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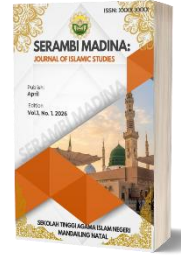
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The Effectiveness of Sharia Dispute Resolution Mechanisms in Strengthening Consumer Protection

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Abstract

The effectiveness of Sharia dispute resolution mechanisms plays a crucial role in strengthening consumer protection amid the rapid growth of the Islamic economic sector in Indonesia. Although the Religious Courts and the National Sharia Arbitration Board (BASYARNAS) are supported by a strong legal framework, their implementation still faces several challenges and has not fully reflected substantive justice. These issues arise particularly within the increasingly complex interactions between Islamic financial institutions and consumers, while the existing dispute resolution mechanisms remain limited in their institutional and social effectiveness. Using a descriptive-analytical qualitative approach through in-depth interviews with 18 informants—comprising judges, arbitrators, OJK officials, Islamic financial industry practitioners, and consumers—data were analyzed using the interactive model of Miles and Huberman and validated through triangulation of sources and methods. The findings show that the effectiveness of Sharia dispute resolution remains low due to limited public legal literacy, weak institutional coordination, insufficient competency among Sharia legal practitioners, and the suboptimal application of maqashid al-sharia principles in dispute resolution practices. The study highlights the need for a renewed approach through a hybrid model that integrates litigation with Sharia-based mediation, allowing the resolution process to become faster, more responsive, and oriented toward achieving public welfare. Effective Sharia dispute resolution relies not only on procedural compliance but more importantly on the ability to realize substantive justice for consumers and enhance public trust in Indonesia's Sharia legal system.

Keywords: Sharia Dispute Resolution, Consumer Protection, Legal Effectiveness, Maqashid Al-Shariah, Basyarna

Abstrak

Efektivitas mekanisme penyelesaian sengketa syariah memegang peran penting dalam memperkuat perlindungan konsumen di tengah pesatnya pertumbuhan sektor ekonomi syariah di Indonesia. Meskipun Pengadilan Agama dan Badan Arbitrase Syariah Nasional (BASYARNAS) didukung oleh kerangka hukum yang kuat, implementasinya masih menghadapi berbagai tantangan dan belum sepenuhnya mencerminkan keadilan substantif. Permasalahan ini terutama muncul dalam interaksi yang semakin kompleks antara lembaga keuangan syariah dan konsumen, sementara mekanisme penyelesaian sengketa yang ada masih terbatas dalam efektivitas kelembagaan dan sosialnya. Dengan menggunakan pendekatan kualitatif deskriptif-analitis melalui wawancara mendalam terhadap 18 informan—yang terdiri dari hakim, arbiter, pejabat OJK, praktisi industri keuangan syariah, dan konsumen—data dianalisis menggunakan model interaktif Miles dan Huberman serta divalidasi melalui triangulasi sumber dan metode. Hasil penelitian menunjukkan bahwa efektivitas penyelesaian sengketa syariah masih rendah, yang disebabkan oleh rendahnya literasi hukum masyarakat, lemahnya koordinasi kelembagaan, kurangnya kompetensi praktisi hukum syariah, serta belum optimalnya penerapan prinsip *maqāṣid al-syarī'ah* dalam praktik penyelesaian sengketa. Penelitian ini menekankan pentingnya pendekatan baru melalui model hibrida yang mengintegrasikan litigasi dengan mediasi berbasis syariah, sehingga proses penyelesaian sengketa menjadi lebih cepat, responsif, dan berorientasi pada tercapainya kemaslahatan publik. Efektivitas penyelesaian sengketa syariah tidak hanya bergantung pada kepatuhan prosedural, tetapi yang lebih penting adalah kemampuannya dalam mewujudkan keadilan substantif bagi konsumen serta meningkatkan kepercayaan publik terhadap sistem hukum syariah di Indonesia.

Kata Kunci: Penyelesaian Sengketa Syariah, Perlindungan Konsumen, Efektivitas Hukum, *Maqāṣid al-Syarī'ah*, BASYARNAS.

INTRODUCTION

The growth of the Islamic economy in Indonesia over the past decade has shown significant development, marked by an increasing number of Islamic financial institutions, the strengthening of the halal industry, and the rise of digital innovations based on Sharia principles (Anas et al., 2024; Prastyanti, 2023). As a country with a Muslim-majority population, Indonesia has successfully positioned itself as one of the global centers of the Islamic economy. However, this development has also brought new complexities to the legal relationship between business actors and consumers, particularly concerning the need for effective and equitable dispute resolution mechanisms (Ratna Amalia & Nurul Hidayah, 2024).

Normatively, Indonesia already has a relatively strong legal framework for resolving Islamic economic disputes. Law No. 21 of 2008 and the Constitutional Court Decision No. 93/PUU-X/2012 affirm the authority of the Religious Court as the litigation body, while BASYARNAS serves as a Sharia arbitration institution providing a non-litigation mechanism (Puneri, 2021; Tehedi, 2023). Nevertheless, the

effectiveness of these two institutions remains debatable. The Religious Courts often face lengthy and procedural processes, while BASYARNAS is hindered by limited public awareness, human resource capacity, and the enforceability of its decisions. As a result, it has not yet been able to fully provide fast and effective access to justice for consumers.

In addition to institutional issues, there are conceptual problems related to the application of Sharia values in the dispute resolution process. Many dispute settlements remain legalistic in nature, similar to conventional mechanisms, thereby neglecting the principles of substantive justice, public welfare (*maslahah*), and the protection of consumer rights. Fundamental principles of Islamic law such as *'adl* (justice), *maslahah* (benefit), and *ta'awun* (mutual cooperation) have not been fully internalized in dispute resolution practices (Ariska et al., 2025; Widjaja, 2025). This condition reflects a gap between the intended objectives of Sharia-based dispute resolution and its implementation in practice.

The main issue that arises is that the Sharia dispute resolution mechanisms within the community in Yogyakarta are still ineffective in providing consumer protection, even though the legal framework is already in place. Previous studies have tended to focus on normative and structural aspects (Yunita, 2021), while empirical research that illustrates consumer experiences—such as the duration of dispute resolution, costs, satisfaction, and accessibility—remains very limited. Furthermore, earlier studies have not extensively evaluated the extent to which *maqashid al-shariah* values are applied in the dispute resolution process (Aziz & Sasongkojati, 2022). This is the research gap that this study seeks to fill—namely, to evaluate the effectiveness of both litigation and non-litigation mechanisms empirically from the perspectives of consumer protection and public welfare (*maslahah*).

Based on this gap, the study aims to analyze the effectiveness of Sharia dispute resolution mechanisms in protecting consumers, identify the factors that influence their effectiveness, and assess the application of *maqashid al-shariah* principles in dispute resolution practices. This research is expected to make a theoretical contribution to strengthening the literature on Islamic economic law and a practical contribution to policymakers—such as the Financial Services Authority (OJK), the Supreme Court, and the National Sharia Council—in improving the governance of Sharia dispute resolution so that it becomes more responsive, fair, and aligned with Sharia values.

LITERATURE REVIEW

The growth of the Islamic economy in Indonesia over the past decade has shown significant progress, marked by the increasing number of Islamic financial institutions, the expansion of the halal industry, and the rise of Sharia-based digital innovations. However, this development has also created new complexities in the legal relationships between business actors and consumers, particularly concerning the need for effective and equitable dispute resolution mechanisms (Ratna Amalia & Nurul Hidayah, 2024). This challenge becomes more apparent as dispute resolution through the Religious Courts is considered suboptimal due to lengthy and rigid procedures. An empirical study found that the effectiveness of the Religious Courts is strongly influenced by the duration of litigation and the high volume of cases. On the other hand, BASYARNAS, as a non-litigation institution, faces structural obstacles such as limited public awareness, insufficient human resource capacity, and difficulties in enforcing arbitration decisions—aligning with findings that many Sharia arbitration awards cannot be executed without court intervention.

Previous studies have also highlighted that the substantive values of Islamic law—such as *'adl* (justice), *maslahah* (public welfare), and *ta'awun* (mutual cooperation)—have not been optimally implemented in either litigation or non-litigation mechanisms. This indicates that the integration of *maqashid al-shariah* principles in dispute resolution often remains formalistic and has not been genuinely directed toward safeguarding the welfare of the parties involved. In the context of Yogyakarta, the study by (Yunita, 2021) revealed that low public legal literacy and complex procedures serve as major barriers for consumers seeking to resolve disputes in the Religious Courts. Meanwhile, from the perspective of consumer protection, (Setyadi et al., 2023) found that Sharia financial regulations and institutions have not fully ensured equitable access and justice for consumers, resulting in many disputes remaining unresolved. Furthermore, research on Sharia arbitration by (Muammar Khaddafi et al., 2024) emphasized that public trust in arbitration mechanisms remains low, while the consistency of enforcing arbitration decisions is still lacking. These conditions demonstrate that most previous studies have been normative in nature, without sufficiently exploring consumers' empirical experiences or assessing the alignment of dispute resolution mechanisms with *maqashid al-shariah* principles. Supporting this, (Khatib et al., 2022) further confirmed the existence of structural and operational barriers in Sharia financial dispute resolution, which have a direct impact on consumer protection.

Therefore, this study aims to empirically evaluate the effectiveness of Sharia dispute resolution mechanisms—both litigation through the Yogyakarta Religious Court and non-litigation through BASYARNAS DIY—in providing protection for

consumers. The research also focuses on identifying the factors that influence the effectiveness of dispute resolution and conducting an in-depth analysis of the application of *maqashid al-shariah* principles, particularly *hifz al-mal* (protection of property) and *hifz al-'ird* (protection of dignity), in dispute resolution practices. By addressing the existing research gap, this study is expected to make a theoretical contribution to strengthening the body of literature on Islamic economic law and a practical contribution to policymakers such as the Financial Services Authority (OJK), the Supreme Court, and the National Sharia Council in improving the governance of Sharia dispute resolution mechanisms so that they become more responsive, equitable, and oriented toward public welfare (*maslahah*).

RESEARCH METHOD

This study employs a qualitative socio-legal approach using a descriptive-analytical method. This approach was chosen because the effectiveness of Sharia dispute resolution mechanisms cannot be understood solely from the legal texts but must also be examined through the social practices and experiences of the parties involved. Scientifically, the socio-legal approach allows the researcher to explore the relationship between legal norms, institutional implementation, and the values of *maqashid al-shariah* (*'adl, maslahah, tawazun*) as perceived by practitioners and consumers. Thus, this research does not focus on numerical measurement but rather on analyzing meanings, experiences, and perceptions that emerge within the dispute resolution process.

This research is an empirical qualitative study conducted in the Special Region of Yogyakarta, chosen because the area demonstrates dynamic activities in Sharia economic dispute resolution through both the Religious Court and the Yogyakarta branch of BASYARNAS. Informants were selected using purposive sampling, followed by snowball sampling to ensure the information obtained was in-depth and relevant. A total of 18 informants participated in the study, consisting of 15 consumers who had utilized dispute resolution services (both litigation and non-litigation) and 3 employees from Islamic banks responsible for handling complaints and dispute settlements. The number of informants was determined based on the principle of data saturation, meaning that data collection was concluded once the information began to repeat and no new findings emerged. Data were collected through semi-structured interviews and the examination of relevant Financial Services Authority (OJK) regulations.

Data analysis was conducted using *Thematic Analysis* as developed in its latest version by (Byrne, 2022), which emphasizes a systematic process of identifying patterns of meaning within qualitative data. The analysis began with *familiarization*, which involved rereading all interview transcripts to understand the context of the participants' experiences. This was followed by *initial coding*, where important statements related to procedural effectiveness, institutional barriers, and the application of Sharia values were coded. These codes were then grouped into *candidate themes*, such as substantive justice, accessibility of dispute resolution mechanisms, quality of institutional services, and compliance with *maqashid al-shariah* principles. The *reviewing themes* stage was carried out to assess the consistency of themes with empirical data, followed by *defining and naming themes* to formulate the conceptual meaning of each theme. Data validity was ensured through source triangulation, method triangulation, member checking, and an audit trail that documented the entire analytical process transparently and in a manner that is academically accountable.

RESULTS AND DISCUSSION

Effectiveness of Sharia Dispute Resolution Mechanisms

The findings of this study indicate that the Sharia dispute resolution mechanisms in Yogyakarta—both through litigation at the Religious Court and non-litigation via dispute resolution institutions—possess a clear legal framework but remain ineffective at the implementation level. Analysis of interviews with 18 informants, including M. Abrar, 15 consumers, and 3 employees from Islamic financial institutions, revealed that the majority of consumers experienced difficulties in understanding the procedures for filing disputes, while bank employees acknowledged that the litigation process at the Religious Court remains slow and formalistic. These findings align with the literature suggesting that the effectiveness of Sharia dispute resolution is heavily influenced by non-legal factors such as legal literacy, accessibility, and institutional readiness (Amanda Tikha Santriati, 2021; Ramadhan et al., 2024).

Furthermore, the findings indicate that the main obstacles are institutional and cultural in nature. Most consumers reported that they were unaware of the initial steps required to file a dispute. M. Abrar, one of the informants who is an employee of an Islamic bank, explained that institutions often face difficulties in providing procedural explanations because not all consumers understand the technical terminology used in dispute resolution. This statement is consistent with previous research, which found that the Sharia litigation process is still perceived as complex and not consumer-friendly. Meanwhile, non-litigation channels such as Sharia arbitration are considered

faster but remain relatively unknown to the public, consistent with literature findings that the promotion and socialization of Sharia arbitration in Indonesia are still limited and ineffective (Yusfiarto et al., 2022). This condition indicates that the structure of the legal system and the prevailing legal culture within society are the main factors contributing to the weak effectiveness of Sharia dispute resolution mechanisms. .

Thematic analysis using *Reflexive Thematic Analysis* (Byrne, 2022) produced four main themes, as presented in the following table. This table was organized based on the frequency of theme emergence in the interviews, following a contemporary qualitative approach that emphasizes the identification of patterns rather than statistical figures (Laili & Hasan, 2024).

Table 1. Main Themes from the Analysis of Sharia Dispute Resolution

Informant Group	Main Theme	Frequency of Occurrence	Thematic Meaning
Consumers	Complicated procedures & lack of information	Frequently mentioned (≥ 10 out of 15)	Low access to justice – limited legal literacy
Islamic Bank Employees	Slow litigation process	3 informants	Inefficient legal structure
Consumers & Employees	Simple arbitration but poorly known	Repeatedly mentioned	Limited socialization – suboptimal effectiveness
Consumers	Institutions perceived as biased	Predominant	Substantive justice not yet fulfilled

The table illustrates that the most dominant theme is consumers' difficulty in accessing dispute resolution mechanisms, as reinforced by statements from informants such as M. Abrar and other consumers. The next themes include the slow process of the Religious Court, as well as the limited recognition and lack of socialization of Sharia arbitration institutions. When linked to the theory of legal effectiveness, these findings indicate that while the legal substance is adequate, the institutional structure and societal legal culture do not yet support effective implementation (Suryadi et al., 2024). These findings also strengthen the existing literature suggesting that Sharia dispute resolution has not yet fully reflected the values of *maqashid al-shariah*, particularly in the aspects of *hifz al-mal* (protection of wealth) and *maslahah* (public welfare).

Thus, the results of this study indicate that Sharia dispute resolution mechanisms in Indonesia still face implementation challenges that require

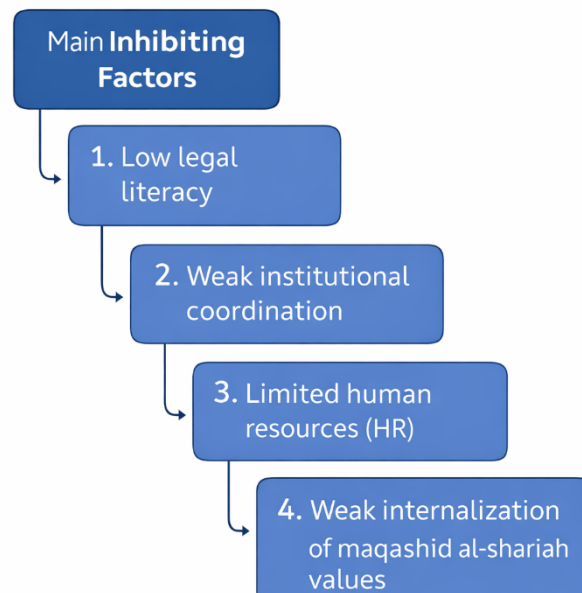
comprehensive improvements, particularly in terms of institutional capacity, consumer education, and the application of substantive justice values.

Institutional Weaknesses and Inhibiting Factors

The findings of this study were obtained through thematic analysis of in-depth interviews with 18 informants—15 consumers and 3 employees of Islamic financial institutions—conducted in the Yogyakarta region as the research locus. Based on the coding process and theme identification, four main factors were found to hinder the effectiveness of Sharia dispute resolution, namely: (1) low public legal literacy, (2) weak institutional coordination, (3) limited competence of Sharia legal human resources, and (4) the lack of internalization of *maqashid al-shariah* values in dispute resolution practices. These four themes represent recurring patterns identified across interview transcripts rather than theoretical assumptions alone. For example, M. Abrar, one of the consumer informants, stated that “most people do not know how to file a dispute, let alone distinguish between the authority of the Religious Court and Sharia arbitration.”

The factor of limited human resources emerged strongly from interviews with employees of Islamic financial institutions, who mentioned that many law enforcement officials still struggle to understand modern contract variations such as *murabahah*, *wakalah*, and *ijarah muntahiyah bit tamlik*. This finding is consistent with recent studies showing a competence gap among legal officers in handling Islamic economic cases (*Fauzul+Abid+Libasuttaqwa+Al+Kannur*, n.d.) In addition, informants from Islamic financial institutions stated that “decisions between BASYARNAS and the Religious Court sometimes overlap because there is no integrated data and information system between the institutions,” a phenomenon also highlighted in recent literature concerning the institutional fragmentation of the Islamic economic system in Indonesia.

Figure 1. Diagram of Factors Inhibiting the Effectiveness of Sharia Dispute Resolution



These four inhibiting factors are illustrated in this figure, which shows that issues of literacy and coordination are the most frequently occurring factors in the data, appearing in more than half of the interview transcripts. The diagram is not the result of quantitative computation but rather a visual representation of the thematic patterns that consistently emerged throughout the analysis process. The factor of legal literacy hinders public access to formal dispute resolution mechanisms; coordination issues create overlapping authority between institutions; limited human resources affect the quality of the resolution process; and the weak internalization of *maqashid al-shariah* values results in dispute resolution that tends to be legalistic, as also found in recent studies on Sharia dispute resolution practices. Thus, these findings do not stand alone but demonstrate consistency between empirical field data and the latest literature reviews.

Implications of the Findings for Consumer Protection and Sharia Law

Consumers often feel that they do not receive substantive justice because the decisions tend to emphasize administrative aspects rather than the values of justice and public welfare (*maslahah*). Most informants stated that a hybrid mechanism—combining litigation and Sharia-based mediation—could serve as a more effective solution, as it upholds the principles of deliberation (*ishlah*) and time efficiency (نوبويتز, 2019).

From the perspective of the theory of legal effectiveness, Sharia dispute resolution mechanisms in Indonesia remain weak in terms of societal and legal culture factors. Low legal awareness and limited public trust hinder participation in formal

dispute resolution systems. From the viewpoint of *maqashid al-shariah*, the current legal mechanisms have not yet fully achieved the objectives of *maslahah* (public welfare) and *'adl* (justice), as they remain largely focused on legal formalities rather than substantive justice and social benefit (Rusni Hassan et al., 2022).

These findings provide important implications for legal policy and practice. First, it is necessary to improve legal literacy and increase public awareness of Sharia dispute resolution institutions. Second, coordination among key institutions—such as the Financial Services Authority (OJK), the Religious Courts, and BASYARNAS—must be strengthened to prevent overlapping authorities and ensure procedural coherence. Third, enhancing the competence of Sharia legal professionals should be prioritized to ensure that dispute resolution aligns with *maqashid al-shariah* values. Thus, the dispute resolution system should not merely function as a formal legal instrument but also serve as a means of achieving substantive justice and consumer protection grounded in Islamic values (Deden Misbahudin Muayyad & Hani Adhani, 2020; Kadi, 2025).

CONCLUSION

The Sharia dispute resolution mechanisms in Yogyakarta—both through the Religious Court and non-litigation channels—have not yet been effective in providing optimal protection for consumers. The main obstacles include low public legal literacy, uncoordinated institutional collaboration, limited competence among legal officers in understanding Islamic financial products, and the minimal internalization of *maqashid al-shariah* principles in dispute resolution practices. These findings make an important academic contribution by providing empirical evidence of the direct relationship between the effectiveness of Sharia dispute resolution mechanisms and the level of consumer protection, while also highlighting the urgency of developing a more substantive and *maslahah*-oriented resolution model.

The implications indicate that the effectiveness of dispute resolution is not determined solely by the existence of regulations and institutions, but also by the quality of legal implementation, the understanding of legal officers regarding Sharia mechanisms, and the capacity of institutions to conduct processes that are fast, fair, and easily accessible. The disparity between positive law and the values of *maqashid al-shariah* underscores the need for a dispute resolution orientation that goes beyond procedural formalities—one that truly ensures substantive justice for all parties, particularly consumers, who represent the most vulnerable group.

Based on these findings, three main recommendations are proposed: first, enhancing legal literacy and promoting public awareness of Sharia dispute resolution mechanisms; second, strengthening the capacity of judges, arbitrators, and human resources in Islamic financial institutions through comprehensive training on

contemporary contracts and the application of *maqashid al-shariah* principles; and third, developing a hybrid model that integrates the strengths of litigation, mediation, and deliberation (*musyawarah*) based on Sharia values, so that the dispute resolution process becomes faster, more efficient, and oriented toward *maslahah* (public welfare).

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