

## Analysis of the Role of Judicial Institutions in Sharia Economic Law Enforcement in Indonesia

Mappasessu<sup>1</sup>,

<sup>1</sup>Sekolah Tinggi Agama Islam Al Gazali Soppeng, Kab. Soppeng, Indonesia.

Email: [mappasessuancu44@gmail.com](mailto:mappasessuancu44@gmail.com)

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### ABSTRACT

*This study aims to analyze the concrete role of judicial institutions in the enforcement of sharia economic law in Indonesia. The main focus is to understand how the Religious Courts, District Courts, and Supreme Courts handle sharia economic cases and identify the challenges faced in the process. The research method used is a qualitative approach with a case study design. Data were obtained through in-depth interviews, observations, literature studies, and documentation analysis. The results of the study show that the Religious Court has a central role in the application of sharia principles in banking, insurance, and sharia capital market cases. Collaboration between Religious Courts and District Courts is important in handling complex cases involving aspects of national law and sharia. However, several challenges such as the lack of special training for judges, limited resources, and unclear regulations are still the main obstacles in the enforcement of sharia economic law. This research makes a theoretical contribution by enriching the literature on sharia economic law and practicality by providing recommendations to increase the effectiveness of sharia economic law enforcement. The main recommendations include increasing training and capacity building of judges, harmonization of regulations, and the use of information technology in case management. Thus, this research is expected to support the creation of a fairer and more effective legal system in the enforcement of sharia economic law in Indonesia.*

**Keywords:** Sharia Economic Law, Law Enforcement, Judicial Institutions

### INTRODUCTION

The sharia economy has developed rapidly in Indonesia, along with the increasing public awareness of the importance of a fair economic system and in accordance with Islamic principles (Kalkavan et al., 2021). As a country with the largest Muslim population in the world, Indonesia has great potential to become the center of the global sharia economy (Kuran, 1986). This is reflected in the development of various sharia financial institutions, such as sharia banks, sharia insurance, and the sharia capital market which is increasingly prevalent and in demand by the public (Abu-Tapanjeh, 2009).

#### Case Description

One of the significant cases that reflects the role of the judiciary in enforcing sharia economic law in Indonesia is a financing dispute between PT Bank Syariah Mandiri and one of its customers (Azmi, 2020). This case involves a murabahah financing contract (buying and selling with a profit margin) which is problematic by the customer because it is considered to violate sharia principles in its implementation (Fanani, 2017).

The customer applies for financing for the purchase of property with the murabahah scheme. However, after several years of running, the customer felt that there was an element of riba hidden in the agreement and that the bank had ignored some of

the basic principles of sharia. As a result, the customer refused to continue paying the installments and took the case to the Religious Court.

The Religious Court is tasked with assessing whether the murabahah contract carried out by Bank Syariah Mandiri is in accordance with sharia principles. The court examines the contract documents, listens to expert witness testimony from the National Sharia Council (DSN), and considers relevant fatwas. In its ruling, the court emphasized the importance of transparency and honesty in murabahah contracts and emphasized that all forms of benefits obtained must be clear and mutually agreed upon without any hidden elements.

The Religious Court ruled that Bank Syariah Mandiri must revise the financing contract to ensure that all provisions are in accordance with sharia principles. This decision also requires banks to compensate customers for losses suffered due to mistakes in the implementation of the murabahah scheme. This decision sets an important precedent for similar cases in the future and shows the commitment of the judiciary in enforcing sharia economic law fairly.

This case emphasizes the importance of the role of judicial institutions, especially the Religious Court, in upholding sharia principles in the economy (Gouda, 2013). It also encourages sharia banks to be more careful in designing their financial products to be fully compliant with sharia law (Sarma & Pais, 2008). In addition, this case strengthens public trust in the sharia justice system in Indonesia in handling economic disputes fairly and transparently.

The development of the sharia economy cannot be separated from various challenges, especially in the aspect of law enforcement (Salim, 2015). Sharia economic law, which aims to ensure economic activities in accordance with sharia, requires a strong and effective legal framework. The enforcement of sharia economic law is one of the key factors in maintaining public trust and the sustainability of this industry (Mustapha et al., 2021).

The judiciary has a central role in the enforcement of sharia economic law in Indonesia. As an institution authorized to enforce the law, the judiciary is responsible for ensuring that sharia law is applied fairly and consistently (Rehman & Askari, 2010). However, in practice, the judiciary faces a variety of challenges, ranging from a lack of in-depth understanding of sharia law among judges to administrative and technical obstacles (S Farook, 2013).

This research aims to answer the main question, namely what is the role of judicial institutions in the enforcement of sharia economic law in Indonesia. What are the challenges faced by the judiciary in carrying out this role? What solutions can be implemented to overcome these challenges and increase the effectiveness of sharia economic law enforcement?

The research gap in the study lies in the lack of a comprehensive study that reviews in depth the concrete role of judicial institutions in the context of sharia economic law enforcement in Indonesia. Although there is a great deal of literature on sharia economic law and its development, little research has focused on how judicial institutions face and overcome these challenges in law enforcement, as well as how they can strengthen existing legal mechanisms to ensure fairness and adherence to sharia principles in economic practice. This research aims to fill the gap by presenting in-depth analysis and practical recommendations. Analyze the role of judicial institutions in the enforcement of sharia economic law in Indonesia. Identify the challenges faced by judicial institutions in the enforcement of sharia economic law. Develop recommendations to address these challenges and improve the effectiveness of sharia economic law enforcement in Indonesia.

The novelty of the research lies in its comprehensive and specific approach to the role of the judiciary in the context of sharia economic law, which has rarely been discussed in depth in previous literature. Thus, this study offers a unique contribution to filling the knowledge gap and providing operational guidance for judicial institutions and policymakers in an effort to strengthen the sharia economic legal system in Indonesia.

This research is expected to provide benefits both theoretically and practically. Theoretically, this research will enrich the literature on sharia economic law and its enforcement in Indonesia. This research will also provide new insights into the role of judicial institutions in the sharia economic legal system.

Practically, the results of this research can be used as a reference for policymakers, legal practitioners, and academics in developing strategies to strengthen the enforcement of sharia economic law. In addition, this research is also expected to contribute to increasing public awareness and understanding of the importance of sharia economic law and the role of judicial institutions in enforcing it. This research is expected to make a significant contribution to efforts to strengthen the enforcement of sharia economic law in Indonesia, as well as support the development of a fair and sustainable sharia economy.

## **METHOD**

This study uses a qualitative approach that aims to gain an in-depth understanding of the role of judicial institutions in the enforcement of sharia economic law in Indonesia. The qualitative approach was chosen because of its exploratory nature which allows researchers to explore and understand various perspectives and experiences related to the research topic (Fossey et al., 2002). Examine various literature related to sharia economic law, the role of judicial institutions, and regulations that apply in Indonesia. These sources include books, scientific journals, research reports, and official documents from related institutions.

Collect and analyze official documents, such as court decisions, annual reports of judicial institutions, and regulations related to sharia economic law. This documentation provides objective and verifiable data.

The data obtained from the documentation is analyzed using content analysis techniques. This technique allows researchers to identify the main themes, patterns, and relationships that emerge from the data. Presenting the research findings descriptively to describe the observed phenomena, then critically analyzing them to identify factors that affect the role of judicial institutions in the enforcement of sharia economic law.

## **RESULTS AND DISCUSSION**

This research enriches the literature on sharia economic law and its enforcement in Indonesia, as well as provides a deeper understanding of the role of the judiciary in this context. The results of the research can be the basis for the development of new theories that are more relevant to practical conditions in the field. The findings and recommendations of this study can be used by policymakers to formulate more effective strategies for strengthening the enforcement of sharia economic law. Legal practitioners and judicial institutions can use the results of this research as a guide to improve their performance and effectiveness in handling sharia economic cases (Mappasessu, 2023). With this comprehensive analysis, it is hoped that this research can make a meaningful contribution to efforts to strengthen the enforcement of sharia economic law in Indonesia, as well as support the creation of a fairer legal system in accordance with sharia principles (Marilang et al., 2021).

A Review of the Role of the Judiciary in the Enforcement of Sharia Economic Law Reviewed from the Theoretical Analysis of Lawrence M. Friedman (Friedman, 1986). The

enforcement of sharia economic law in Indonesia requires a comprehensive approach that includes clear and consistent legal substance, an efficient and effective legal structure, and a legal culture that supports the understanding and acceptance of sharia principles. The judiciary, as part of the legal structure, must play an active role in developing and implementing sharia economic law in a fair and transparent manner, while continuing to improve the competence and integrity of judges and judicial officers.

The substance of law includes rules, norms, and doctrines that govern sharia economic behavior in Indonesia(Mappasessu, 2024b). In the context of the enforcement of sharia economic law, the substance of the law includes: Laws and Regulations: Sharia economic law is regulated through various laws and regulations, such as Law No. 21 of 2008 concerning Sharia Banking, as well as various fatwas from the National Sharia Council (DSN) which regulates sharia economic transactions. This legal substance provides a normative basis for judicial institutions in resolving sharia economic disputes. Fatwas and Jurisprudence: Fatwas issued by DSN and court decisions that have permanent legal force (jurisprudence) play an important role in providing interpretive guidance for judges in applying sharia economic law. This helps to ensure that the court's decisions are consistent with sharia principles.

The legal structure includes the institutions and mechanisms that run and enforce the law. In the context of the enforcement of sharia economic law in Indonesia, the legal structure includes Religious Courts that have special jurisdiction to handle cases related to sharia economics. This structure includes judges who have expertise in sharia law and special procedures that are adapted to sharia principles(Mappasessu, 2011).

The District Court is also involved in the enforcement of sharia economic law, especially in cases involving criminal aspects or breach of contract. Cooperation between Religious Courts and District Courts is important to handle complex and multidimensional cases. The Supreme Court plays an important role in providing direction and guidance through cassation decisions that become jurisprudence for lower courts. This helps ensure uniformity and legal certainty in the enforcement of sharia economic law.

Legal culture includes the attitudes, values, and perceptions of the public and legal practitioners towards the legal system and its enforcement process. In the context of sharia economic law enforcement, legal culture includes: Public Understanding and Awareness: The level of public understanding and awareness of sharia economic principles and the importance of fair and consistent law enforcement greatly affects the effectiveness of the legal system. Education and socialization about the sharia economy and people's legal rights need to be improved to support a strong legal culture(Mappasessu, 2024a).

Judges' Attitudes and Competencies: Judges' attitudes, values, and competencies in understanding and applying sharia economic law greatly determine the quality of law enforcement. Ongoing training and capacity building for judges is essential to ensure that they have a deep understanding of the principles of sharia and can apply them fairly and appropriately. Perception of Justice and Effectiveness: The perception of the public and legal practitioners towards justice and the effectiveness of the sharia justice system affects the level of trust and compliance with the law. Courts need to strive to maintain transparency, accountability, and integrity in the judicial process to build public trust.

The Role of the Judiciary in the Enforcement of Sharia Economic Law. Religious Courts in Indonesia have jurisdiction to resolve sharia economic disputes, such as disputes over sharia banking, sharia insurance, and sharia capital markets. The role of the Religious Court is important in interpreting and enforcing sharia economic law based on sharia principles regulated in national laws and regulations. In some cases, these courts

have demonstrated the ability to apply shari'a principles consistently and fairly. However, there are also challenges related to understanding and interpretation that sometimes differ from one judge to another.

Although District Courts generally handle criminal and civil cases, they also play an important role in the enforcement of sharia economic law, especially in cases involving fraud or breach of contract in sharia transactions. Collaboration between District Courts and Religious Courts in several complex cases shows that the integration of the national legal system and sharia law is necessary to ensure justice and legal certainty.

The Supreme Court plays a role in providing direction and guidance through cassation decisions that become jurisprudence for lower courts. In several rulings, the Supreme Court has set standards for the application of sharia law in economic cases, providing clearer and more structured guidance for judges.

Not all judges have an adequate educational or training background in sharia economic law. This can result in errors in the interpretation and application of the law, which has an impact on the quality of the decision. There is an urgent need for ongoing training and capacity building for judges and judicial staff to ensure they have a deep understanding of sharia principles and their implications in an economic context.

The regulations governing sharia economic law are still relatively new and continue to develop. This ambiguity or inconsistency in regulations can create legal uncertainty for practitioners and the public. Harmonization between national law and sharia law still requires further efforts to eliminate conflicts and overlaps between various legal provisions.

Limited resources and facilities in the courts often hinder the efficiency of the law enforcement process. This includes a lack of adequate information technology to support case management and documentation. Convolutioned bureaucratic procedures can also slow down the dispute-resolution process, reducing the effectiveness of law enforcement. Conducting special and continuous training programs for judges and judicial officers on sharia economic law. This can include workshops, seminars, and courses focused on real cases and comparative studies with other countries.

Cooperation with higher education institutions and research centers to develop relevant and practical curricula. Develop more comprehensive and consistent regulations related to sharia economic law, by involving sharia experts and legal practitioners in the legislation process. Encourage dialogue between policymakers, the judiciary, and the public to identify and resolve emerging regulatory issues. Investments in information technology to improve the efficiency of case management in court, such as e-court and e-filing systems that enable electronic management of documents and court processes. Provision of adequate facilities in the courts to support the implementation of administrative and technical tasks.

This study finds that Religious Courts play a central role in the enforcement of sharia economic law in Indonesia. As an institution that has special jurisdiction to handle cases related to the sharia economy, the Religious Court is responsible for the application of sharia principles in the settlement of disputes in banking, insurance, and sharia capital markets. This study reveals that the success of the Religious Court in carrying out its duties is greatly influenced by the judge's understanding of sharia law and the availability of clear regulations.

The results of the study show that there is significant collaboration between the Religious Court and the District Court in handling complex sharia economic cases. District Courts, which typically handle civil and criminal cases, often collaborate with Religious Courts to ensure that aspects of sharia are applied appropriately. Cases involving breach of contract and fraud in sharia transactions often require handling by these two types of

courts, demonstrating the need for synergy between the national legal system and sharia law.

This study identifies some of the main challenges faced by judicial institutions in the enforcement of sharia economic law. These challenges include a lack of a deep understanding of sharia law among judges, a lack of specialized training, and limited resources. In addition, ambiguity and inconsistency in sharia law regulations are also the main obstacles. These challenges affect the quality of court decisions and public trust in the sharia justice system.

This study recommends several solutions to overcome challenges in the enforcement of sharia economic law. Among them is increasing training and capacity building for judges and judicial officers through special programs that focus on sharia law. In addition, harmonization of regulations is needed to eliminate conflicts and overlaps between national law and sharia law. The use of information technology in case management is also recommended to improve the efficiency of the judicial process.

This research makes a significant contribution both theoretically and practically. Theoretically, the results of the research enrich the literature on sharia economic law and its enforcement in Indonesia, providing a deeper understanding of the role of judicial institutions in this context. Practically, the findings of the research can be used by policymakers to formulate more effective strategies in strengthening the enforcement of sharia economic law. In addition, the results of this research can also be a guide for legal practitioners and judicial institutions to improve their performance and effectiveness in handling sharia economic cases.

## CONCLUSION

This research reveals the vital role played by judicial institutions, especially the Religious Court, in the enforcement of sharia economic law in Indonesia. Religious Courts show a strong commitment to applying sharia principles through jurisdiction, especially in banking, insurance, and sharia capital market cases. However, the success of sharia economic law enforcement is highly dependent on the judges' understanding and expertise in sharia law as well as the availability of clear and consistent regulations. Collaboration between the Religious Court and the District Court is also a key factor in handling complex sharia economic cases. This synergy is needed to ensure that all aspects of national law and sharia law are applied effectively and fairly. However, challenges such as lack of training, limited resources, and inconsistent regulations are still significant obstacles that need to be overcome to improve the effectiveness of sharia economic law enforcement. The impact of this study is significant, both in theoretical and practical contexts. Theoretically, this study enriches the literature on sharia economic law and deepens the understanding of the role of judicial institutions. In practical terms, the findings and recommendations of this study can help policymakers and legal practitioners to develop more effective strategies and policies, improve training and capacity building for judges, and strengthen the regulatory structure and judicial infrastructure. Thus, this research is expected to contribute to increasing justice and effectiveness in the enforcement of sharia economic law in Indonesia.

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