

The Legal Framework of Sharia Economic Law and Its Implications on the Development of The Sharia Economic Business Sector in Indonesia

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Abstract

The development of the Islamic economic business sector in Indonesia shows a positive trend, but it does not fully reflect the enormous demographic potential and religiosity of the Muslim community. One of the main factors influencing this condition is the existence and effectiveness of Islamic economic law (HES). This study aims to analyze the role of HES in the development of the Islamic economic business sector in Indonesia and identify challenges and opportunities for strengthening it. The research method uses a qualitative approach with a normative juridical research type through a literature review of laws and regulations, fatwas, academic literature, and national and international reports related to Islamic economics. The results show that HES plays a significant role in creating legal certainty, transaction legitimacy, and protection for parties. From an institutional perspective, fatwas from the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) serve as guidelines for sharia compliance, while the Religious Courts, through the Compilation of Islamic Economic Law (KHES), serve as the primary forum for resolving Islamic economic disputes. However, there remains a gap between the normative objectives of HES to achieve justice and prosperity and the reality of its implementation. The effectiveness of the Islamic Economics and Development Agency (HES) is still suboptimal due to regulatory fragmentation, overlapping authority between institutions, and the KHES's dominant focus on litigation. This study concludes that strengthening and integrating a more comprehensive, adaptive, and pro-business Islamic economic legal framework is essential to encourage innovation, increase competitiveness, expand public literacy, and strengthen human resource capacity. These reforms are essential prerequisites for accelerating the sustainable growth of the national Islamic economic business sector.

Keywords: Islamic economic law, Islamic business sector, KHES, DSN-MUI, Islamic economic regulations.

Abstrak

Perkembangan sektor usaha ekonomi syariah di Indonesia menunjukkan tren positif, tetapi belum sepenuhnya merefleksikan besarnya potensi demografis dan religiositas masyarakat Muslim. Salah satu faktor utama yang memengaruhi kondisi tersebut adalah keberadaan dan efektivitas hukum ekonomi syariah (HES). Penelitian ini bertujuan menganalisis peran HES terhadap pengembangan sektor usaha ekonomi syariah di Indonesia serta mengidentifikasi tantangan dan peluang penguatannya. Metode penelitian menggunakan pendekatan kualitatif dengan jenis penelitian yuridis normatif melalui studi kepustakaan terhadap peraturan perundang-undangan, fatwa, literatur akademik, serta laporan nasional



dan internasional terkait ekonomi syariah. Hasil penelitian menunjukkan bahwa HES berperan penting dalam menciptakan kepastian hukum, legitimasi transaksi, dan perlindungan para pihak. Dalam aspek kelembagaan, fatwa Dewan Syariah Nasional Majelis Ulama Indonesia (DSN-MUI) berfungsi sebagai pedoman kepatuhan syariah, sedangkan Pengadilan Agama melalui Kompilasi Hukum Ekonomi Syariah (KHES) menjadi forum utama penyelesaian sengketa ekonomi syariah. Namun, masih terdapat kesenjangan antara tujuan normatif HES untuk mewujudkan keadilan dan kesejahteraan dengan realitas implementasinya. Efektivitas HES belum optimal akibat fragmentasi regulasi, tumpang tindih kewenangan antar lembaga, serta orientasi KHES yang masih dominan pada aspek litigasi. Penelitian ini menyimpulkan bahwa penguatan dan integrasi kerangka hukum ekonomi syariah yang lebih komprehensif, adaptif, dan pro-bisnis sangat diperlukan guna mendorong inovasi, meningkatkan daya saing, memperluas literasi publik, serta memperkuat kapasitas sumber daya manusia. Reformasi tersebut menjadi prasyarat penting bagi percepatan pertumbuhan sektor usaha ekonomi syariah nasional yang berkelanjutan.

Kata Kunci: hukum ekonomi syariah, sektor usaha syariah, KHES, DSN-MUI, regulasi ekonomi Islam

INTRODUCTION

Over the past decade, the Islamic economic business sector in Indonesia has shown significant growth, along with increasing public awareness of economic activities that comply with Sharia principles. This growth is reflected in the expansion of various subsectors, such as Islamic banking and finance, the halal food industry, halal tourism, Muslim fashion, media and entertainment, and halal pharmaceuticals and cosmetics. This phenomenon indicates that the Islamic economy is no longer limited to the financial sector but has expanded into the real sector and contributed to national economic growth (Nurmaulidia et al., 2024).

Globally, competition in the halal and Islamic finance industries is increasingly determined by the quality of legal governance, institutional capacity, and the speed of regulatory innovation. Countries with clear, integrated, and responsive legal systems tend to be better able to attract investment, expand markets, and build public trust. Conversely, countries with scattered regulations, overlapping authorities, and slow oversight mechanisms are likely to miss out on economic opportunities. In this context, Indonesia's relative position in the global Islamic economic market is influenced not only by the size of its Muslim population but also by the effectiveness of national legal and institutional design.

One of the key determinants of the development of the Islamic economy in Indonesia is the existence of Islamic economic law. This system is supported, among other things, by fatwas from the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) and the Compilation of Islamic Economic Law (KHES). DSN-MUI fatwas serve as guidelines for Sharia compliance for transactions by financial institutions and business actors, although they are not legally binding. Meanwhile, the KHES serves as a guideline and source of material law for Religious Courts in resolving Islamic economic disputes (Sa'diyah et al., 2021). The KHES is also formulated as a

reference for judges in examining and deciding Islamic economic cases (Yasardin & Kooria, 2025).

However, the effectiveness of these instruments remains a matter of debate in the literature. Some academics believe the KHES has succeeded in providing legal certainty through the codification of muamalah norms. However, another perspective argues that KHES remains too focused on resolving disputes in court and has not yet optimally functioned as a tool for business development, business risk mitigation, or facilitator of Sharia product innovation. Similar criticisms have also been directed at regulatory fragmentation, namely the spread of Sharia economic regulations across various sectoral legal regimes, leading to policy inconsistencies, high compliance costs, and weak inter-agency coordination (Huda et al., 2024).

Conceptually, Islamic economic law aims to achieve justice, balance, and prosperity in accordance with the principles of the *maqāṣid al-syarī'ah* (the principles of Islamic law). However, the reality of implementation shows that there is still a gap between normative ideals and institutional practices. Disparate regulatory structures, suboptimal coordination between authorities, and limited legal instruments to support innovation have resulted in the impact of Islamic economic law on business sector growth being less than optimal (Huda et al., 2024).

This condition is reflected in the State of the Global Islamic Economy Report (SGIER) 2023/2024. Based on the 2023 Global Islamic Economy Indicator (GIEI), Indonesia ranks third with a score of 80.1, behind Malaysia, which ranks first with a score of 193.2, and Saudi Arabia, which ranks second with a score of 93.6. While this achievement confirms Indonesia's strategic position globally, it also indicates that national potential has not been optimally converted into international competitiveness (Nurmaulidia et al., 2024).

This paradox is even more apparent because Indonesia is the country with the largest Muslim population in the world, approximately 245 million people, or 87.08% of the total national population, equivalent to approximately 13% of the global Muslim population. Furthermore, the majority of Indonesian Muslims place religion as a crucial aspect of their daily lives. Theoretically, this combination of demographic strength and religiosity constitutes a very strong social capital for the development of the Islamic economic market. However, empirically, Indonesia still lags behind Malaysia, which has a smaller domestic market but a more integrated regulatory system through the Islamic Financial Services Act 2013 (IFSA) (Nurmaulidia et al., 2024).

To date, most research on the Islamic economy in Indonesia has focused on the financial sector, the performance of Islamic banking, halal consumer behavior, or the effectiveness of DSN-MUI fatwas in financial transactions. Studies that position Islamic economic law as an institutional factor influencing growth across sectors—such as the halal industry, Islamic MSMEs, halal tourism, and the Islamic digital economy—remain relatively limited.

Furthermore, comparative studies on the relationship between national regulatory design and global competitiveness, particularly between Indonesia and Malaysia, are also scarce.

Based on this gap, this article aims to analyze Islamic economic law not only as a dispute resolution instrument but also as an enabling framework for the growth of the national Islamic business ecosystem. Theoretically, this study asserts that the effectiveness of Islamic economic law depends on its ability to provide legal certainty, institutional incentives, business protection, and support for innovation aligned with Islamic principles.

The novelty of this research lies in its integrative approach that connects the legal, institutional, and performance aspects of the sharia business sector in Indonesia. In addition, this article critically examines the role of KHES and the DSN-MUI fatwa and offers a regulatory strengthening model based on Malaysia's experience to encourage the acceleration of the development of the national sharia economy.

RESEARCH METHOD

This research employs a normative juridical approach with doctrinal legal research methods, supported by a comparative approach and policy analysis. This approach is used to examine the role of Islamic economic law in encouraging the development of the Islamic economic business sector in Indonesia and compare it with the regulatory model in Malaysia.

The data used is secondary data, consisting of primary legal materials such as the KHES (Islamic Law Enforcement Regulation), fatwas of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI), Financial Services Authority regulations, and the Islamic Financial Services Act 2013, as well as secondary legal materials in the form of books, journal articles, official reports, and other supporting documents.

Data collection was conducted through library and documentation studies, exploring regulations, scientific literature, and national and global Islamic economic reports. The collected data was then selected and classified according to the research focus.

Data analysis was conducted qualitatively and descriptively through normative analysis of legal substance, comparative analysis between Indonesia and Malaysia, and institutional analysis to assess the effectiveness of Islamic economic law in creating legal certainty, protecting businesses, and supporting business innovation. The results of the analysis were used to formulate recommendations for strengthening Islamic economic regulations in Indonesia.

RESULTS AND DISCUSSION

The Position and Scope of Sharia Economic Law in Indonesia

Sharia economic law in Indonesia currently occupies a crucial position within the national legal system, in line with the state's growing recognition of economic practices based on Sharia principles. The two main instruments that

underpin its regulation are the fatwas of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) and the Compilation of Sharia Economic Law (KHES). The DSN-MUI fatwas serve as guidelines for Sharia compliance for financial institutions and businesses, particularly in the preparation of new contracts, products, and transactions (Tamam, 2021). However, legally, fatwas do not yet constitute directly binding legislation, so their implementation is highly dependent on adoption by sectoral regulators.

On the other hand, the formal legitimacy of Islamic economic law is strengthened through the authority of Religious Courts to resolve Islamic economic disputes, as stipulated in Law Number 3 of 2006. In judicial practice, the Islamic Economic Law (KHES) serves as a normative reference for judges in examining and deciding Islamic economic cases (Elhas, 2020). The KHES covers legal subjects, contracts, zakat, grants, and Islamic accounting, demonstrating efforts to codify Islamic muamalah law within the national legal framework (Mughits, 2008).

Critically, despite the growing strength of Islamic economic law, its regulatory orientation remains largely directed at dispute resolution and administrative compliance. The law's role as an instrument of economic development, a driver of innovation, and strengthening the real sector has not been optimal. As a result, Islamic economic law still tends to be reactive, rather than preventive and progressive in developing an Islamic business ecosystem.

The Influence of Sharia Economic Law on the Development of the Sharia Economic Business Sector

The existence of Sharia economic law plays a strategic role in creating legal certainty for business actors, investors, and consumers. This certainty is necessary to guarantee the validity of contracts, protection of parties, Sharia compliance standards, and dispute resolution mechanisms (Nurjamil et al., 2024). From an institutional economic perspective, legal certainty can reduce transaction costs and increase market confidence. Therefore, strengthening Sharia economic law is directly correlated with the growth of the Sharia finance industry, the halal industry, Sharia MSMEs, and Sharia-based services.

However, this contribution has not been fully effective. One fundamental obstacle is regulatory fragmentation, namely the spread of Sharia economic regulations across various sectoral laws, such as those on Sharia banking, capital markets, halal product assurance, cooperatives, and trade (Faisal & Alfad, 2023). This situation has resulted in the lack of a unified legal framework capable of integrating the entire national Sharia economic value chain.

Furthermore, there is overlapping authority among regulatory institutions, particularly Bank Indonesia, the Financial Services Authority (OJK), and the National Sharia Council (DSN-MUI). Bank Indonesia focuses on monetary stability, the OJK oversees financial services, and the DSN-MUI is tasked with ensuring Sharia compliance (Khotimah, 2024). If institutional

coordination is ineffective, the process of policy harmonization, new product approval, and business licensing will be slow. This impacts the slow pace of innovation and the declining competitiveness of the Indonesian Sharia industry.

The fragmentation of regulations and institutions within the Sharia economic legal system in Indonesia directly impacts the slow policy formulation process, inconsistent implementation of norms, and limited space for innovation for Sharia-based products and business models. From a regulatory governance perspective, the large number of authorities with partial authority makes the licensing process, regulatory harmonization, and supervision less efficient. Consequently, legal responses to market needs are slow, even though the Sharia economic industry demands rapid regulatory adaptation to technological developments and global dynamics (Khotimah, 2024).

This situation presents a paradox when compared to the enormous potential of Indonesia's domestic market, supported by its large Muslim population. Theoretically, this demographic base should be a key capital for the growth of the Islamic business sector. However, empirically, this demographic advantage has not automatically translated into a competitive advantage. This is reflected in the 2023 Global Islamic Economy Indicator, which places Indonesia below several other countries, particularly Malaysia and Saudi Arabia, according to the State of the Global Islamic Economy Report (SGIER) 2023.

Table 1: Global Islamic Economic Indicator (GIEI) rankings in several Islamic economic business sectors

Num ber	Country	The Islamic Finance	The Halal Food	The Sharia Travel	The Sharia Clothing Models	The Sharia Media and Tourism	The Sharia Pharmaceuti Cals and Cosmetics
1.	Malaysia	1	1	5	2	1	3
2.	Arab Saudi	2	-	4	-	-	-
3.	Indonesia	7	2	-	3	6	5

Source: SGIER (2023)

Based on Table 1, Indonesia's performance is relatively competitive in the halal food (ranked 2) and sharia fashion (ranked 3) sectors. In the halal pharmaceutical and cosmetics sector, Indonesia ranks 5th, while halal media and recreation ranks 6th. The sharia finance sector, however, ranks 7th, even though this sector should be the main foundation of the national sharia

economic ecosystem. Indonesia's failure to rank among the leading sharia tourism sectors also indicates suboptimal cross-sector policy integration. Conversely, Malaysia demonstrates more consistent performance, dominating the Islamic finance, halal food, and media sectors, and ranking high in sharia fashion, pharmaceuticals, and tourism.

Normatively, these data demonstrate a causal relationship between legal fragmentation and GIEI performance. When regulations are dispersed across various sectoral regimes—such as banking, capital markets, the halal industry, trade, and tourism—businesses face higher compliance costs, lengthier procedures, and uncertainty about standards across institutions. This situation reduces market efficiency and hinders business expansion. Conversely, countries with more integrated legal frameworks tend to be able to create a stable business climate, accelerate product innovation, and increase global competitiveness. Therefore, Malaysia's superior position can be understood as a logical consequence of its more consolidated regulatory design compared to Indonesia.

In addition to regulatory structure issues, Indonesia also faces substantive obstacles in the form of limited human resources with dual competencies in sharia and modern business, as well as low public literacy regarding sharia economic products, particularly in non-urban areas (Khotimah, 2024). This low literacy rate results in the public not fully understanding the benefits, characteristics, and added value of sharia products. Consequently, consumer preference for sharia products and services is growing slower than for conventional sectors.

Therefore, improving Indonesia's ranking in the GIEI cannot rely solely on a large Muslim population or growing market demand. More urgent is reform of sharia economic law through regulatory harmonization, simplification of inter-institutional authority, strengthening legal certainty, and increasing public literacy. Without these normative improvements, Indonesia's potentially large market will continue to underperform in the global sharia economic competition.

Compared to Malaysia, Indonesia still faces challenges in regulatory integration and institutional design. Malaysia has established a more coordinated system through the Islamic Financial Services Act 2013 (IFSA 2013), which integrates prudential supervision, governance, sharia compliance, and consumer protection within a single legal framework. This model provides a higher level of legal certainty while accelerating innovation in the Islamic finance industry.

In contrast, Indonesia still employs a multi-regulator system with legal instruments spread across various sectors. As a result, its large domestic market potential has not yet fully translated into global competitive advantages. This is reflected in Indonesia's position in the Global Islamic Economy Indicator (GIEI),

which remains below Malaysia's, despite having a significantly larger Muslim population.

The findings of this study indicate that the primary obstacle to the development of the Islamic economic business sector lies not in low market demand, but rather in regulatory design and institutional governance. Therefore, Islamic economic law reform needs to be directed at harmonizing national regulations, clarifying the boundaries of authority between institutions, strengthening the implementation of DSN-MUI fatwas, establishing a regulatory sandbox for Islamic digital innovation, and expanding the function of the Islamic Law Enforcement Agency (KHES) from a mere litigation instrument to a business development tool. With these reforms, Islamic economic law has the potential to transform from a mere normative compliance tool into an enabling framework for the growth of a more inclusive, innovative, and globally competitive national Islamic economy.

Challenges of HES Implementation in Sharia Business Development

Overlapping responsibilities among key authorities (Bank Indonesia, the Financial Services Authority, and the National Sharia Council of the Indonesian Ulema Council) have led to unclear roles and mandates. This often results in inconsistencies in policy implementation on the ground. The Sharia business sector faces legal and regulatory uncertainty, which hinders investment and business expansion, as investors and market players require a stable and predictable legal environment (Khotimah, 2024).

Complex interactions and lengthy coordination processes exist between BI, the OJK, and the DSN-MUI to obtain approval for new financial products. Although DSN-MUI fatwas are legally binding, their operational validation requires significant time from the OJK and BI. This can hamper the competitiveness of the Sharia financial industry. Product innovation slows, making it difficult for the sector to meet dynamic market demand and compete with conventional financial products or Sharia products from other, more agile jurisdictions (Fidhayanti et al., 2025).

The lack of clear role delineation between sharia compliance supervision (DSN-MUI), financial services sector regulation (OJK), and monetary/macroeconomic policy (BI) results in operational inefficiencies and bureaucratic red tape. Sharia businesses must navigate multiple requirements from different institutions, increasing compliance costs and slowing overall industry growth, thereby missing out on Indonesia's opportunity to become a global Islamic financial market leader (Maisarah et al., 2025).

In short, to maximize the potential for development of the sharia business sector in Indonesia, structural reforms are needed that lead to the consolidation and simplification of the regulatory framework, perhaps through the establishment of a centralized coordinating body or revision of laws that more clearly define the roles of each authority, to create a more conducive environment for innovation and growth.

CONCLUSION

Sharia economic law plays a strategic role in encouraging the development of the sharia economic business sector in Indonesia by creating legal certainty, fair transactions, and protecting all parties. The Sharia Economic Law (KHES) plays a crucial role as a reference for dispute resolution in the Religious Courts, while the fatwas of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) serve as guidelines for Sharia compliance for business actors. However, dual norms, overlapping authority between Bank Indonesia, the Financial Services Authority (OJK), and the DSN-MUI, and a lack of regulatory integration have resulted in the suboptimal effectiveness of sharia economic law. This is reflected in Indonesia's performance, which remains below Malaysia's in the 2023 SGIER report. Therefore, strengthening sharia economic law needs to be directed at regulatory harmonization, institutional coordination, accelerating product innovation, improving human resource quality, and expanding public literacy so that the sharia business sector can develop more competitively and sustainably.

This research is limited by its use of a normative juridical approach based on secondary data, which therefore fails to empirically measure the direct impact of regulatory fragmentation on the performance of the sharia economic business sector. Furthermore, the comparative study with Malaysia is still general in nature and has not yet examined institutional design, implementation effectiveness, and sectoral indicators in detail longitudinally.

Further research is recommended to use an empirical approach through surveys, interviews, or statistical analysis to measure the relationship between legal certainty, Sharia literacy, and business sector growth. More in-depth comparative studies between Indonesia and Malaysia, Saudi Arabia, or other countries are also important to formulate a more effective, adaptive, and national development-oriented model for Sharia economic regulation.

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AUTHOR CONTRIBUTIONS

Mualim contributed to conceptualization, methodology, investigation, data curation, formal analysis, and drafting the original manuscript as the corresponding author. Oyo SM contributed through supervision, validation, theoretical framework development, as well as reviewing and editing the

manuscript. Burhanuddin contributed to literature review, data analysis support, visualization, and proofreading of the final manuscript.

DECLARATION OF USING AI

The authors used ChatGPT to improve language and readability. The authors reviewed and edited the output and take full responsibility for the content.

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