

Dispute Resolution in Sharia Banking: Challenges and Judicial Reform for Enhanced Legal Certainty

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ARTICLE INFORMATION

Publication information

Research article

HOW TO CITE

Purnomo, B., Aziz, A., Achmad, A., & Sugianto, S. (2024). Dispute resolution in sharia banking: Challenges and judicial reform for enhanced legal certainty. *International Journal of Tourism & Hospitality in Asia Pasific*, 7(3), 449-462.

DOI:

<https://doi.org/10.32535/ijthap.v7i3.3469>

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Received: 18 August 2024

Accepted: 19 September 2024

Published: 20 October 2024

ABSTRACT

Sharia banking, a growing sector within Indonesia's civil law system, operates under Islamic legal principles while serving diverse clients, both Muslim and non-Muslim. This research explores the challenges in resolving disputes within Sharia banking, emphasizing the need for judicial integration. The study utilizes both a legislative and conceptual approach, examining relevant laws and regulations, while developing a comprehensive framework for judicial reform. Results indicate that despite the Religious Courts' authority over Sharia economic disputes, jurisdictional ambiguity persists, often leading to confusion. Additionally, the study highlights the importance of alternative dispute resolution (ADR), such as mediation and arbitration, which aligns with Sharia principles and offers a faster, cost-effective means of resolving disputes. The findings suggest that a unified judicial system, with the Religious Courts as the sole authority in Sharia economic disputes, coupled with strengthened ADR mechanisms, would promote legal certainty and support the sustainable development of Indonesia's Sharia banking sector. Implications include recommendations for enhancing regulatory frameworks, improving judicial competence, and fostering collaboration between regulatory authorities, industry stakeholders, and the judiciary to ensure fair and efficient dispute resolution.

Keywords: Bankruptcy; Company; Concept Approach; Legislative Approach; Lex Specialist; Sharia Financial Institutions

INTRODUCTION

Islamic banking institutions, as key players in the dynamic global financial system, offer an alternative for individuals and organizations seeking financial services that comply with Sharia principles (Julita, 2021; Wolok & Kango, 2021). Given that the majority of Indonesia's population is Muslim and the country's growing halal industry presents significant opportunities for development, Islamic banking in Indonesia is positioned to thrive, as noted by Fauzi (2022). These institutions operate under principles that prohibit *riba* (interest), *gharar* (uncertainty), and *maisir* (speculation), promoting fairness, transparency, and shared profit through equitable partnerships (Sheikh & Ali, 2024). However, like conventional banks, Islamic banks face various risks, including bankruptcy and delays in meeting debt payment obligations (PKPU). Thus, it is crucial to examine the bankruptcy resolution process and PKPU in Islamic banking, especially in relation to the regulations that govern the Religious Courts' jurisdiction over Sharia economic disputes.

Islamic banking institutions, both juridically and hierarchically, operate under the supervision of Bank Indonesia, similar to conventional banks. This reflects that Islamic banks are subject to general regulations in the banking sector, including macroeconomic policies designed to maintain financial stability. Nonetheless, the primary distinction between Islamic and conventional banks lies in their operational systems, such as the adoption of profit-sharing models, the prohibition of interest-based practices, and the presence of a Sharia Supervisory Board (DPS) that ensures operational compliance with Sharia principles. Furthermore, dispute resolution mechanisms involving Islamic banks are overseen by institutions like the National Sharia Arbitration Board (Basyarnas) and the Religious Courts, which handle conflicts based on Sharia principles (Fithriah et al., 2024).

The differences in operational principles and mechanisms often lead to disputes between Islamic banks and their customers or third parties. These disputes frequently involve banking products, particularly in financing or credit arrangements where the bank serves as a creditor and the customer as a debtor. Issues commonly arise when customers fail to meet their obligations to repay debts or installments as stipulated in prior agreements. Despite written contracts and mutual agreements, external factors or financial incapacity may lead to the debtor's inability to meet payment deadlines. In such cases, Islamic banks face challenges similar to conventional institutions, including the necessity of pursuing legal avenues to resolve disputes.

Islamic banking institutions, like conventional banks, are not immune to bankruptcy or default risks. The complexity of these issues in Islamic banking is heightened by additional regulations that mandate compliance with Sharia principles. While the presence of a DPS and Sharia-based dispute resolution mechanisms aims to reduce the occurrence of unresolved disputes, practical challenges remain in enforcing bankruptcy and PKPU regulations in Islamic banks.

One prominent issue is the authority to resolve Sharia economic disputes, particularly those related to bankruptcy and PKPU. This matter was clarified in Indonesia through Constitutional Court Decision Number 093/PUU-X/2012 (Umam, 2015), which affirms the Religious Court's sole authority to adjudicate disputes involving Sharia economic matters, particularly disputes in Islamic financial institutions. This ruling expands the Religious Court's jurisdiction over Sharia economics, addressing longstanding questions about which institution holds legal authority.

Despite the Constitutional Court's ruling granting exclusive jurisdiction to the Religious Courts, several issues remain unresolved. Notably, some Sharia economic disputes, particularly those involving bankruptcy and PKPU, continue to be handled by the Commercial Court, which falls under the General Court system. This creates a duality of authority, as both the Religious and Commercial Courts address Sharia banking matters related to bankruptcy, leading to jurisdictional overlap.

Theoretically, after the Constitutional Court's Decision Number 93/PUU-X/2012 (Umam, 2015), all Sharia financial disputes, including bankruptcy and PKPU issues, should fall under the jurisdiction of the Religious Court, removing the General Court's involvement. However, in practice, this ruling has not been fully implemented, and the Commercial Court continues to handle cases involving Islamic financial institutions. This ongoing duality results in legal ambiguity and overlapping authority between the two court systems, contributing to inconsistency in the resolution of Sharia economic disputes, particularly bankruptcy cases.

This ambiguity undermines the legal system's effectiveness in resolving Sharia economic disputes, especially in bankruptcy and PKPU matters involving Islamic banks. Given that Sharia principles form the foundation of Islamic financial institutions, a unified authority, vested in the Religious Courts, would likely result in more consistent and just outcomes. Furthermore, it would increase the confidence of Sharia business participants—both clients and stakeholders—in the integrity of Indonesia's Sharia legal framework. Strengthening the expertise of judges in these courts is also crucial to ensuring that they possess a comprehensive understanding of Sharia economics and the unique financial challenges faced by Islamic banks. This deeper knowledge will facilitate the making of decisions that are aligned with Sharia principles and are fair and equitable. Additionally, improved coordination between judicial, financial, and DPS entities is essential to ensure that laws and regulations are properly enforced without further jurisdictional conflicts.

The process of bankruptcy and PKPU resolution in banking institutions is strictly regulated by national and international legal frameworks (Aprita et al., 2019). These regulations aim to provide a fair and balanced resolution between the rights of creditors and debtors while minimizing negative repercussions on the broader financial system. Nonetheless, the implementation of bankruptcy resolution and PKPU in Islamic banking often encounters challenges, particularly regarding regulatory clarity, institutional coordination, and technical execution.

In practice, bankruptcy proceedings in Islamic banking often spark debates about the compatibility of Sharia principles with Indonesia's positive legal system (Fahrudin et al., 2019). These debates encompass issues such as asset liquidation, debt settlement, and the rights of creditors and debtors, all of which must be implemented in accordance with Sharia provisions. Additionally, any dispute resolution mechanism brought before the court must take into account fatwas issued by the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) to ensure that the entire process adheres to Islamic values.

Addressing bankruptcy in Islamic banking in Indonesia requires a comprehensive and collaborative approach involving judicial institutions, financial regulators, and religious authorities to ensure that the rights of all parties are protected and that Sharia principles remain prioritized. The role of the Financial Services Authority (OJK) and BI is particularly crucial in providing oversight and guidance in the bankruptcy and PKPU process for Islamic banking institutions.

The objective of this research is to analyze the legal and regulatory challenges surrounding the bankruptcy and PKPU processes in Islamic banking within Indonesia's civil law system. Specifically, it aims to explore the compatibility of Indonesia's positive legal system with Sharia principles in bankruptcy proceedings, while evaluating the roles of key institutions such as the Religious Courts, OJK, BI, and the DSN-MUI. The research seeks to provide recommendations for integrating Sharia-compliant legal frameworks with the national judiciary to enhance legal certainty and protect the rights of creditors and debtors.

This research is significant because it addresses a critical gap in the intersection of Sharia law and Indonesia's bankruptcy framework, providing insights into the legal ambiguities and institutional challenges faced by Islamic banking. The findings will be valuable for policymakers, legal professionals, financial regulators, and Islamic banking institutions to develop a more coherent and Sharia-compliant system of bankruptcy resolution that ensures both legal certainty and financial stability.

The novelty of this research lies in its focus on the integration of Sharia principles into Indonesia's formal bankruptcy and PKPU processes, an area that remains underexplored in current legal and financial scholarship. This study uniquely examines the overlap between civil and religious courts' jurisdiction in resolving Sharia banking disputes and proposes practical solutions to unify the judicial system while preserving Islamic values.

This research contributes to the field of legal studies by offering a framework for harmonizing Sharia principles with Indonesia's positive legal system, particularly in bankruptcy and PKPU cases. It also proposes a more structured role for the Religious Courts and outlines the need for ongoing judicial training in Sharia economics. Additionally, it highlights the importance of alternative dispute resolution (ADR) mechanisms in the Islamic banking sector, promoting efficiency and adherence to Sharia principles in the resolution of financial disputes.

LITERATURE REVIEW

Although economic crimes often target individuals, the majority of crimes in an economic context affect companies. This is because companies are frequently perceived as failing to manage their operations effectively, raising concerns about bankruptcy. Bankruptcy poses a significant threat to a company, as failure to pay its debts can result in the company being declared insolvent (Ellias & Stark, 2020). This situation not only affects the company itself but also has a domino effect on various other sectors linked to it. In legal terms, bankruptcy refers to the confiscation and execution of all debtor assets for the benefit of creditors (Halimatussa'diyah, 2024). This process applies not only to individuals but also to companies. When a company is declared bankrupt, the repercussions can be severe, affecting the company and its stakeholders, including employees, suppliers, and creditors. In extreme cases, company bankruptcy can even impact national and international economic conditions, as bankruptcy often leads to the company ceasing operations (Kirshner, 2018). Hence, bankruptcy institutions play a vital role in maintaining business continuity and economic stability, both on micro and macro levels.

Indonesia's bankruptcy law is part of the national civil law system and consists of two main components: material civil law and formal civil procedural law. Bankruptcy law governs not only the formal procedures of bankruptcy but also the material laws defining the rights and obligations of involved parties. This framework is based on Law Number

37 of 2004 concerning Bankruptcy and Postponement of PKPU ([The Audit Board of Indonesia \[BPK RI\], 2004](#)), and other related regulations. Despite its comprehensiveness, some parties argue that the existing regulations lack sufficient detail. Therefore, in practice, bankruptcy law often relies on the principle of *Lex Specialis Derogat Legi Generalis*—specific laws override general ones ([Adhypratama, 2021](#)). As a result, bankruptcy procedural law frequently references the Updated Indonesian Regulations (*Reglement op de Rechtsvordering* or Rv), along with the *Herziene Indonesisch Reglement* (HIR) and the *Buitengewesten* Regulations (RBg) ([Hutagalung, 2022](#)), particularly in regions outside Java and Madura.

According to [Halimatussa'diyah \(2024\)](#), in Islamic law, the term *At-tafilis* refers to the condition of bankruptcy. The word "*fals*," meaning small change or low-value currency, evolved into a term describing individuals whose assets are insufficient to cover their debts. In Islamic economic law, a *mufilis* is someone whose debts exceed their assets, indicating financial hardship. In this context, *taffilis* represents individuals in financial distress where their debt burden outweighs their assets.

To resolve disputes in the Sharia economy, Indonesia has established the Basyarnas. Basyarnas is authorized to settle disputes within the Sharia business sector through arbitration, bypassing public courts ([Rais et al., 2021](#)). Established in 1993 by the Indonesian Ulema Council (MUI) as the Indonesian Muamalat Arbitration Board (BAMUI), the institution was created to address the rise of sharia financial institutions, such as Bank Muamalat Indonesia (BMI) and Takaful Insurance. With the growth of Sharia-based businesses, disputes between institutions and their clients also increased. In response, the DSN-MUI issued a fatwa requiring Sharia financial institutions to include an arbitration clause in their contracts, mandating that any disputes be resolved through Basyarnas.

Basyarnas plays a critical role in ensuring legal certainty and justice in resolving Sharia business disputes. It offers a non-litigation solution that is final and binding, although in practice, dissatisfied parties can still appeal the decision in the Religious Court. Despite the legal uncertainty this creates, Basyarnas remains a key institution in resolving sharia-related business disputes in Indonesia. The organization is accessible not only to Muslims but also to non-Muslims involved in Sharia business transactions.

Research on bankruptcy and PKPU in banking institutions highlights unique regulatory challenges compared to non-banking companies. In general, bankruptcy is defined as a condition where an entity is unable to meet its debt obligations, while PKPU is a debt restructuring effort designed to give debtors the opportunity to settle with creditors without being declared bankrupt. In the banking sector, bankruptcy and PKPU are more complex due to the broader implications for financial stability. According to [Naibaho et al. \(2024\)](#), the bankruptcy of a bank requires permission from Bank Indonesia or the OJK, which prevents the process from being solely court-driven, thus safeguarding the banking system from sudden systemic shocks.

Globally, literature such as [Almarzoqi et al. \(2015\)](#) indicates that bank insolvency regulations are often more protective of the banking sector due to their essential role in providing liquidity and credit. The insolvency of a bank can have profound economic consequences, which is why many countries have more stringent rules governing banking insolvency than those applied to other industries.

PKPU provides an alternative to bankruptcy, particularly in the banking sector, offering a path to restructuring debt while avoiding the drastic step of liquidation. [Jamila et al.](#)

(2022) and Nainggolan (2022b) note that PKPU allows debtors to negotiate payment plans based on their financial capacity. In banking, PKPU is often the preferred option before declaring bankruptcy, allowing banks to reorganize while continuing to function. According to Nainggolan (2022a), PKPU can prevent a broader banking crisis by giving financial institutions the time to restructure and stabilize their operations.

Despite comprehensive regulations, the implementation of bankruptcy and PKPU in Indonesian banking institutions faces several challenges. Srhoj et al. (2023) point out that the bankruptcy process is often delayed due to lengthy legal procedures and poor coordination among relevant institutions, undermining the effectiveness of bankruptcy resolution and diminishing public confidence in the banking system. Fauzi (2023) and Utari et al. (2024) emphasize the critical role of OJK in supervising the process to prevent abuses that could harm creditors and customers.

Case studies, such as the bankruptcies of Bank Century and Bank IFI, illustrate the complexity of handling banking insolvency in Indonesia. These cases highlight the importance of government and OJK intervention in maintaining financial stability, although legal and political issues often complicate the process. From this perspective, it is evident that more detailed regulations and stricter supervision are needed to ensure that bankruptcy and PKPU processes in banking institutions are efficient and effective.

Ultimately, the success of bankruptcy resolution and PKPU in banking depends on inter-agency coordination and consistent law enforcement. While bankruptcy should be avoided wherever possible due to its far-reaching economic impacts, PKPU offers a flexible alternative that can help financial institutions navigate financial difficulties without having to cease operations. However, the effectiveness of both mechanisms hinges on the ability of relevant authorities to work together and enforce regulations consistently.

RESEARCH METHOD

The approaches used in this research include the statute approach (legislative approach) and conceptual approach (conceptual approach). The legislative approach is carried out by prescriptively examining the basic principles and principles underlying legislative regulations relevant to the research topic. This aims to understand how applicable legal norms can be applied in the context being studied. Meanwhile, a conceptual approach is used to build a comprehensive conceptual framework, either by developing and refining existing concepts or by formulating new concepts that are relevant to the problems discussed in this research.

The analysis technique used in this research involves the synchronization and harmonization of regulations, with the aim of ensuring compatibility between various existing laws and regulations. Apart from that, this analysis also considers the theory of authority and the principle of *lex specialis derogat legi generali*, which means that more specific rules can override more general rules, in order to provide a more precise and accurate solution to the problem under study. By using this method, it is hoped that research can provide a more in-depth picture and sharp analysis of the legal issues raised.

RESULTS

Sharia banking is a significant component of the civil law system, particularly in Indonesia, where it operates under the Islamic legal framework. Although it adheres to Sharia principles, Sharia banking serves a diverse customer base, including both Muslim

and non-Muslim clients. This diversity presents unique challenges when resolving civil disputes in the sector, as the legal framework must accommodate both Sharia principles and the varying backgrounds of customers. As a result, there is a pressing need for judicial integration in Indonesia, specifically by empowering the religious courts to have sole jurisdiction over Sharia economic disputes.

The integration of judicial authority in handling Sharia economic disputes is essential to eliminate overlapping jurisdictions and reduce ambiguity in the dispute resolution process. Current practices often lead to confusion about which institution—whether religious courts or commercial courts—has the legal authority to resolve Islamic banking disputes. While the law has designated religious courts as the authority in Sharia economic matters, inconsistent interpretations and applications of this law have hindered the effective exercise of this authority. Ideally, Indonesia should unify its judicial system by consolidating the authority to adjudicate Sharia economic disputes under a single judiciary, namely the Indonesian Judiciary. Within this structure, the religious courts would have specific authority to handle disputes involving Sharia banking. Such unification would ensure that all disputes are resolved according to Sharia principles while safeguarding the rights and interests of all involved parties.

In addition to unifying the judiciary, the People's Representative Council (DPR) and the government must place special emphasis on the legislative framework surrounding Sharia banking. Clear and comprehensive regulations are needed to support the sector's growth and resolve disputes effectively. A thorough analysis should precede any new laws or amendments, as rushed or poorly considered legislation could create legal uncertainties, undermining customer confidence and destabilizing the sector. A well-considered policy framework, coupled with strict oversight, is crucial to ensuring that any regulation enacted supports the sustainability of Sharia banking in Indonesia.

One significant step toward improving dispute resolution in the Sharia banking sector was the introduction of Bank Indonesia Regulation No. 8/5/PBI/2006 on Banking Mediation ([The Financial Services Authority \[OJK\], 2006](#)), which was later amended by Regulation No. 10/1/PBI/2008 ([BPK RI, 2008](#)). This regulation provides a mechanism for resolving disputes between customers and banks, applicable to both conventional and Sharia banks. Bank Indonesia, as the regulatory authority for the banking sector, plays a neutral role in this process, facilitating mediation between parties in an informal and impartial manner.

Banking mediation, as set out by Bank Indonesia, offers an efficient and cost-free method for dispute resolution, with a maximum resolution period of 60 working days ([Chen et al., 2020](#)). The process is designed to handle relatively minor disputes, with a financial cap of IDR 500 million, ensuring that cases can be resolved quickly and without the need for judicial proceedings. During mediation, Bank Indonesia maintains its neutral stance, working to help both parties reach a peaceful agreement through deliberation and mutual consent. Bank Indonesia does not issue binding decisions but facilitates the resolution of disputes through non-binding recommendations and negotiation.

Once both parties agree on a resolution, they sign a binding agreement, committing to the terms they have negotiated. This process is intended to prevent prolonged conflicts and to provide equitable solutions without the time-consuming nature of formal court proceedings. The mediation system serves as a viable alternative to litigation, preserving harmony between the disputing parties and upholding the principles of Sharia.

However, for mediation to reach its full potential in resolving Sharia banking disputes, regulatory support must be bolstered, and industry stakeholders need to recognize the value of peaceful resolution. Greater awareness and commitment from Sharia banking practitioners are essential for ensuring that mediation can function optimally as an alternative to litigation. Additionally, the unification of judicial authority, where the religious courts serve as the sole body handling Sharia economic disputes, will strengthen Indonesia's Sharia banking system. This approach will provide a fair and consistent method of resolving disputes, reinforcing adherence to Sharia principles while protecting the rights of all parties involved.

The development of a comprehensive dispute resolution system—through both mediation and judicial reform—will play a critical role in advancing Indonesia's Sharia banking sector. As the sector continues to grow, these mechanisms will help ensure that disputes are resolved efficiently and equitably, supporting the long-term stability and integrity of Sharia banking in Indonesia. Furthermore, the enhanced collaboration between regulatory authorities, judicial institutions, and industry stakeholders will create a more unified and transparent legal framework, fostering greater confidence in the sector and promoting its sustainable development.

DISCUSSION

The Religious Courts are now firmly recognized as the primary authority in resolving disputes related to Sharia banking in Indonesia. This authority extends beyond the banking sector to encompass various other areas of Sharia economics, underscoring the significant role of these courts in the broader realm of Sharia-based economic activities (Budiantoro et al., 2018). The authority of the Religious Courts is explicitly reinforced in Article 55, paragraph (1) of Law No. 21 of 2008 on Sharia Banking (OJK, 2008), which mandates that all disputes in this sector be adjudicated by the Religious Courts. This demonstrates the state's exclusive delegation of authority to these courts in matters pertaining to Sharia transactions, especially in banking.

However, under Article 55, paragraph (2) of the same law, disputing parties may agree to settle their differences outside the Religious Courts if such an arrangement is specified in their contract (Sinaga & Sulisrudatin, 2018). This provision allows parties to use ADR mechanisms, such as deliberation, mediation, and Sharia arbitration, offering a quicker and more amicable path to resolution. ADR aligns with Sharia principles, which emphasize the peaceful settlement of disputes without prolonged conflict. Thus, this opportunity should be fully utilized, as it not only promotes substantive justice but also avoids the delays often associated with formal judicial processes.

Nonetheless, legal uncertainties arise when District Courts are also granted authority to adjudicate Sharia banking disputes, creating a dualism in jurisdiction. This overlapping authority confuses the public and industry players about which court holds the proper legal mandate to resolve such cases. Although Article 49(i) of Law No. 3 of 2006 on Religious Courts (BPK RI, 2006) clearly grants the Religious Courts jurisdiction over Sharia economic disputes (Pratama & Putra, 2023), the provisions allowing District Courts to intervene create ambiguity within the legal system, potentially disadvantaging the parties involved.

To address this legal uncertainty, Dadang Achmad, Director of CV Benua Engineering Consultant, filed a request to annul Article 55, paragraphs (2) and (3) of Law No. 21 of 2008 (OJK, 2008), arguing that the provisions conflicted with Article 28 of the 1945 Constitution, which guarantees legal certainty for all citizens (Adzkiya, 2020). On August

29, 2013, the Constitutional Court partially granted this request in Decision Number 93/PUU-X/2012 (Umam, 2015), ruling that the provisions in Article 55, paragraph (2), were indeed inconsistent with the 1945 Constitution. The Court noted that allowing parties to choose the forum for resolving Sharia banking disputes created confusion and resulted in overlapping jurisdictional authority.

Following this ruling, Sharia banking disputes can now only be resolved by the Religious Courts, which are the sole judicial institutions with legal authority over such matters. This decision has further solidified the role of the Religious Courts in Indonesia's legal system, particularly in handling Sharia-based economic cases. The ruling has also enhanced the credibility of the Religious Courts by affirming their exclusive jurisdiction, as conferred by law and reinforced by the Constitutional Court. However, the complexity and relatively recent development of Islamic banking and economics present new challenges for these courts.

To address concerns and skepticism regarding the ability of Religious Court judges to handle Sharia banking disputes, there must be clear evidence of their competence in this specialized field. Judges must thoroughly understand both the theoretical and practical aspects of Sharia economics to render decisions that are fair and aligned with Sharia principles. Therefore, it is essential to have judges with specialized expertise in Islamic banking and finance, supported by specific training in the technical and substantive aspects of this field.

A significant effort to improve the competency of judges was the signing of a Joint Decree (SKB) in 2014 by the Supreme Court, the OJK, and Bank Indonesia (OJK, 2014). This SKB establishes cooperation in training judges in the areas of central banking and financial services, including Sharia banking. This initiative represents an important step in ensuring that judges possess a deep understanding of the Islamic banking sector, enabling them to resolve disputes more effectively and efficiently. The training not only enhances the judges' theoretical knowledge but also provides practical insights into the developments and dynamics of the Islamic banking industry.

However, this type of training must be ongoing to ensure that judges remain informed about the latest trends and challenges in the rapidly evolving Sharia economic sector. With robust regulatory support, highly skilled judges, and strong cooperation between all relevant institutions, it is expected that the resolution of Sharia banking disputes in the Religious Courts will be smooth and equitable, delivering justice to all parties involved.

CONCLUSION

In order for the Supreme Court to function optimally in maintaining legal unity in Indonesia, restrictions on cases submitted to the Court must be consistently and effectively enforced. This is crucial to ensure that Supreme Court judges have sufficient time and capacity to focus on cases with broader and more significant legal implications, rather than being burdened by technical or administrative issues. A streamlined case selection process will allow the Supreme Court to address key legal matters, particularly those involving legal certainty, and avoid handling cases that are more local or procedural in nature.

The chamber system implemented by the Supreme Court categorizes judges based on their expertise or specialization, allowing them to adjudicate only cases relevant to their knowledge. This division of chambers—such as civil, criminal, religious, state administration, and military chambers—enhances efficiency and consistency in court

decisions. Judges with a deeper understanding in specific areas of law are more likely to render accurate and well-considered rulings, increasing the overall quality of the legal system.

Despite the existence of multiple chambers, the Supreme Court remains a unified judicial body. These chambers do not operate independently but are interconnected under the authority of the Supreme Court. To ensure legal consistency across chambers, it is vital to implement a transparent and cohesive system of coordination. Such consistency will help maintain legal unity across the country, fostering greater legal certainty. As confidence in lower court decisions grows, it is anticipated that the number of appeals to the Supreme Court will decrease, as the public and business sectors will trust the outcomes of lower court rulings.

Beyond the internal structuring of the Supreme Court, there is also a need for systemic changes within both the Supreme Court and lower courts. This involves enhancing the quality of human resources, particularly judges, to make them more competent in their areas of specialization. Furthermore, improvements in case management, technology, and inter-institutional coordination are essential to increase the overall efficiency and effectiveness of the judiciary.

In practice, many businesses, including those in the Sharia banking sector, prefer to resolve disputes through non-litigation methods. This preference is driven by the perceived advantages of ADR, such as mediation and arbitration, which are typically faster, more flexible, and less expensive than court litigation. Moreover, ADR allows the parties to find mutually beneficial solutions while preserving business relationships. Consequently, ADR methods have become increasingly popular, especially in sectors where maintaining good relationships is crucial.

The Basyarnas plays a pivotal role in resolving Sharia-based commercial disputes, such as those involving Sharia banking. Basyarnas offers a dispute resolution process that aligns more closely with Sharia principles and is generally viewed as more efficient than traditional litigation. The arbitration process at Basyarnas is also more private, and parties can select arbitrators who are seen as impartial and well-qualified to handle their cases.

ADR methods, such as consultation, negotiation, mediation, conciliation, and expert assessment, provide disputing parties with flexibility in selecting the most suitable resolution process based on their needs. Each method has its own advantages and can be tailored to the complexity and nature of the dispute. The focus of this dissertation is on resolving disputes in Sharia banking, a sector with unique dynamics and challenges due to its requirement for compliance with both Sharia law and business practices. Non-litigation dispute resolution, through institutions like Basyarnas, offers a practical and efficient solution for resolving disputes in this sector, particularly given its emphasis on speed, flexibility, and harmony between Sharia and business principles.

Integrating non-litigation dispute resolution mechanisms with the existing legal system will contribute to greater legal certainty in Sharia banking in Indonesia. Furthermore, the application of bankruptcy laws and debt payment suspension (PKPU) in Sharia banking requires a specialized approach to ensure compliance with Sharia principles. Law No. 37 of 2004 (BPK RI, 2004) governs bankruptcy laws in Indonesia, but when applied to Sharia banking, care must be taken to align these laws with Islamic values, such as the prohibition of usury and the use of Sharia-compliant contracts.

Effective coordination between governmental, financial, and religious authorities is crucial in managing bankruptcy and PKPU processes in Sharia banking. This ensures that the rights of both creditors and debtors are upheld without violating Islamic law. The DSN-MUI and the OJK play key roles in ensuring that all debt restructuring, asset liquidation, and dispute resolution processes conform to Islamic principles.

A recurring challenge in this context is the divergence between positive law and Sharia law, which requires careful legal interpretation and harmonization through DSN-MUI fatwas. Thus, the implementation of bankruptcy law and PKPU in Sharia banking calls for a clearer regulatory framework, supported by collaborative efforts from legal, economic, and religious stakeholders. This will help ensure that the application of these laws is both legally sound and Sharia-compliant.

ACKNOWLEDGMENT

The authors gratefully acknowledge the contributions of informants, colleagues, and all individuals who supported this research through their insights and engagement. Their involvement greatly enriched the quality and depth of this study.

DECLARATION OF CONFLICTING INTERESTS

The authors declared no potential conflicts of interest.

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