrowi Sukidin, "Metode Penelitian Kualitatif Perspektif Mikro," *Surabaya: Insan Cendekia*, 2002, H. 2.

is a heterogeneous city besides that, because Banjarmasin City is also the capital of South Kalimantan Province which is the economic center of the people of South Kalimantan Province so that there will be many entrepreneurs who have a variety of *basic* business production.

C. Research Data and Data Sources

There are three kinds of data in this study, namely: primary, secondary and tertiary data. Primary data is data taken from the field. Field data is found from respondents' explanations during interviews related to matters related to the *Babaupan* contract and business techniques. Respondents here are young entrepreneurs who are the perpetrators of the *Babaupan contract*, implementers and business members who will provide some answers to the questions that the researchers conveyed related to this research. then also obtained from several informants. Informants are one person or several people who convey information or data needed by researchers to strengthen the main

data obtained from respondents. This primary data is also sometimes obtained from several scholars who do understand and are directly involved with *Babaupan* and several businesses in Banjarmasin.

Secondary data this research is some documents that have to do with the research that the researcher raises:¹²

1. Some of the laws and regulations that underlie the establishment of and relate to the enterprise or business.
2. Some laws related to the Banjar community.
3. The book of Fiqh Muamalah which discusses cooperation transactions and other related matters.
4. A recap sheet of data on the number of members and what products or services the business has available.

Furthermore, tertiary data, tertiary data here is some other supporting material to clarify the use of primary data and secondary data, such as:

¹² Helaluddin And Hengki Wijaya, *Analisis Data Kualitatif: Sebuah Tinjauan Teori & Praktik* (Sekolah Tinggi Theologia Jaffray, 2019), 74.

1. Documentation
2. Encyclopedia of Islamic Law
3. Encyclopedia of Fiqh Muamalah
4. Smart Book of Shari'ah Economics
5. Legal Dictionary
6. Journals/articles and several other references.

The data sources in this research are respondents, informants, social scholars and legal scholars, and sometimes also from several other connected important community figures.

D. Objects and Subjects of Research

The object of this research is the *Bahaupan* transaction/account that occurs in the Banjar community. And the Subject¹³ of this research is the young entrepreneurial Banjar community itself who conducts *Bahaupan*. Their age range is around 18 years old to 35 years old.¹⁴

E. Data Collection Technique

Making data must be in accordance with the truth of the data.¹⁵ The qualitative method is to describe the data in the form of sentences that are organized, sequential, logical, not mixed up and effective in order to facilitate understanding and interpretation of the data.¹⁶ The process of processing data is:

a. Editing

Editing is an activity carried out after collecting field data. This method is very important because the reality is that the data collected sometimes does not match what the researcher wants, some of which are missing or left out.¹⁷

b. Calsifying

In order for the research to be more systematic, therefore, the data obtained from interviews is classified according to certain categories, namely guided by the questions

¹³ Muh Fitrah & Luthfiyah, *Metodologi Penelitian: Penelitian Kualitatif, Tindakan Kelas & Studi Kasus* (Cv Jejak (Jejak Publisher), 2018), 152.

¹⁴ Dr Juliensyah Noor M.M S. E., *Metodologi Penelitian: Skripsi, Tesis, Disertasi & Karya Ilmiah* (Prenada Media, 2016), 44.

¹⁵ Andi Prastowo, "Metode Penelitian Kualitatif Dalam Perspektif Rancangan Penelitian / Andi Prastowo," N.D., 236.

¹⁶ "Pedoman Penulisan Tesis 2016.Pdf - Google Drive," 14, Accessed February 27, 2020, <https://drive.google.com/file/d/0b1qngsvprb8hskr2sfnxagzfawc/view>.

¹⁷ "Suharsimi: Prosedur Penelitian Suatu Pendekatan Praktik - Google Scholar," 182, Accessed February 27, 2020, https://scholar.google.co.id/scholar?hl=en&as_sdt=0,5&cluster=249234069641494238.

in the problem formulation, so that the data obtained actually conveys the desired information in this research.

c. Verification

Data verification is the process of re-correcting the data that has been collected so that we can find out the truth of the data whether it is truly valid and in accordance with what the researcher wants.¹⁸ then the verification stage is the stage of proving the truth of the data to ensure the validity of the data from the collection results. Verification is usually carried out by listening to and reconciling the results of interviews that have been conducted previously in the form of recordings with the writing of the results of the researcher's interviews during the interview, then meeting the subject data source and giving the results of the interview to him to respond whether the data

is in accordance with what was informed by him or not.

F. Data Analysis Technique

Data analysis is a way to systematically find and withdraw interview notes to improve the researcher's understanding of the case that has been studied and present it as a finding for others. Among the several stages in the research, the most important is to analyze the data that has been obtained from interviews with respondents. Data analysis can be classified into two types, namely quantitative analysis and qualitative analysis. These two types of data analysis can be used in an empirical legal research. While this research uses qualitative analysis.¹⁹

RESULTS AND DISCUSSIONS

A. Research Data

After making various preparations including the procurement

¹⁸ Lexy J. Moleong, *Metode Penelitian Kualitatif*, Xvii (Bandung: Remaja Rosdakarya, 2002), 104.

¹⁹ A. Michael Huberman B. Miles Matthew And Johnny Saldana, 'Qualitative Data Analysis:

A Methods Sourcebook', (Thousand Oaks, United States: Sage Publications Ins, 2015) 3rd Ed, H. 1.

of goods or materials for research activities, the researchers held a Focus Group Discussion to obtain a good research instrument for the stages or processes of this research. The data obtained in this study consisted of several interviews with respondents, as follows:

1. Respondent I

Aulia, a young Cireng entrepreneur, 20 years old, Muslim, vocational school education.

Aulia revealed that she once knew about *Bahaupan* and is currently running *Bahaupan/cooperating* in a small level business with her friend. In this business, Aulia provides the capital and her friend helps in marketing. The percentage of profit sharing is 80% for Aulia and 20% for her friend who markets the product.

According to Aulia, the business that she has been working on since 2019 is always interspersed with routine activities to pay zakat, infaq and sadaqoh from some of the results obtained. In addition, Aulia also said that the business she ran during the COVID-19 pandemic was even more attractive than before the pandemic.

Aulia explained that in his business there is an element of mutual trust between him and his partner who markets his production goods, besides

that there is also an element of brotherhood towards his partner. The community around his business area responded to his business in COVID-19 conditions in general, because it complied with health protocols.

Aulia said that by promoting on Instagram and Whatsapp status and coupled with the existence of resellers, this business can still continue and progress during the COVID-19 pandemic.

According to Aulia, her family, or more specifically her mother, initially forbade her from doing this business, and sneered at her with the words "why sell something like this, does anyone want to buy it?". After time passed, her mother gradually stopped doubting this, because the customers who bought Cireng grew more and more. And in general, the family was very supportive.

Aulia also explained that her biggest motivation in continuing to strive for this business is to make her parents happy, because she believes that the blessing of parents is the blessing of Allah SWT. Then according to him, in this business it is not uncommon sometimes where when the reseller takes the goods, he cannot cover the money from the buyer or consumer, so Aulia gives trust to the

reseller to wait for the money from the buyer or consumer to pay to the reseller. The sentence that is often spoken in banjar language for transaction situations like this is "just *bring it first*" where the reseller is directed to please just bring the item before being paid, but there is an element of trust and responsibility for the item, and the reseller already understands that what Aulia means is to cover first with him losing capital on the trust he has given to the reseller, therefore the reseller also tries well to maintain the trust that has been given and must be well maintained, until the reseller finally gets money from consumers or buyers and then hands it over to Aulia. This happens because of the sense of brotherhood, so that Aulia can give trust.

According to Aulia, there is an intention to help consumers if it is possible, but at this time it has never happened directly, because it is rarely directly dealing with consumers or buyers.

Aulia said that even though her business had not had a *selamatan* before starting the business, but at least she did

not forget to say Basmallah in starting her business.

Aulia said that at first she alone ran this business, but in the end a friend asked to make her a reseller and until finally the resellers increased to 4 people until now. For *Babaupan* Aulia's technique, she gives the reseller a price of Rp. 8,000, - where the standard market price is Rp. 10,000, - but it does not rule out the possibility that the reseller can exceed it to take advantage. And every time someone wants to buy the agreement is that the reseller must first cover the money from the buyer, then the item can be handed over to the reseller and the reseller forwards it to the buyer.

In *Babaupan* Aulia is a financier and can also occasionally sell directly to consumers or buyers if possible, in addition to resellers. The scope of Aulia's business selling area is around Jalan Koloner Sugiono, Kelayan B, Pekapuran Laut, Sei. Tabuk, and Gatot Subroto. If there is a dispute, there is no sanction given by Aulia, only that Aulia will not hire the person again. And will not be trusted again.²⁰

2. Respondent II

²⁰ Interview On Friday, August 26, 2021, Jl. Colonel Sugiono Gg. Abc Rt.04 Rw.01 No. 28, Central Banjarmasin.

Nurul Innani, a young entrepreneur who owns Salma olshop (clothing), is 34 years old, Muslim and has a Bachelor's degree.

Nurul knows about *Bahaupan* and applies *Bahaupan* in his business, which is a mid-level business in Banjarmasin's economy.

In her business, Nurul runs *Bahaupan* together with resellers. With a range of 80%: 20% this business has been run for 8 years ago, namely since 2013. Nurul also said that he always gives alms with some of the proceeds from his sales. Although the distance between the reseller's residence and Nurul is far away, Nurul feels there is a bond of brotherhood and trust in his resellers, sometimes to resellers who are very trusted, Nurul dares to send goods in advance because maybe the reseller is busy or something like that. However, Nurul already believes that the reseller is trustworthy and always pays for his goods at the latest will be paid within 1 year. Then Nurul said that if there was a dispute, there were no sanctions or demands from me, but only submitted to the provisions of Allah SWT, and the collaboration would be terminated.

At first Nurul ran the business alone, then promoted it through Whatsapp,

Instagram, and Facebook media, after which suddenly someone offered to become a reseller. For capital, according to Nurul, all the capital is from me and is marketed together with resellers as well. My agreement with the reseller is that if they want to take the goods to be marketed, they must be paid/reimbursed for the price of the goods first, then they can be taken, unless there is something that can still be tolerated. The marketing area for this clothing is to the Banjarmasin and Pelaihari areas.

During the COVID-19 pandemic, residents around the neighborhood are very understanding of his business activities and coincidentally the surrounding community also sells online like Nurul. Efforts to enliven and increase enthusiasts in this COVID-19 pandemic situation for selling goods are to often hold *give away*.

According to Nurul, the main motivation in continuing to sell despite the COVID-19 pandemic is to channel her hobby and carry out the sunnah of the prophet. Moreover, this business is very much supported by my family, besides selling online, I also open my stall at *pasal pal 7* (seven) or the Sunday market. To transport so many goods, assisted by my husband, he has always

supported from the beginning of marriage. And until now alhamdulillah there are no inhibiting factors from the family.

Nurul explained that he always tries to help his resellers, and not infrequently also to consumers, for example when there are buyers who are already known, Nurul may provide loans (debt) with a certain period of time.

Nurul said that before starting a business in 2013, Nurul held a *Selamatan* activity to expect goodness and blessings for the business to be run, *Selamatan* was carried out by inviting family only. And as a form of his devotion to Allah SWT, every time he starts a business activity, he does not forget to say Basmallah.²¹

3. Respondent III

Ahmad Junaidi, S.H., is an entrepreneur of Kebab Medina, 22 years old, Muslim, and has a Bachelor's degree.

Ahmad said that he knew the term *Behaupan* but only recently, currently Ahmad is running a Kebab Medina business with a small economic class and feels that he has done *Babaupan*. According to him, the *Behaupan*

technique is by giving capital from one person to run a business then giving trust to another person to run the business entirely with profit sharing or gratuity. In fact, she has done *Babaupan* transactions in small things, namely in transactions to buy basic daily necessities.

According to Ahmad, the Kebab Medina business has been running since 2020, and his partners will get a profit sharing from this *Babaupan* of 10% per each sale. From the income earned, Ahmad does not forget to carry out ZIS regularly. At the beginning of the opening, he does not forget to pray and pray for this business to be blessed and smooth in the future, and does not forget that every time he starts running a business every day he always starts with saying Basmallah, sometimes even asking for prayers from the closest people.

At first the partner who had the capital contacted me and stated that he wanted to open this Median Kebab business, that he was ready with capital and asked me to run this business, knowing that I had also been in the culinary field before. When the trust is

²¹ Interview On Saturday, August 27, 2021, Jl. Sungai Mesa Komp. Kai Burhan No. 18, Central Banjarmasin.

there then entrusted this business to run with a profit sharing of 10% of the results plus there is definite money for each month from sales.

During the COVID-19 Pandemic Ahmad stated that the implementation or timing of working hours was unique, because they had to be able to find the right time and not conflict with the implementation of PPKM in the surrounding area.

In the relationship between partners at the place of business, there is a good attitude of brotherhood and trust, where Ahmad is entrusted with selling goods to be sold while maintaining their quality so that they are not damaged, Ahmad feels that partners are like his own brothers because they are both young, besides being brothers in religion, namely Islam.

Ahmad explained that the community environment around his business is good at implementing PROCESS and needs to be improved or maintained. During the COVID-19 pandemic, he is trying to promote selling goods by promoting them online and working with food delivery service providers, as well as applying fast and hygienic principles in the product manufacturing process.

Ahmad's family in this case supports the efforts that have been made because the family understands that in the era of the COVID-19 Pandemic almost everyone feels difficulties from the economic aspect, so it is natural for Ahmad to keep trying. According to him, the current obstacle is that the prices of ingredients are uncertain, sometimes rising (expensive) and sometimes falling (cheap).

Ahmad conveyed that what motivated him to do business like this during the COVID-19 pandemic was solely to be useful for many people by providing employment and at the same time providing experience for *fresh graduate* friends. So far, through *Bahaupan*, it has been able to provide benefits for fellow coworkers and for consumers, sometimes providing products that are more than the standard price and sacrificing for those who are less able and can only pay enough.

Ahmad said that this business has 3 (three) branches, and all branches use the same system, namely *Bahaupan*. Until now, if there is a violation, it will be submitted to the provisions of Allah

SWT. And *Badamai* is always sought first in order to avoid the judicial process.²²

4. Respondent IV

Muhammad Rizali, S.E., is an entrepreneur of Pentol King Seafood, 24 years old, Muslim and the last education is Strata Satu (S1).

Rizali revealed that as an upstream river person, of course, he knows about the *Babaupan* transaction, which is currently being applied in business even though it is still at the small economic class level. In this *Babaupan* pentol business since February 2021, Rizali as a financier and partner as a pentol maker. Because *Babaupan* of course there is an element of profit sharing. And don't forget to routinely fulfill ZIS.

According to Rizali, I saw the opportunity that there was still no *seafood-based* pentol business, so I thought of opening this business until I looked for partners who could make the pentol, and *Babaupan* was born. Through the negotiation process with my partner, I reached an agreement that I would be the financier and manager, while my partner would make the ingredients, with a profit-sharing system of 80% for me and

20% for the partner. If there is a violation of the agreement, there are no special sanctions in the agreement, and it is always tried to be *reconciled* in a family manner.

During the COVID-19 Pandemic, according to Rizali, we are implementing PROCESS in business, especially for branches on Prona Bumi Mas road. The element of trust in each other is getting closer during this difficult time, especially since we are Muslim brothers who must support and strengthen each other.

Rizali revealed that during COVID-19, the extended PPKM regulations had resulted in having to close one of the branches on Jalan Pramuka due to declining turnover. However, I was not discouraged, by holding promotions on social media and endorsements with several *public figures*, it resulted in my business being able to continue. Moreover, close family support, especially my wife, who is very supportive of this business, she even helps handle the business in the promotion section.

Rizali explained that his biggest motivation in this business is to apply the knowledge he has learned during his

²² Interview On Wednesday, September 8, 2021, Jln. Hksn, East Banjarmasin

education in college which has been explored in the Sharia Economics study program, and especially my desire to provide employment for my friends.

Rizal admits that he often gives discounts to consumers who are unable to expect blessings from his business. This is reflected where every time he starts a business every day he always says Basmallah and long before this business was started he had carried out the *Beselamatan* event so that this business was smooth and blessed.²³

5. Respondent V

Normiliyanti, S. H., a business owner of Pipchips.d, is 22 years old, is Muslim and has a Bachelor's degree.

Normili explained that he knows about the term *Bahaupan* in business, and has even done it. Including the small brownie chip business that is currently being run. I do this business with my friend, the capital is entirely mine, but I share a percentage for my friend who participates in helping my business. for the profit sharing 90% for me and 10% for my friend. And I regularly do ZIS.

In the beginning, I only produced my own products, but due to increasing

demand, I recruited my best friend as a partner. And we agreed that a percentage of the total sales would be given to my partner. The financier is me and the one who provides the labor/expertise is my friend as my partner. For my assignment in the production section and the financier, he is in the packaging section. If my partner breaks the agreement then I leave everything to the provisions of Allah alone. The effort to make peace is by discussing carefully if a problem occurs.

According to Normili, in this business there is an element of trust when I entrust the packaging of products to my best friend, even my partner is considered a brother.

In response to this COVID-19 condition, PROCESS should be further improved. And in order to keep this business going, always hold promotions and ask for reviews from consumer friends. Besides that, the family is very supportive and helps in the production of this kripbrow. What motivates me is because my business started from a job, in the end to make my own money so that

²³ Interview On Sunday, September 12, 2021, Jl. Melati Indah, East Banjarmasin

I am not financed by my parents anymore, so I have to keep trying.

Normili revealed that he often helps in all matters for partners, and provides discounts for those who are less able as consumers. Before starting a business, he conducts *Basalamatan* and always says Basmallah every time he wants to start a business activity.²⁴

6. Respondent VI

Guntur Maulana, a young entrepreneur and student who is one of the owners of the Nalar Coffee cafe, is 22 years old, Muslim and has a Bachelor's degree.

According to Guntur, I know the terms *Babaupan*, *bakakawanan*, *basamaan* because I am an upstream person. Currently implementing *Babaupan* with a small business category, this nalar coffee business is a *collaboration/Babaupan* between three people, namely me, Ananto and Rizal. For profit sharing techniques, I am 60%, Ananto and Rizal each 20% of the profit. And this business has been established since April 2020, it has been more than a year. Every time I get a result, I always give ZIS.

During the COVID-19 pandemic, in order to carry out protocols and comply with government regulations, we limited the number of café visitors per day. At first, I did not do this business with Ananto, but with my other friends. But due to several things, until this business I did three together with Rizal and Ananto. The techniques we use for profit are discussed with each other. For this business agreement, I am the one who manages and becomes the investor, as well as Rizal and Ananto as investors. If there is a breach of promise, there are no specific sanctions, only submitted to Allah SWT. And the effort for peace is to try to find the best *problem solving*.

Guntur explained that in this business we already trust each other because we were in the same organization, and had a room together, of course we feel very close, of course we are like brothers. Regarding COVID-19, it can be seen that there are visitors who are still lacking in implementing prokes. However, even in the current condition of COVID-19, we still have a market segmentation, namely UIN students and friends in organizations who usually meet

²⁴ Interview On Sunday, September 19, 2021, Jl. Rama, East Banjarmasin

or discuss here, and try to maintain their trust so that the business will continue to run.

Guntur also said that his family was very supportive, because his family were also traders. My motivation to open this café business was due to my habit of hanging out outside. So instead of me spending money continuously when nongki (hanging out science), it's better for me to open this café business. Towards salign colleagues helping in times of difficulty and for consumers who are less able we have special prices for them and also every Friday will be held Friday sharing to people who are not able. Long before this business started there was a *Beselamatan* event and every time we start a business activity we always say Basmallah.²⁵

7. Respondent VII

Nurul Huda, S. Kom, a young entrepreneur, owner of the Jelly Milk Marwa business, 35 years old, Muslim and has a Bachelor's degree.

Huda explained that he knows about *Behaupan*, but not very well, currently running a business in the small economy class, implementing *Bahaupan* since 5

(five) years ago, namely in 2016, with a profit-sharing technique of 50% : 50% with his younger brother and has two branches. Routinely always fulfills ZIS, and his business due to COVID-19 sales have decreased and business opening hours have changed due to PPKM regulations. Even so, we continue to try to keep the business running, including by creating new menus and sometimes doing promos. And thankfully this is very much supported by the family.

According to Huda, in the beginning he was alone running the business, because he had a family, he invited his younger brother to manage it. The agreement between me as the investor and my younger brother as the manager is obtained, and the profit sharing is equal, namely through discussion. If there is a violation of the agreement/agreement then there is no special sanction that I will give, just surrender, his name is also a brother. And for peace efforts if there is a problem, it is still by discussing in a family manner.

Huda explained that of course in managing this business there is an element of mutual trust, especially since

²⁵ Interview On Sunday, September 26, 2021, Jl. Rama, East Banjarmasin

we are siblings. My response to the current condition of the COVID-19 pandemic in the area around my place of business is very sad, because many people in the village area still do not use masks.

Huda said that the strongest motivation in this business is that I have always loved entrepreneurship, together with my younger siblings helping each other with any problems, sometimes even to consumers who really can't afford it. This is solely for the pleasure of Allah SWT. When we first started our business, we carried out *beselamatan* activities and of course every day we started our activities, we did not forget to say Basmallah.²⁶

8. Respondent VIII

Farida Hayati is an entrepreneur of a restaurant called Aneka makanan (Flaza Kambing), 40 years old, Muslim, D3 Education in Economics PAHP, Banjar tribe.

Farida admitted that she knew about *Babaupan*, and had done it before. Farida is currently running a quinary business at the medium business level, and is currently operating under the *Babaupan* system. *Farida's Babaupan* is a collaboration between herself and her

younger sibling in Kapuas. Technically, Farida provides the labor, ideas and expertise, while her sister provides the capital. In this business there is an element of profit sharing, Farida gets 25% while her sister who is the capitalist and is in Kapuas gets 75% of the net proceeds of the business.

Farida explained that she has been running this business for one year in Kapuas and three months in Banjarmasin. According to Farida, some of the proceeds are always donated to orphans. At first, the business was opened only at home, relying on information from friends to other friends. And finally tried her luck in Banjarmasin.

Akad *Babaupan* that was carried out was started when her sister asked Farida to help her in this culinary business in exchange for a salary of 1-4 million according to the results of the business and then Farida was willing to work together to run this business with expertise and abilities.

Farida explained that until now the business is still running, even though it is in a pandemic condition, because for this

²⁶ Interview On Wednesday, October 13, 2021, Jln. Keramat Raya, East Banjarmasin

Goat Flaza culinary has its own enthusiasts or classes, the business environment is still safe, with the existence of PPKM regulations the business is still running and there is more or less an impact. The most important thing for Faridah and as a motivation to continue running this business is for economic progress, and to help her children. Until now, the family is still supporting well, and Alhamdulillah there are no significant obstacles.

Farida even now wants to strive to be able to open or expand her business. So far, Farida has always been able to help underprivileged consumers, and she also said that there was *Beselamatan* before starting to open the business. and not forgetting to always say Basmallah every time she starts her business work.²⁷

9. Respondent IX

Lisna Mariana, an employee of Sabilal Muhtadin Mosque, 28 years old, Muslim, high school education, Banjar ethnicity.

Lisna revealed that she once knew about *Bahaupan* and is currently running *Bahaupan / cooperation* in a profit-sharing business carried out by the Sabilal

Muhtadin Mosque with PT Amanah drinking water company. In this business, the Sabilal Muhtadin Mosque is a distributor while the production is from PT Amanah itself.

According to Lisna, the business that she has been working on since 2019 is always interspersed with routine activities to give sadaqoh from some of the proceeds obtained.

Lisna explained that in this business there is an element of mutual trust between the Sabilal Muhtadi Mosque and the Amanah company that markets its production goods, besides that there is also an element of mutual trust between the two parties.

Lisna said that mutual trust is reflected in the contract, because the return of capital to Sabilal Mosque as a distributor can be paid in installments without any time period. However, the normal standard is one year.

According to Lisna, her biggest motivation in continuing to work on her business is that business is hard to find and the income from this business is still stable even during the pandemic.

²⁷ Interview On Sunday, August 29, 2021, Jln. Alalak Utara Komp. Permata Haruai Lestari Blok B. No. 24, North Banjarmasin

Then according to him, in this business it is not uncommon sometimes where when customers take goods they cannot pay off the money. Because they are old customers, the Sabial Mosque gives trust to buyers by paying in installments with time.

The Mesji Sabial party becomes a financier as well as a distributor, usually the lightest with a capital of 5 million rupiah as a down payment in order to sell production from PT. Amanah. However, the profit sharing from sales is still divided by 50%: 50%.

Efforts made during this pandemic are to carry out promotions to various stakeholders in order to increase customers, especially those who are prioritized are government agencies.

Amanah has often served various requests from government agencies, in addition to the ease of payment they offer, also the taste of Amanah mineral water according to the recognition of many consumers is mineral water that tastes better than others.²⁸

10. Respondent X

Muhammad Maulani is a coffee entrepreneur with the name Coffeesy, 21

years old, Muslim, Banjar tribe, S1 education.

She explained that she did not know exactly what the *Babaupan contract entailed*. However, Lani (as she is familiarly called) explained that in the past she had implemented the *Babaupan* system but stopped because of one problem, and then is currently trying the *Babaupan* system again with a new partner. The technique we use is a 50% profit-sharing system: 50% I am two people as laborers or who provide expertise, while our partners are financiers. This is because the investors do not go out into the field to work and only receive the results.

In this business, we also often give alms to people who cannot afford it. During the pandemic we continued to sell, because we were so excited that sometimes we forgot to close until dawn, until now it often happens.

At the beginning before this business was carried out, I saw or wanted to get to know my potential partners first for some time, how was his nature, whether he could also accept me as I was, when he understood and accepted me then this business ran comfortably.

²⁸ Interview On Wednesday, September 1, 2021, Jl. Rantau Timur 1 Kelayan Barat, North Banjarmasin

Besides that, the choice of place must be considered first, because it is very influential, the appearance of the place must also be istagramable, our prices are set to be affordable for all circles, our services are always friendly, and always think about what benefits buyers will get if they come to our shop.

My family used to be unsupportive, but now I can't help but be supportive in the end, because I am the only child of my parents, the others are already married. Sometimes my parents also want me to run/continue my parents' business.

My main motivation is also because I am a wealthy person, and I want to feel that everything can be owned from my own efforts. And I wanted to try something more innovative.

To colleagues and consumers, hospitality is always prioritized, especially if we already know each other. And don't forget to always say Basmallah in starting work activities.²⁹

11. Respondent XI

Muhammad Aditya Hariyadi, a young entrepreneur at the age of 22, has

opened a business called Rapcoffee (Kedai Kopi), is a Banjar tribe and is Muslim with a bachelor's degree.

Aditya explained that he had heard of the *Babaupan* contract. Currently, the business he runs is on a local scale only. According to Aditya, he once did *Babaupan* with his friend, where each of them provided 50% and 50% of the capital, the rest exchanged or collaborated with each other's thoughts and ideas in advancing their business. This business started in February 2021.

Around 5 - 10 percent of the proceeds are given to those who deserve it. Aditya explained that it is not only in terms of big businesses, sometimes in small things he has also done *Babaupan* such as in buying business capital materials. According to him, something unique in this *Babaupan* is that of course in terms of labor, it is more efficient so that there is no need for a lot of costs for labor, and the coffee shop business has been selling better since the pandemic.

There is an element of trust between business actors with each other, and according to Aditya this is because the coffee shop business certainly has

²⁹ Interview On Sunday, September 26, 2021, Jl. Soetoyo S, No. 2 Rt. 1, Rw. 2, North Banjarmasin

connections with each other. Not only that, but there is also an element of brotherhood.

Regarding the environmental conditions around his workplace regarding covid-19, Aditya emphasized that there needs to be special assistance, both capital and strategies to fellow coffee shops in order to survive with the situation. A special way to keep this business going, we focus on our target market, namely young people who often enjoy leisure time, and of course by promoting to friends first. And beyond that, the family is very supportive and there are no obstacles or obstacles received from the family.

The strongest motivation in this endeavor is to create jobs. Here comes the attitude of helping, for example to friends who often buy at our place, then we give bonuses. Likewise, if there is an organization or the like that wants to hold a gathering, it will get a discount. Not only to consumers, but to partners as well, we help each other.

Aditya added that before opening this business, *Beselamatan was* held and before starting the *Babaupan* activity, at least Basmallah was prioritized by hoping for the blessing and smooth running of the business from Allah SWT.³⁰

12. Respondent XII

Muhammad Restu Bifadhlika is an entrepreneur of Kedai Retro, with 19

years of business, religion Islam, ethnicity Banjar, education S1.

Said that he had a brief knowledge of the *Babaupan contract*. Currently running a business in the local area, and have done *Babaupan*. There are five people in total, consisting of two owners and three employees. The owners provide 50/50 of the capital and the profits are distributed at a percentage of 50/50 for the owners, and the employees can choose the option of daily or monthly wages. This business started in July 2021. Where 5 percent of sales are always donated every month.

Restu explained that he had also done *Babaupan* in a small scope, such as when buying basic daily needs with friends.

Related to running a business during a pandemic with the *Babaupan* system, there is one unique thing that is felt, namely that the business continues to sell even though sometimes government policies regarding the pandemic can change over time.

This business was originally from ideas and thoughts with friends to open a shop, with 2 owners capitalizing 50 percent each. Then with the technique of dividing the results 50/50 for the owner, and the

³⁰ Interview On Sunday, August 29, 2021, Jl. Skip Lama, Teluk Dalam, South Banjarmasin

employees have the right to choose whether their wages are divided per day or per month. It was agreed that the business would be based on profit-sharing.

The financiers are "me and my friend" according to Restu, while there are three other employees who provide labor. With a percentage of 50/50 for the owner, and for employees according to their monthly income.

Whenever someone violates the provisions or is guilty, we will leave it to Allah SWT who has the right to determine. And always try to reconcile by custom.³¹

13. Respondent XIII

Erdayanti Jam shop entrepreneur, 39 years old, Muslim religion and Banjar ethnicity. High school education.

Stating that she knows about *Bahaupan* and has been doing *Bahaupan* business for 12 years in the business of buying and selling and servicing clocks. In every opportunity Erdayanti does not forget to pay zakat, and has done *Bahaupan* in a small form with her family.

According to her, *Bahaupan* is very good, but Erdayanti suggested that if you have a lot of savings, you should try to open your own business from the results of the *Bahaupan* profit sharing.

Bahaupan used by Erdayanti with her partner, where the partner is a big boss in the clock business world, is the way her partner delivers goods, and Erdayanti runs the business and provides a place for the business.

The unique thing in Erdayanti's *Bahaupannya* is that if the goods sent are damaged, the goods will be replaced by their partners. Where actually between them also do not know when the damage to the goods. and here it has been seen that there is an element of mutual trust.

Erdayanti explained that until now the profit-sharing business is still safe. And there are no obstacles. Even if problems occur, according to Erdayanti, they will be resolved with *Badamai*. Because in this business there is already an element of trust and a sense of brotherhood.

In the covid-19 pandemic situation for approximately almost 2 (two) years, Erdayanti said that there was indeed a slight influence on business. However, the business continues to run well, because this clock business is buying and selling, there are also services in it. So that it can still survive, especially by

³¹ Interview On Monday, October 4, 2021, Gg. Pengkor, Kayutangi, South Banjarmasin

prioritizing good service, as well as promos and discounts offered to consumers.

The family is very supportive of Erdayanti's business, there are almost no obstacles from the family, and her main motivation in this business is to increase customer confidence in the quality of goods and services provided in the service.

Among Erdayanti's partners, they help each other because they are friends, and likewise to consumers, sometimes they do not set a price in their services if in Banjar traditional language it is often called "*Sepembarinya baja*" (as much as you can give, according to your ability, it will still be accepted).

Finally, Erdayanti stated that before opening her business, at the very beginning she held *Beselamatan* and of course every time she started her business activities she did not forget to say Basmallah.³²

14. Respondent XIV

Gusti Isna Rahmadani aged 22 as a ticket agent entrepreneur, Banjar ethnicity, Muslim. Last education is S1.

Stating that I know about *Babaupan* in the sense of cooperation, not only in planting shares, but in this business I also get a percentage.

My business is a small-medium business. Technically, I invest in a PT and then someone runs the ticketing business. For profit sharing, we get approximately 10% and the capital owner 90%. This *Babaupan* business started in 2010. And before that there was no *Babaupan*.

We usually do sadaqa, infaq, and most importantly zakat. Personally, I have done *Babaupan*. The uniqueness found in business during the pandemic is that in 2021 it became booming. Because in 2010 it was very difficult for people to go home.

The agreement of this cooperation is that we will be able to more easily distribute tickets. Until now, it has always been maintained. Capital is usually from personal family, in Bajarmasin and Pelaihari, 50%: 50%. Then it will be divided equally.

If they violate the agreement, their cooperation will be revoked. In this business there is an element of trust.

³² Interview On Saturday, November 20, 2021, Jln. Belitung Darat No. 22 Rt. 9 Rw. 1, West Banjarmasin.

Sometimes there are partners who have not paid up to 4 million, and in the end, thank God, they were paid in the end.

The environment during this pandemic is indeed very high competition for buying and selling tickets, playing prices. However, in order for this pandemic to continue to survive is to improve services, such as paying attention to those who will use travel.

Her family supports her, and her motivation is to increase her sustenance. Gusti also stated that he did *Beselamatan* before starting his business and even now *Beselamatan* is a routine every year as well as *mehaul*.³³

15. Respondent XV

Reni is 31 years old as an Admin in an Expedition company, Muslim and Banjar tribe.

Reni said that she is aware of *Behaupan*, and her company is currently cooperating with an expedition company whose center is in Jakarta.

The system is only to receive goods from Jakarta, and here is to send and provide goods. This business has been running for more than 10 years. Reni

earns around 2.6 million per month from the company's turnover which in normal times can reach 30 million per month, so it can be predicted that the results obtained by Rina per month are 8.6% compared to 91.4% with her company.

During this pandemic, shipments were reduced to below 50%. And it had a huge impact. The financiers are from Jakarta and the shipping (manpower and transportation equipment) is from here.

If there are problems such as slow arrival of goods, or damage, they will be sent back. So it is still within the scope of peace if there is a problem.

Our promo is only a discount on shipping costs. And the environment during the pandemic is still smooth and there are no problems. The family is still supportive.

The integrity and sustainability of the family is the main motivation. Fellow partners and consumers are prioritized, because you could say we are couriers.

There is an effort to be grateful with *Beselamatan*, and not forgetting to always say Basmallah of course every time you start an activity.³⁴

³³ Interview On Saturday, November 20, 2021, Barito Hilir Rt. 35 Rw 002, West Banjarmasin.

³⁴ Interview On Saturday, November 20, 2021, Jln. Belda No.15 Rt. 8, West Banjarmasin

From the entire description of the data, it can be presented in the form of a concise matrix as follows:

Matrix I
Respondent Interview Results

Respondents	Transaction Concept of <i>Bahaupan</i> Customary Akad during Covid-19 Pandemic	Business Motivation to Keep Running During the Covid-19 Pandemic
I	<ul style="list-style-type: none"> - 80% Profit Share: 20% - Promoting on Instagram, Whatsapp status and reseller assistance 	<ul style="list-style-type: none"> - In order to make both parents happy - The blessing of parents is the blessing of Allah SWT
II	<ul style="list-style-type: none"> - 80% Profit Share: 20% - Frequent give away 	<ul style="list-style-type: none"> - Selling is a hobby - Practicing the sunnah of the Prophet
III	<ul style="list-style-type: none"> - 90% Profit Share: 10% - Finding the right time to open and not conflict with the implementation of PPKM 	<ul style="list-style-type: none"> - To be useful to many people, especially by providing employment. - Can provide work experience for friends
IV	<ul style="list-style-type: none"> - 80% Profit Share: 20% - Implementing the 5M Procedure in business - Support and strengthen each other - Organize social media promotions - Endorse with several <i>public figures</i> 	<ul style="list-style-type: none"> - Applying the knowledge that has been learned during the Sharia Economics Study Program. - Provide employment for friends

V	<ul style="list-style-type: none"> - 90% Profit Share: 10% - Improving 5M PROCESS - Organizing promotions - Always ask for reviews from customers 	<ul style="list-style-type: none"> - Answering the grind to make your own money - In order not to be financed by parents anymore
VI	<ul style="list-style-type: none"> - 60% Profit Share: 40% - Executing the 5M PROCESS - Comply with government regulations by cutting the number of visitors each day - Provide special prices for underprivileged customers 	<ul style="list-style-type: none"> - In order to channel the habit of hanging out outside the house with friends
VI	<ul style="list-style-type: none"> - 50% Profit Share: 50% - To always apply the 5M PROCESS 	<ul style="list-style-type: none"> - Because I love entrepreneurship
VIII	<ul style="list-style-type: none"> - 75% Profit Share; 25% - The business is still running as before the pandemic, because it has its own enthusiasts or classes 	<ul style="list-style-type: none"> - For economic progress - Helping children
IX	<ul style="list-style-type: none"> - 50% Profit Share: 50% - Continue to often carry out promotions to various stakeholders so that customers increase 	<ul style="list-style-type: none"> - It's hard to find a business - Income is still stable
X	<ul style="list-style-type: none"> - 50% Profit Share: 50% - Improved friendly service 	<ul style="list-style-type: none"> - Want to feel that everything can be owned from your own efforts or hard work.

		- And want to try more innovative things.
XI	- 50% Profit Share: 50% - work more economically - frequent promotion	- Open job opportunities
XII	- 50% Profit Share: 50% - Strive for continuous business growth - Continue to implement government policies related to the Pandemic	- Open job opportunities
XIII	- 50% Profit Share: 50% - Keep providing good service - Even sometimes not charging a service fee	- Increase customer confidence in the quality of goods and services provided in the form of services
XIV	- 90% Profit Share: 10% - Technicalities remain as they were before the pandemic - In 2021, ticket bookings are booming again	- Increase sustenance
XV	- 91.4% Profit Share: 8,6% - It only gives a discount on the shipping cost.	- For the integrity and sustainability of the family.

Judging from the summary in matrix I, it can be understood that when there is a problem about the condition of the business that collides with the co-19 pandemic, each of them has a different response, some consider it normal that there is no need to change the technical and business methods to continue as usual, but there are also those who change it by trying to increase consumer interest by carrying out several activities including, by providing promotions both directly open and through social media such as Instagram, WhatsApp and others,

then there are also those who *give away* and *endorse* by hiring or using *public figures*.

Then based on the various motivations conveyed by the respondents, it can be understood that in the conditions of the Covid-19 pandemic, the *Bahaupan* contract is still carried out in their respective types of business.

***Bahaupan* During Covid-19 Perspective of Sharia Science**

Bahaupan in the economic field emphasizes cooperation between one individual and another, either individuals or groups. It can be in the form of capital or labor expertise that they will use in working together, and in the end will share the results.³⁵

In Islamic Law / Sharia Science what is meant by cooperation in business or business is often called *Shirkah* (in Arabic). According to Qayyim *Syirkah* or *Musyarkah* is a contract of cooperation between two or more parties for a certain business in which each party contributes funds with the agreement that the profits and risks will be borne together according to the agreement. Terminologically,

according to the Compilation of Sharia Economic Law, *Syirkah* (Musyarokah) is a cooperation between two or more people in one capital, skill, or trust in a certain business with profit sharing based on a ratio.³⁶

Looking at the technique of *Bahaupan* during field observations, it seems that there are no procedures that are wrong or contrary to Islamic Law, where the pillars and conditions have also been fulfilled, such as the existence of the two parties carrying out *Bahaupan*, the goods or objects to be cultivated, to the lafadz shigat of cooperation between the parties.

During the Covid-19 pandemic, the *Bahaupan* contract experienced several innovations in responding to the existence of current conditions such as, the implementation of the contract using a video call, then seeing the object / goods to be attempted can also only use a video call, or have to increase the delivery fee because it is not possible for the two parties to meet each other in person during the Covid-19 pandemic, to deliver goods / business objects, to the pronunciation of the contract which is

³⁵ Nurlina Ashfiya And Rachmad Risqy Kurniawan, "Penerapan Kaidah Fikih Pada Kerjasama (Syirkah) Dalam Ekonomi Islam," 2021.

³⁶ Zakiyatun Nufus, "Syirkah Dalam Pemahaman Ekonomi Islam Sebuah Solusi Permasalahan Permodalan," *At Taajir: Jurnal Ekonomi, Bisnis Dan Keuangan Syariah* 1, No. 1 (2020): 103–11.

also often only through telecommunications media which has many limitations.³⁷

Of the many changes and possible impacts faced by the young entrepreneur *Bahaupan*, he must continue to undergo them patiently, in order to continue his business. In the midst of whether or not it is permissible to transact in this way during the covid-19 pandemic.

In the book *Online buying and selling Ibn Taymiyyah* (a method of Ibn Taymiyyah's legal istinbath on the Law of Online Buying and Selling) explains that contracts through video calls or video conferences have never been stated by all the scholars of the madhhab about the law because this kind of buying and selling has only occurred in modern times.

But if we look at the basis for the contract in this transaction, we can conclude that the scholars of the madhhab agree on the permissibility of the law because of the bargaining, and the agreement is spoken by the mouth in indicating the consent of both parties.

This is also the opinion of Ibn Taymiyyah.³⁸

***Bahaupan* as Responsive Customary Law**

Amidst the turmoil of how to behave with the conditions of the co-19 pandemic, young entrepreneurs modify and innovate in their businesses for the sake of survival and other reasons. These innovations and modifications give rise to new legal provisions of the contract, which of course require clarification and verification tests regarding whether or not the *Bahaupan* contract with these innovations and modifications can be used. But besides that, without realizing it from a social point of view, the *Bahaupan contract* can prove that it can survive the wave of viral conditions that hit it.

The new techniques in *Bahaupan* during this pandemic act as a means of responding to the social conditions and circumstances that young entrepreneurs aspire to accept in this new normal era, in order to achieve public justice and emancipation.

³⁷ Anwar Hafidzi Et Al., "The Perception And Impact Of Covid-19 News On The Society," *Profetik: Jurnal Komunikasi* 14, No. 1 (2021): 36–50.

³⁸ Shi Ariyadi, *Jual Beli Online Ibnu Taimiyah Sebuah Metode Istibath Hukum Ibnu Taimiah Tentang Menemukan Hukum Jual Beli Online: Diandra Kreatif* (Diandra Kreatif, 2018), H. 121.

Because during the covid-19 pandemic there were several provisions that were felt to be socially one-sided, where young entrepreneurs were limited in their activities, even though the goal was indeed for the common good. The feeling that arises is what causes the formation of struggles and associations of opinion beliefs that encourage social change in this economic or business field.³⁹

When social change is established, it is a precursor to changes in Customary Law in a region or commodity. According to Nonet-Selznick, the last twenty years have seen a resurgence of interest in the problems of legal institutions - how they work, the forces that influence them, and their limitations and capabilities. It has long been felt that the formation of law, the judiciary, the administration of security are easily separated from social reality and from the principles of justice itself. This revival reflects the academic impulse that the perspectives and methods of social science studies apply to

the analysis of legal institutions as well as the spirit of reform.⁴⁰

Nonet and Selznick through responsive law, place the law as a means of responding to social provisions and public aspirations. In accordance with its open nature, this type of law prioritizes accommodation to accept social changes in order to achieve justice and public emancipation. In fact, according to Nonet-Selznick, responsive law is a program of *sociological jurisprudence* and *realist jurisprudence*.

Life Motivation as a Reflection of Effectiveness

Banjarmasin is a heterogeneous city with many different religions, beliefs, ethnicities, education and even economic professions, such as: office employees, entrepreneurs, drivers, and office boys.⁴¹

In the business world of the Banjar community there is a contract system commonly referred to as *Babaupan*. This contract has been in existence for

³⁹ Nufus, "Syirkah Dalam Pemahaman Ekonomi Islam Sebuah Solusi Permasalahan Permodalan."

⁴⁰ Philippe Nonet & Philip Selznick. *Hukum Responsif, Pilihan Di Masa Transisi*. Penerjemah Rafael Edy Bosco. (Jakarta: Ford Foundation-Huma, 2003).

⁴¹ L. M. Afifah, Sukardi Budi, And Msi Sei, "Analisis Pengaruh Pembiayaan Murabahah, Istishna', Mudharabah, Musyarakah Dan Ijarah Terhadap Profitabilitas Pada Bank Umum Syariah Di Indonesia," *Skripsi Jurusan Perbankan Syariah Fakultas Ekonomi Dan Bisnis Islam Institut Agama Islam Negeri Surakarta*, 2018.

generations since time immemorial, and can still be found today.⁴²

Since approximately the beginning of March in 2020, all aspects of life have been affected by the emergence of the 2019 *corona virus disease* pandemic, including the business world.

Based on the results of interviews that have been conducted with respondents, it can be ascertained that the *Babaupan* contract still survives today even in the conditions of the Covid-19 pandemic. This can be seen from the motivations conveyed by the respondents as *Babaupan* entrepreneurs amid the existence of uncertain challenges.

According to Soerjono Soekanto⁴³ that whether a law is effective or not is determined by 5 (five) factors, namely:

1. Legal factors
2. Law enforcement factors
3. Supporting facilities
4. Community factors
5. Cultural factors

Reflecting on the high motivation of young entrepreneurs to live with the *Babaupan* contract reflects that this contract is still effective during the Covid-19 pandemic. When the contract law they

use does not contradict the basis of Positive Law or Islamic Law, then coupled with their own existence as customary law enforcers of this *Babaupan contract*, it will be in accordance with their substantial goals in achieving public welfare. Available facilities and infrastructure, such as the existence of sophisticated telecommunication equipment, are other supporting factors.

Besides that, the awareness of the community, especially young entrepreneurs, to change the technique of their *Babaupan* contract during the co-19 pandemic and all of that will be complete with a new cultural dressing that arises from social and psychological interactions in the *new normal era* as is currently being faced together.

CONCLUSION

From the results of the findings and discussion above, it can be concluded that the law of implementing Akad *Babaupan* during the Covid-19 Pandemic by young generation entrepreneurs, as an effort to respond to the Covid-19 pandemic and in order to increase their

⁴² Hanafiah, "Akad Jual Beli Dalam Tradisi Pasar Terapung Masyarakat Banjar," *Jurnal Al-Tahrir*. Vol. 15, No. 1 Mei, 2015, 201–17.

⁴³ Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum* (Jakarta: Grafindo Persada, 2008). H. 8

business is to change the usual syirkah contract technique into a syirkah contract that is familiar with telecommunications (electronic) media, as well as creating new innovations for the sake of business continuity and attracting consumer interest in Banjarmasin city, the law is permissible.

The customary law of the *Behanpan contract* is a responsive and effective law. In addition, it is also necessary to increase the attitude of caution towards some of the impacts that may arise from changing the contract technique, from the previous normal syirkah to the technical implementation of the syirkah contract which must be wrapped in health protocols, to avoid the spread of the Covid-19 outbreak.

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