



HARMONIZATION OF PROCEDURAL LAW AND ECONOMIC SUBSTANCE SHARIA IN DISPUTE RESOLUTION IN THE RELIGIOUS COURTS RELIGION

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Abstract

This study examines the harmonization of procedural law with the substantive principles of Islamic economic law in the settlement of sharia economic disputes within Indonesia's Religious Courts. The research addresses the gap between formalistic procedural mechanisms and the ethical, justice-oriented, and flexible nature of Islamic economic law. Using a normative juridical method with statutory, conceptual, and comparative approaches, the study analyzes Law Number 7 of 1989 on Religious Courts, as amended by Law Number 3 of 2006 and Law Number 50 of 2009, as well as Supreme Court Regulation (PERMA) Number 14 of 2016. It also compares Indonesia's framework with sharia court practices in Malaysia and Brunei Darussalam. The findings indicate that existing procedural rules have not fully accommodated the objectives of Islamic law (maqāṣid al-sharī'ah) and the principle of substantive justice (al-'adl). Accordingly, procedural harmonization is required through the reformulation of procedural norms, strengthening judges' interpretative authority as mujtahid qāḍī, and integrating maṣlaḥah mursalah into adjudication. Such reforms are expected to promote dispute resolution that ensures legal certainty while remaining consistent with the values and objectives of Islamic law.

Keywords: Islamic Economic Law; Religious Courts; Procedural Law Harmonization; Maqāṣid al-Sharī'ah; Substantive Justice.

I. INTRODUCTION

The Religious Court occupies a strategic position in Indonesia's national legal system as a judicial institution that enforces the law for the Muslim community, especially in the field of family law (ahwāl al-syakṣiyyah). Along with the rapid development of sharia-based economic activities, the authority of the Religious Court has expanded significantly after the enactment of Law Number 3 of 2006 and Law Number 50 of 2009 (Munawaroh 2025).

This expansion has important implications because the Religious Courts are no longer limited to resolving family disputes, but are also mandated to handle sharia economic cases, such as sharia banking, sharia insurance, sharia microfinance institutions, and various forms of mu'āmalah transactions (Hariyanto 2022). This condition reflects the state's recognition of the existence and relevance of Islamic law as an integral part of the national legal system.

However, the practice of resolving Islamic economic disputes in the Religious Courts still faces a fundamental problem, namely the disharmony between procedural law

as a procedural instrument and Islamic economic substantive law as a material norm that should be the main basis for resolving cases. The procedural law applied in the Religious Courts basically still refers to general civil procedural law sourced from the HIR and RBg, which by its nature tends to be formalistic and emphasizes procedural compliance (Fikri 2021).

On the other hand, Islamic economic law is built on the values of substantive justice, benefit, and the objectives of Islamic law (*maqāsid al-syarī'ah*), which are more oriented towards moral dimensions and social justice (Al-Turabi and Auda 2025). This discrepancy has the potential to result in court decisions that are formally valid according to procedural law but do not necessarily reflect substantive justice from a sharia perspective.

The harmonization in question is not only understood as a technical procedural adjustment, but also as a process of aligning legal values and principles, so that the procedural law of the Religious Court can function in harmony with sharia economic substance. In this context, judges are positioned not merely as enforcers of the law, but also as *mujtahid qāḍī* who have the authority to interpret the law based on Islamic values and the principle of public interest.

Thus, this study is expected to contribute conceptually and practically to the reform of the procedural law of the Religious Court and to strengthen substantive justice in the settlement of sharia economic disputes in Indonesia.

II. PROBLEM FORMULATION

Based on the background of the study, the formulation of the problems in this article is as follows:

1. How does the disharmony between procedural law and the substantive principles of Islamic economic law occur in the resolution of sharia economic disputes within the Religious Courts in Indonesia?
2. How can a harmonization model between procedural law and the substance of Islamic economic law be formulated to strengthen substantive justice in the dispute resolution process of the Religious Courts?

III. RESEARCH METHODS

This study is a normative juridical research aimed at examining legal norms and principles governing the resolution of sharia economic disputes within the Religious Courts in Indonesia (Solehudin et al. 2024). The research focuses on analyzing the coherence between procedural law and the substantive principles of Islamic economic law within the national legal framework. The approach methods employed in this study consist of a legislative approach, a conceptual approach, and a comparative approach. The legislative approach is used to examine statutory regulations related to the authority of the Religious Courts and the procedural framework for sharia economic dispute resolution, particularly Law Number 7 of 1989 as amended by Law Number 3 of 2006 and Law Number 50 of 2009, as well as Supreme Court Regulation (PERMA) Number 14 of 2016 (Pratama et al. 2025)

The conceptual approach is applied to analyze legal doctrines and principles derived from Islamic legal theory, especially *maqāṣid al-sharī‘ah*, substantive justice (*al-‘adl*), and public interest (*maṣlaḥah*). Meanwhile, the comparative approach is employed to compare the procedural practices of sharia courts in Indonesia with those in Malaysia and Brunei Darussalam in order to identify best practices relevant to procedural harmonization. The sources of legal materials in this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include statutory regulations, court regulations, and official legal documents related to the Religious Courts and sharia economic law. Secondary legal materials comprise books, journal articles, research reports, and scholarly opinions discussing procedural law, Islamic economic law, and judicial practices in sharia courts. Tertiary legal materials include legal dictionaries, encyclopedias, and other reference materials that support the interpretation of primary and secondary legal materials. Legal material collection is conducted through library research by systematically identifying, reviewing, and classifying relevant legal materials in accordance with the research issues. Data collection is carried out by tracing authoritative legal sources and academic publications that discuss both procedural and substantive aspects of sharia economic dispute resolution.

The analysis of legal materials and data is performed using qualitative and prescriptive analytical methods. The collected legal materials are analyzed descriptively to identify patterns of disharmony between procedural norms and substantive sharia principles, and prescriptively to formulate a harmonization model that integrates *maqāṣid al-sharī‘ah* into procedural law without undermining legal certainty. The results of this analysis are presented in a systematic and coherent manner to support conclusions and recommendations relevant to the development of procedural law in the Religious Courts.

IV. RESULTS AND DISCUSSIONS

The Procedural-Substantive Divide in Sharia Economic Dispute Resolution

The expansion of the jurisdiction of the Religious Courts to include sharia economic disputes represents a transformative phase in the evolution of Indonesia’s legal system. This development reflects the growing significance of Islamic economic activities and the state’s acknowledgment of sharia principles as a legitimate source of law within the national legal order (Hasan and Mustafa 2022). By granting the Religious Courts authority over sharia economic cases, the legislature aimed to ensure that disputes arising from Islamic financial transactions are resolved by institutions that possess both legal and religious competence.

Normatively, this expansion is expected to strengthen legal certainty and public trust in sharia-based economic systems. Despite this progressive shift, empirical practice demonstrates that the resolution of sharia economic disputes has not fully met these expectations. One of the most prominent challenges lies in the persistence of procedural law mechanisms that are rooted in general civil procedure (Gluck 2016).

These mechanisms were originally designed to govern conventional private law disputes and are heavily influenced by formalistic traditions inherited from colonial legal systems. As a result, the procedural framework applied in Religious Courts often lacks sensitivity to the unique characteristics of Islamic economic law. General civil procedural law prioritizes strict adherence to formal requirements, such as rigid evidentiary standards, procedural timelines, and technical rules of litigation.

While these elements are essential for ensuring predictability and procedural order, they tend to reduce judicial flexibility. In sharia economic disputes, such rigidity can become problematic because Islamic economic law is not merely contractual in nature but is deeply intertwined with ethical norms and religious values. The dominance of procedural formalism therefore creates a structural imbalance between form and substance. Islamic economic law is fundamentally value-oriented. It is constructed upon principles such as justice (*'adl*), balance (*tawāzun*), transparency (*bayān*), and social responsibility (Abdullah and Asutay 2021).

These principles aim to prevent exploitation, ensure fairness between contracting parties, and promote social welfare (Parella 2021). At the theoretical level, these values are encapsulated within the objectives of Islamic law, known as *maqāsid al-sharī'ah*, which seek to protect religion, life, intellect, property, and human dignity. Any legal process dealing with sharia economic disputes should ideally reflect and operationalize these objectives.

However, in judicial practice, the procedural framework often constrains judges from fully engaging with these substantive values. Judges are frequently required to focus on formal evidence, such as written contracts and documentary proof, without sufficient room to assess the ethical conduct of the parties or the fairness of the transaction. This limitation is particularly significant in Islamic economic cases, where the spirit of the agreement and the intention (*niyyah*) of the parties carry substantial legal and moral weight (Kamali 2017).

The emphasis on written evidence may also disadvantage certain parties, especially those with weaker bargaining positions or limited access to formal documentation. In Islamic economic theory, justice is not merely procedural but substantive, meaning that outcomes should reflect fairness and equity in real terms. When procedural rules overshadow substantive considerations, the court risks producing decisions that are legally correct but socially and morally deficient.

Another critical issue arises in the interpretation of sharia-based contracts. Conventional procedural approaches tend to interpret contracts strictly based on their textual wording. In contrast, Islamic jurisprudence allows for a more contextual interpretation that considers intent, fairness, and the avoidance of harm (*ḍarar*). The inability of procedural law to accommodate this interpretive flexibility further widens the gap between procedural legality and sharia-based justice (Hefner 2011).

This disharmony is not merely theoretical but has practical implications for the credibility of the Religious Courts. When court decisions fail to reflect the ethical foundations of Islamic economic law, parties may perceive the judicial process as

detached from sharia values. Such perceptions can undermine confidence in formal dispute resolution mechanisms and encourage parties to seek alternative, informal means of resolving disputes, which may lack legal certainty. From a systemic perspective, the persistence of procedural formalism reflects a broader challenge within Indonesia's legal pluralism.

While substantive Islamic law has been increasingly recognized, procedural law reform has lagged behind (Sezgin 2023). This imbalance suggests that legal development has focused more on expanding jurisdiction than on ensuring structural coherence between procedural and substantive norms. Established legal theories emphasize that law is not merely a set of rules but a system of values that must function coherently. According to theories of substantive justice, procedural law should serve as a means to achieve fair outcomes, not as an end in itself. In the context of sharia economic disputes, procedural rules should facilitate the realization of *maqāṣid al-sharī'ah* rather than restrict their application.

Comparative legal experiences demonstrate that procedural adaptation is both possible and necessary. Jurisdictions with more developed sharia court systems have introduced procedural mechanisms that allow judges greater discretion to consider ethical and social dimensions without sacrificing legal certainty. These experiences highlight the importance of aligning procedural structures with the substantive values they are meant to uphold.

The Indonesian context, however, remains characterized by a cautious approach to procedural reform. Concerns about legal certainty and uniformity often dominate policy discussions, resulting in resistance to procedural flexibility. While these concerns are valid, they should not preclude the integration of value-based considerations, especially in a legal field that is inherently normative and ethical. The disharmony between procedural law and Islamic economic substance also affects judicial reasoning.

Judges may feel constrained to justify their decisions solely on formal legal grounds, even when such reasoning conflicts with their understanding of sharia justice. This tension can lead to fragmented legal reasoning and inconsistent jurisprudence in sharia economic cases. Moreover, the lack of procedural alignment places an additional burden on judges, who are expected to apply Islamic economic principles within a framework that does not fully support them. This situation highlights the need for a more coherent legal structure that empowers judges rather than restricts them. From an empirical standpoint, judicial effectiveness is closely linked to the adequacy of the legal tools available. The existence of this disharmony confirms that the expansion of jurisdiction alone is insufficient to achieve substantive justice in sharia economic disputes (Basir et al. 2024). Legal reform must be holistic, addressing not only substantive norms but also the procedural mechanisms that give them practical effect.

Without such reform, the objectives of recognizing Islamic economic law within the national system may remain only partially fulfilled. In conclusion, the current

procedural framework applied in Religious Courts has not been fully aligned with the distinctive nature of Islamic economic disputes.

The dominance of formalistic civil procedure limits the realization of justice as envisioned by Islamic economic law and *maqāṣid al-sharī‘ah* (Al-Turabi and Auda 2025). This condition validates the identification of disharmony as the core issue in the first problem formulation and underscores the urgent need for procedural harmonization that is theoretically grounded, empirically responsive, and normatively consistent with Islamic legal principles.

Harmonization Model for Integrating Procedural Law and Islamic Economic Justice

In response to the identified disharmony between procedural law and the substance of Islamic economic law, the formulation of a harmonization model becomes an urgent and strategic necessity. The expansion of sharia economic jurisdiction within the Religious Courts will not achieve its intended objectives unless it is accompanied by a coherent procedural framework that reflects the values and objectives of Islamic law (Suadi 2020). Harmonization, therefore, must be understood as a comprehensive legal reform process rather than a limited technical adjustment of procedural rules. At a conceptual level, harmonization requires aligning the underlying legal values that guide procedural law with those embedded in Islamic economic law. Conventional procedural law is primarily designed to ensure order, predictability, and formal legal certainty.

While these elements are indispensable in any legal system, they should function as instruments to achieve justice, not as ends in themselves. In the context of sharia economic disputes, procedural law must be reoriented to serve substantive justice as articulated in Islamic legal theory. Islamic legal theory emphasizes that law exists to realize human welfare and prevent harm (Zuhdi and Nasir 2024). This foundational idea is reflected in the doctrine of *maqāṣid al-sharī‘ah*, which provides a normative framework for evaluating whether legal rules and procedures fulfill their ultimate purpose. Harmonization efforts must therefore incorporate *maqāṣid al-sharī‘ah* as a guiding principle in procedural reform, ensuring that judicial processes contribute to fairness, balance, and social justice (Al-Turabi and Auda 2025). Procedural law, when detached from substantive values, risks becoming mechanistic and unjust. In sharia economic cases, rigid procedural requirements may prevent judges from addressing issues such as unequal bargaining power, ethical misconduct, or unfair contractual practices. By integrating *maqāṣid al-sharī‘ah* into procedural norms, courts can transform procedural mechanisms into tools for achieving meaningful justice rather than merely enforcing formal compliance (Ibrahim et al. 2025).

Another essential component of the harmonization model is the incorporation of the principle of public interest (*maṣlaḥah*). In Islamic jurisprudence, *maṣlaḥah* functions as a dynamic legal concept that allows the law to respond to changing social and economic conditions. Its integration into judicial practice enables courts to consider broader social

consequences when resolving disputes, particularly in complex sharia economic transactions that affect not only individual parties but also the wider community.

The use of *maṣlaḥah* in procedural decision-making does not undermine legal certainty; rather, it enriches it by ensuring that legal outcomes remain socially relevant and ethically grounded. Procedural flexibility guided by *maṣlaḥah* allows judges to bridge the gap between abstract legal norms and real-world economic realities. This approach is especially important in modern Islamic finance, where transactions often involve sophisticated financial instruments and institutional actors. Central to the success of this harmonization model is the role of judges within the Religious Courts. Judges must be repositioned not merely as executors of procedural rules but as active interpreters of law who are capable of integrating procedural and substantive considerations (Harun and Saribi 2025). The concept of the judge as a *mujtahid qāḍī* reflects this expanded role, emphasizing judicial reasoning that is grounded in Islamic legal objectives and ethical responsibility.

Empowering judges as *mujtahid qāḍī* requires more than individual competence; it necessitates an institutional environment that supports interpretive discretion. Procedural rules should explicitly allow judges to consider substantive justice and sharia principles when assessing evidence, interpreting contracts, and formulating legal reasoning (Supardin et al. 2025). Such empowerment enhances judicial accountability while preventing procedural rigidity from obstructing justice. From an empirical perspective, judicial discretion guided by clear normative principles has been shown to improve the quality of judicial outcomes. Comparative experiences from other sharia court systems indicate that flexibility in procedure, when balanced with clear guidelines, strengthens rather than weakens legal consistency. These systems demonstrate that procedural adaptability and legal certainty are not mutually exclusive but can coexist within a well-designed framework. In jurisdictions where harmonization has been more advanced, procedural law explicitly acknowledges the relevance of Islamic legal objectives.

Judges are encouraged to engage with substantive values, and procedural norms are structured to accommodate ethical considerations. These experiences provide valuable insights for Indonesia's Religious Courts, particularly in addressing the challenges posed by complex sharia economic disputes. The harmonization model must also address the evidentiary process. Traditional evidentiary rules prioritize formal documentation and strict proof standards, which may not fully capture the ethical dimensions of Islamic economic transactions. A harmonized procedural framework should allow judges to consider contextual evidence, patterns of conduct, and principles of fairness alongside formal proof. Such an approach aligns with established theories of substantive justice, which argue that legal processes should focus on equitable outcomes rather than rigid formalism. In Islamic legal thought, justice is inseparable from morality, and procedural law must reflect this unity (Rosen 2000).

Harmonization thus serves as a bridge between legal theory and judicial practice. The need for harmonization is further reinforced by the increasing complexity of sharia-based economic activities. As Islamic finance continues to evolve, disputes will involve

multifaceted contractual structures and cross-sectoral interests (Iannazzone 2019). A procedural system that lacks flexibility and ethical orientation will struggle to respond effectively to these developments. Legal certainty remains a critical consideration in any reform effort. However, certainty should not be equated with rigidity. A harmonized procedural framework can provide predictability while still allowing space for value-based reasoning (Charlton et al. 2024). Clear procedural guidelines informed by *maqāṣid al-sharī‘ah* offer a stable yet responsive legal environment. From a policy perspective, harmonization contributes to the legitimacy of the Religious Courts. When judicial decisions reflect both legal validity and moral integrity, public confidence in the judicial system increases.

This legitimacy is essential for sustaining the growth of Islamic economic institutions and ensuring compliance with court decisions. The harmonization model also has implications for legal education and judicial training. Judges, legal practitioners, and court officials must be equipped with a deep understanding of both procedural law and Islamic economic principles. Continuous capacity building is necessary to operationalize harmonization effectively. Ultimately, harmonization should be viewed as an ongoing process rather than a one-time reform. Legal systems evolve in response to social, economic, and technological change. Procedural law must remain adaptive while remaining anchored in foundational legal values (Kalverkämper 2023). In theoretical terms, harmonization reflects the integration of normative and instrumental dimensions of law. Procedural rules serve as instruments, while Islamic legal values provide normative direction.

A coherent legal system requires both elements to function in harmony. In conclusion, the formulation of a harmonization model between procedural law and the substance of Islamic economic law is essential for realizing substantive justice in the Religious Courts. By integrating *maqāṣid al-sharī‘ah*, *maṣlaḥah*, and an empowered judicial role, procedural law can be transformed into a mechanism that upholds ethical, social, and legal values simultaneously. Such a model positions the Religious Courts to deliver dispute resolution outcomes that are not only legally sound but also aligned with the moral foundations of Islamic economic law, ensuring relevance, legitimacy, and justice in a modern legal context.

V. CONCLUSION

The supervision of the Islamic capital market in Indonesia is characterized by a dual governance model that integrates state-based financial regulation and Sharia supervisory mechanisms. The Financial Services Authority (OJK) plays a central role in ensuring legal certainty, market stability, and investor protection, while the Sharia Supervisory Board (Dewan Pengawas Syariah) is responsible for ensuring that capital market activities comply with Islamic principles. This dual structure has contributed positively to the development and expansion of Islamic capital market instruments in Indonesia, providing both regulatory assurance and religious legitimacy.

However, the implementation of this model still faces a number of structural and operational challenges. Issues such as overlapping normative frameworks, limited coordination between regulatory and Sharia authorities, and the absence of standardized supervisory procedures can create regulatory uncertainty and inconsistencies in practice. These challenges may affect the effectiveness of supervision and potentially weaken investor confidence if not properly addressed. Therefore, strengthening institutional coordination, clarifying the division of supervisory authority, and enhancing the capacity of both regulators and Sharia supervisory bodies are essential steps forward. An integrated and well-coordinated supervisory framework is crucial not only to ensure Sharia compliance and legal certainty, but also to support the sustainable growth of the Islamic capital market within Indonesia's plural legal system.

VI. REFERENCE

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