



ISSN Print: 2541-5298
ISSN Online: 2541-6464

SRIWIJAYA Law Review

Editorial Office: Faculty of Law, Sriwijaya University
Jalan Srijaya Negara, Palembang, South Sumatra 30139, Indonesia.
Phone: +62711-580063 Fax: +62711-581179
E-mail: sriwijayalawreview@unsri.ac.id| sriwijayalawreview@gmail.com
Website: <http://journal.fh.unsri.ac.id/index.php/sriwijayalawreview>

In Search of *Ummah* Welfare Model: The Revitalisation of Sharia Economic Law in Indonesia

Erie Hariyanto,^a Harisah,^a Hidayatullah,^a Moh. Hamzah,^b Fatekhul Mujib,^c
and Cut Linda Marheni^d

^a Faculty of Sharia, Institut Agama Islam Negeri Madura, Indonesia. Corresponding author Erie Hariyanto, e-mail: erie@iainmadura.ac.id

^b Faculty of Sharia and Law, Universitas Islam Negeri Sunan Kalijaga, Indonesia. E-mail: 20203012080@student.uin-suka.ac.id

^c Charles University, Prague, Czech Republic. Email: fatmojeeb@gmail.com

^d Griffith University, Queensland, Australia, E-Mail: cutlinda.marhenimuhammad@griffithuni.edu.au

Article	Abstract
<p>Keywords: <i>Fiqh; Maslahah; Revitalisation; Sharia Economic Law; Ummah Welfare Model.</i></p> <p>Article History Received: Feb 24, 2021; Reviewed: Jun 13, 2023; Accepted: Jul 17, 2023; Published: Jul 31, 2023.</p> <p>DOI: 10.28946/slrev.Vol7.Iss2.1080.pp244-261</p>	<p>Sharia economic law in Indonesia has been revitalised through legal unification and codification to improve national economic development. In this context, the Sharia economy has become a guideline in every transaction. Therefore, people must understand the Islamic economic concept to create <i>maslahah</i> (goodness) in every aspect of life. Sharia economic law is not a new system, as it has been implemented since the era of the Prophet. However, there is a need for adjustment in the implementation of the Sharia economic law from time to time to enable it responding the current development. This study employs qualitative inquiry, using library research to analyse Sharia economic law's history and legal development. Legal documents used include state laws and regulations, the regulations of the Bank of Indonesia, the fatwa of DSN-MUI, and others. This paper argues that the revitalisation of the Sharia economic law in Indonesia is in line with the efforts made by the predominantly Muslim population to conserve and develop the system. This includes non-legalised and legalised implementation of the Sharia economic system, such as Sharia banking. Furthermore, the system does not contradict the value of Pancasila and the 1945 Constitution's pillars of the Unitary State of the Republic of Indonesia. Sharia economic law, prioritising moral and religious principles, has proven to create <i>maslahah</i> and become a solution to the economic crisis. This was shown by the survival of Sharia banks during the 1998 economic crisis, maintaining the Sharia-standardised contract to create justice in society.</p>

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INTRODUCTION

Indonesia is a state with a Muslim-majority population.¹ Islam, as a religion, does not merely regulate divinely-related matters (*uluhiyah*) but also worships (*ubudiyah*) and behaviour (*akhlak*). These two relate to horizontal relations with God and vertical relations with humans. The latter includes economic activities involving human interactions, such as buying and selling, almsgiving, renting, and borrowing money. In the early period of Islam, economic activities became the means of spreading the religion. Khadijah, the wife of the Prophet, and his companions, such as Uthman ibn Affan, eagerly spent their wealth on Islam. These two figures had economic advantages and assisted the Prophet financially. In Indonesia, the economy is the main object to be regulated regarding its practice and compliance with Sharia. This provides guidelines and principles for the state in regulating Sharia economic practices, which later became Sharia economic law. As a result, it is crucial for the Sharia economic law to be consistently updated in line with the current development.

The Sharia economy is divided into four paradigmatic conceptual eras in its development. The first is the Sharia era, during the period of the Prophet and his companions. At that time, the territory of Islam was regionally limited to Makkah and Madinah. The companions directly interacted with and obtained legal doctrines from the Prophet. This was followed by the companions' interpretation of the Quran and Sunna. The Prophet's companions exemplified Sharia economic activities during the early period of Islam. For example, Zubair ibn Awwam chose a borrowed property over a deposit. In this case, the borrowed property could be used but should be returned. Ibn Awwam also transferred money to his brother, Mis'ab ibn Zubair, from Makkah to Iraq.² This implies that the sharia economy was initiated in the Prophet era, with the Quran and Sunna as the legal references, followed by *ijtihad* (Islamic legal reasoning) to reinterpret those primary resources.

The second is the era of *fiqh* (Islamic jurisprudence), during the era of *tabi'in* (the followers) and when Islam had spread to more expansive Middle Eastern territory. *Mujtahids* (authoritative interpreters of Islam) emerged during this period. They interpreted the Quran and Sunna, leading to the birth of *madhhabs* or Islamic legal schools, with the figures such as Hanafi, al-Shafi'i, Malik, and Ahmad ibn Hanbal. These two periods become the primary references in Sharia economic law development. The next periods refer to the periods where the legal issues were less complex and legal interpretation could have been more useful.

The third is the era of the *qanun* ((established) law), which is the construction of Sharia economic laws and norms. This started from the initiation of *Majalat al-Ahkam al-Adliyah* to the 21st Century, marked by the stipulation of sharia economic law in the state law and regulations. The fourth is the era of *qada*, from the beginning of the 21st Century until today. During this era, the sharia economic law has been influenced by political situations, with the demand to solve sharia financial disputes quickly and accurately using the specific laws and regulations to deal with sharia economic disputes. At the same time, judges are expected to be innovative and creative in producing Sharia economic law by considering existing laws, regulations, and justice

¹ Agus Akhmadi, "Moderasi Beragama Dalam Keragaman Indonesia Religious Moderation in Indonesia ' S Diversity," *Jurnal Diklat Keagamaan* 13, no. 2 (2019): 45–55.

² Adi Marwan Karim, *Bank Islam* (Jakarta: PT Raja Grafindo, 2006), 18.

values in society.³ These four eras become the references for developing the Sharia economic law in Indonesia.

Sharia economic law has attracted Indonesian Muslims to implement it. The state and religious leaders have actively educated the people through various Muslim organisations' laws, regulations, and campaigns. The revitalisation of Sharia economic law in society has been done by instilling an understanding of the concept by teaching students and people in general classical *fiqh* literature on *muamalah* so that they use it as a means of conflict resolution in society.⁴ An example of the implementation of Sharia economic law is when religious leaders use the law in Sharia economic dispute settlements. In other words, the Sharia economic law has become a foundation for dealing with a conflict. Consequently, the government should implement and formalise Sharia through rules and regulations. With this, there will be legal certainty and decisiveness.

The Sharia economy in Indonesia has been developed through Sharia businesses and the establishment of educational institutions, focusing on Sharia economic teaching and the legislation within the national legal system (*ius constitutum*).⁵ This is marked by the issuance of Law No. 3 of 2006 on the Amendment of Law No. 7 of 1989 on the Religious Court, Law No. 19 of 2008 on State Sharia Bonds, Law No. 21 of 2008 on Sharia Banking, Law No. 48 of 2009 on Judicial Powers, and Law No. 50 of 2009 on the Second Amendment of Law No. 7 of 1989 on Religious Courts. The latest stipulates that the Religious Courts have absolute authority to settle Sharia economic disputes. However, those developments should be followed by the people's level of understanding of the Sharia economic law.

The current development shows that the existence of Sharia banks still needs to meet its targeted objectives in terms of the institutional and legal aspects.⁶ This means that the Indonesian people generally have a limited understanding of the concept. Therefore, there is a need for the revitalisation of Sharia economic law. Furthermore, the study of Sharia economics should offer recommendations for improving the laws, as the conventional economic system tends to ignore morals and spiritual consequences.

Regardless of such challenges, the *maslahah* (public interests) principle is one of the principles in the Sharia economy. The *maslahah* is the ultimate objective in Islamic legal formulation: to obtain happiness in the world and hereafter by taking benefits and avoiding harm.⁷ In the sharia implementation, *maslahah* becomes the primary consideration.⁸ The principle of creating *maslahah* and rejecting harm is the legal spirit stipulated in the Quran and

³ Muhamad Qustulani, *Modul Matakuliah Hukum Ekonomi Islam* (Tangerang: PSP Nusantara Press, 2018), 28.

⁴ Harisah, "Revitalisasi Hukum Ekonomi Syariah Di Pesantren Madura Sebagai Resolusi Konflik Masyarakat," *SALAM; Jurnal Sosial & Budaya Syar-I* 7, no. 1 (2020): 35–48, <https://doi.org/http://dx.doi.org/10.15408/sjsbs.v7i1.14543>.

⁵ Mohamad Nur Yasin, "Progresifitas Formulasi Hukum Ekonomi Syariah Di Indonesia," *De Jure: Jurnal Hukum Dan Syar'iah* 6, no. 2 (2014): 107–16, <https://doi.org/10.18860/j-fsh.v6i2.3204>.

⁶ Ulya Atsani, "Purification of Sharia Banking Law in the National Banking System," *JURIS (Jurnal Ilmiah Syariah)* 21, no. 1 (2022): 101, <https://doi.org/10.31958/juris.v21i1.5725>.

⁷ Muhamad Kholid, "Prinsip-Prinsip Hukum Ekonomi Syariah Dalam Undang-Undang Perbankan Syariah," *Asy-Syari'ah* 20, no. 2 (2018): 145–62, <https://doi.org/10.15575/as.v20i2.3448>.

⁸ Mukran H. Usman, Aswar Aswar, and Andi Wahyu Irawan, "Syariat Islam Dan Kemaslahatan Manusia Di Era New Normal Pada Kegiatan Keagamaan Dan Pendidikan," *Fenomena* 12, no. 1 (2020): 89–106, <https://doi.org/10.21093/fj.v12i1.2456>.

hadith. Based on this principle, every *muamalah* (transaction) should be free from *riba* (usury), *najash* (impurity), *ihtikar* (profiteering), and *gharar* (uncertainty). Islam offers principles and guidelines for economic transactions, called Sharia economic law, the primary rules for humans in *muamalah*.

Al Shatibi mentioned that the main objective of Islamic law revelation is to benefit humans in the world and hereafter.⁹ Apart from that, the objectives of Sharia are considered fulfilled with the creation of humans prosperity and interests.¹⁰ In the context of *muamalah*, humans' needs are divided into *daruriyat* (primary), *hajiyyat* (secondary), and *tahsiniyat* (tertiary). These needs are considered fulfilled if they have good values for humans. This means the primary consideration in determining the fulfilment of human needs is the benefits and harm that may be resulted, as well as the urgency level from the primary to tertiary.

In this context, Muslims need to be aware of Sharia economic law in every transaction and that the law is to maintain public interests and benefits.¹¹ The need of the people to understand the Sharia economic law should be accommodated by the government, such as by providing education at formal levels, such as universities, *pesantrens* (Islamic boarding schools), and non-formal levels, such as workshops and other activities held by sharia financial institutions.

Previous studies have discussed Sharia economic law, but they have yet to implicitly discuss the revitalisation of the law and the value of *maslahah* in Indonesia's existing Sharia economic laws.¹² Therefore, this research is crucial to understand the revitalisation of Sharia economic law theoretically and practically for public interests and benefits.

RESEARCH METHOD

This is normative legal research (applied legal research), a study employing normative legal cases such as the products of legal behaviour.¹³ The normative legal approach involves the written state laws implemented *in concreto* in society. Therefore, this research combines a normative study on Sharia economic law; and the *in concreto* implementation of those laws in real actions and legal documents.

This research considers historical, statute, and case approaches.¹⁴ The historical approach is to reveal the legal history of Sharia economics since the era of the Prophet Muhammad up until today, contributing to the current Sharia economic law in Indonesia. The primary data consists

⁹ Abu Ishak Al-Syathibi, *Al-Muwafaqat Fi Ushul Al-Syari'at* (Bairut: Dar al-Ma'rifah, 1975), 6.

¹⁰ Moh. Hamzah and Wasilatur Rohmaniyah, "Pembebasan Denda (Al-Gharāmah) Pada Nasabah Wanprestasi Di Lembaga Keuangan Syariah: Analisis Maqāṣid Asy-Syarī'ah Perspektif Asy-Syātibī," *J-HES : Jurnal Hukum Ekonomi Syariah* 06, no. 02 (2022): 175–94, <https://doi.org/https://doi.org/10.26618/j-hes.v6i02.7440>.

¹¹ Andi Iswandi, "Peran Etika Qur'ani Terhadap Sistem Ekonomi Islam," *Al-Iqtishad: Journal of Islamic Economics* 6, no. 1 (2014): 143–54, <https://doi.org/10.15408/ijies.v6i1.1528>.

¹² Mul Irawan, "Politik Hukum Ekonomi Syariah Dalam Perkembangan Lembaga Keuangan Syariah Di Indonesia," *Jurnal Media Hukum* 25, no. 1 (2018): 10–21, <https://doi.org/10.18196/jmh.2018.0097.10-21>. See also Fitriyanur Syarif, "Perkembangan Hukum Ekonomi Syariah Di Indonesia," *Pleno Jure* 8, no. 2 (2019): 1–16, <https://doi.org/10.37541/plenojure.v8i2.38>. and Irawan, "Politik Hukum Ekonomi Syariah Dalam Perkembangan Lembaga Keuangan Syariah Di Indonesia."

¹³ Abdulkadir Muhammad, *Hukum Dan Penelitian Hukum* (bandung: citra aditya bakti, 2004). See also Mukti Fajar and Yulianto Achmad, *Dualisme Penelitian Hukum Normatif Dan Empiris* (Yogyakarta: Pustaka Pelajar, 2010), 154.

¹⁴ Fajar Muchti and Yulianto Achmad, *Dualisme Penelitian Hukum Normatif & Empiris* (Yogyakarta: Pustaka Pelajar, 2009), 185–92.

of laws and regulations on Sharia economics, supported by secondary data from previous studies and notes relevant to this study.

ANALYSIS AND DISCUSSION

The History of Sharia Economic Law in Indonesia

Revitalisation is an effort to increase the economic value of certain areas by redeveloping certain establishments to improve their functions. Revitalisation aims to restore the vitality of a potential establishment or region to be further developed.¹⁵ In Indonesia, the revitalisation of economic law is crucial to provide a comprehensive understanding of the law to the government, economic actors, and society in general. This is to promote Islamic or Sharia economic law in the community. Both terms, Sharia and Islamic economy, do not differ in terms of forms, implementations, and objects. Sociologically, these terms are used interchangeably by practitioners, academics, and commoners. However, there are different groups established using these two terms. Groups using Islamic economy are Ikatan Ahli Ekonomi Islam (IAEI/ Islamic Economists Association), Forum Silaturahmi Studi Ekonomi Islam (ForSEI/ Islamic Economics Study Forum), Asosiasi Pengajar and Peneliti Ekonomi Islam (APPEI/ Islamic Economics Teachers and Researchers Association). Those using the sharia economy are Masyarakat Ekonomi Syariah (MES/ Sharia Economic Society), Asosiasi Program Studi Hukum Ekonomi Syariah Indonesia (APHESI/ the Indonesian Sharia Economic Law Department Association), and Asosiasi Dosen Ekonomi Syariah (ADESY/ Sharia Economics Lecturers Association).¹⁶

Table 1: Sharia Economic Organizations in Indonesia

No	Name	Place	Date of Establishment
1	Ikatan Ahli Ekonomi Islam (IAEI)/ Islamic Economists Association	Vice Presidential Palace in Jakarta	2004
2	Forum Silaturahmi Studi Ekonomi Islam (FoSSEI)/ Islamic Economics Study Forum	Bandung	13 May 2004
3	Asosiasi Pengajar dan Peneliti Ekonomi Islam (APPEI)/ Islamic Economics Teachers and Researchers Association	The University of Padjajaran Bandung	29 September 2015
4	Masyarakat Ekonomi Syariah (MES)/ Sharia Economic Society	Jakarta	26 March 2001
5	Asosiasi Program Studi Hukum Ekonomi Syariah Indonesia (APHESI)/ the Indonesian Sharia Economic Law Department Association	State Islamic University Wali Songo Semarang	16 August 2017
6	Asosiasi Dosen Ekonomi Syariah (ADESY)/ Sharia Economics Lecturers Association	Bogor, West Java	5 December 2008

Source: *Mohammad Nur Yasin, Politik Hukum Ekonomi Syari'ah di Indonesia, 2018, p. 121.*

Table 1 shows that the revitalisation of Sharia economic law in Indonesia relies not only on the state but is also supported by society by establishing Sharia economic organisations. Basic principles of economic laws in Indonesia are taken from several resources, such as Western,

¹⁵ Ana Indah Lestari, "Revitalisasi Wakaf Untuk Kemaslahatan Umat," *ZISWAF : Jurnal Zakat Dan Wakaf* 4, no. 1 (2018): 55, <https://doi.org/10.21043/ziswaf.v4i1.3031>.

¹⁶ Mohammad Nur Yasin, *Politik Hukum Ekonomi Syari'ah Di Indonesia* (Malang: UIN-Maliki Pers, 2018), 121.

customary, and Islamic laws. These legal resources become a foundation for creating public benefits, as previously studied by Sharia economic experts before becoming state laws and regulations. Substantially, *ulama* (authoritative Islamic scholars) categorise Islamic law into two: *ibadah* (worship) and *muamalah* (social relationship). Sketchily, *ibadah* is related to the relationship between humans and God, while *muamalah* is related to humans' worldly activities, such as economy, politics, socio-culture, etc.¹⁷ Therefore, this study is part of the *muamalah* study as it focuses on studying economic transactions. These legal resources become the basic principles for creating *maslahah* (public benefit) for society. Studies by experts contribute to the establishment of Sharia economic law in Indonesia. Besides, Islam allows its adherents to reinterpret Islamic legal resources to answer the current needs without deviating from sharia provisions.

In Islam, human dignity is a right given by God to humans as God's successors on earth. They share the responsibility of *'imrāh al-ard* (creating a civilisation on earth).¹⁸ Therefore, human resources have an essential role in achieving the objectives of the government and public companies, including Sharia banks.¹⁹ Indonesia has several qualified and potential human resources to bring about betterment.²⁰ The earliest Sharia economic development can be seen in the establishment of the first Sharia bank, showing the commitment of Indonesia to implementing Sharia economic law in financial sectors.

The earliest unification and codification of Islamic economic law in Indonesia can be seen in the establishment of Bank Muamalah Indonesia (BMI). Before its launching and inauguration, several other names were proposed, such as Bank Islam Indonesia (BASINDO), Bank Syariah Islam Indonesia, Bank Karya Islam, and Bank Amal Indonesia. These names, however, were unacceptable due to their closed connotation with the controversial radical right wings, considered against the principle of Pancasila and a subversive, destructive, and dangerous movement. The establishment of BMI offered a positive realisation of Sharia economic law in Indonesia. However, this has not been understood by all Indonesian Muslims. Therefore, there is a need for the introduction of sharia economic law. This is proven by many Muslims who are reluctant to use Sharia banks. Therefore, Sharia economic law should be well-introduced with the Quran and sunna as the basic principles and resources. Besides, there is also a need to consider the principle of Islamic jurisprudence or *usul fiqh*.²¹

Furthermore, considering the moral principles of Islam, there is a need for enhancing self-consciousness to understand and apply every aspect regulated by Islam.²² In this case, the Sharia

¹⁷ Fathurrahman Djamil, *Hukum Ekonomi Islam -Sejarah, Teori Dan Konsep* (Jakarta: Sinar Grafika, 2013), 20.

¹⁸ L. N. Pezo-Lanfranco and R. G. Haetinger, "Tomographic-Cephalometric Evaluation of the Pars Petrosa of Temporal Bone as Sexing Method," *Forensic Science International: Reports* 3, no. November 2020 (2021): 100174, <https://doi.org/10.1016/j.fsir.2021.100174>.

¹⁹ Muhammad Rizal and Andri Soemitra, "Fiqh Muamalah In Sharia Capital Market In Indonesia: A Literature Review," *I-BEST: Islamic Banking & Economic Law Studies* 1, no. 1 (2022): 48–65.

²⁰ K N S Hasan and T Pasyah, "Challenges of Indonesian Halal Industry in the Digital Economic Era," *Sriwijaya Law Review* 6, no. 2 (2022): 319–35.

²¹ Murniati Mukhlisin, Nurizal Ismail, and Reza Jamilah Fikri, "Mind the Gap: Theories in Islamic Accounting and Finance, Islamic Economics and Business Management Studies," *ISRA International Journal of Islamic Finance* 14, no. 3 (2022): 333–48, <https://doi.org/10.1108/IJIF-11-2019-0175>.

²² Harun Şencal, "An Analysis of Institutionalisation of Societal Relationships from the Perspective of Islamic Economics," *Cumhuriyet İlahiyat Dergisi* 25, no. 2 (2021): 661–77, <https://doi.org/10.18505/cuid.973750>.

economy is crucial to be promoted and developed in Indonesia as an effort of Islamic proselytisation and teaching contemporary Islamic jurisprudence (*fiqh*) on *muamalah*. This is to harmonise Islamic legal education within the heterogeneity of Indonesian society.²³ Moreover, Sharia economic law is standardised in sharia-compliance economic transactions. This is because Islam does not allow placing economic interests above religious ones. Therefore, sharia economic actors need to consider sharia rules and ethics.

Sharia economic law encourages new thinkers from practitioners to revisit the colonial system. This system disadvantaged the Indonesian economy by positioning the native Indonesians as the lowest class in society. Moreover, the colonial government divided the natural resources management depending on race, which led to severe problems. This was exacerbated by the establishment of gambling and prostitution sites by the non-Muslim Chinese people.²⁴ Apart from that, a Western author in the 17th Century believed that almost all trading activities were dominated by the Westerners, who happened to be Jews. This situation occurred in Cambodia, Patani, Jambi, and Southeast Asia, including Indonesia. The Chinese and Western people run retail, manufacturing, service, liquor and gambling businesses.²⁵

In mid-1997, Indonesia was hit by an economic crisis, destroying the fundamental components of the national economy.²⁶ The revitalisation of the economic system became crucial to revive customers' trusts which drastically weakened. In that difficult situation, the government started to view the Sharia economic system as an alternative, which was concretely implemented through the development of Sharia banking. The concept of Sharia economics is able to balance the real and monetary sectors.²⁷ Studies on the Sharia economy have emphasised that the fiscal issue is a major economic issue and more important compared with the monetary one.

The dynamic economic condition has brought about changes in economic behaviour.²⁸ The monetary crisis of mid-1997 made 240 conventional banks in Indonesia experience a negative spread, leading to liquidation. It was only sharia banks safe from the crisis, which was Bank Muamalah Indonesia.²⁹ The differences could be seen in the absence of a burden to pay the customers' interests by Sharia banks. The Sharia banks used a profit-sharing system with the amount depending on the obtained profits. With such an important role, there is a need for more actions to introduce the concept of the Islamic economy to society. This introduction can be in the form of economic proselytisation to strengthen the society's characters without contradicting the national economic laws.

²³ Euis Amalia, "Mekanisme Pasar Dan Kebijakan Dalam Perspektif Ekonomi Islam," *Al-Iqtishad* V, no. 1 (2013): 1–22.

²⁴ Idris Parakkassi, "Perkembangan Ekonomi Islam Berdasarkan Sejarah, Budaya, Sosial Dan Keagamaan Di Indonesia," *Tekstual* 16, no. 1 (2018): 22, <https://doi.org/10.33387/tekstual.v16i1.1060>.

²⁵ Yudi Prasetyo, FX Wartoyo, and Meneer Baba, *Perkembangan Modernisasi Gaya Hidup Dan Politik Elite Tionghoa Batavia 1900-1942* (Surakarta: Yuma Pustaka, 2013).

²⁶ Jusmaliani and Muhammad Soekarmi, *Kebijakan Ekonomi Dalam Islam* (Yogyakarta: Kreasi Wacana, 2005), 37.

²⁷ Birkah Latif et al., "The Impact of the Development of Trade Practices on Enforcement of International Environmental Law," *Sriwijaya Law Review* 3, no. 2 (2019): 137, <https://doi.org/10.28946/slrev.vol3.iss2.226.pp137-151>.

²⁸ Latif et al.

²⁹ Latif et al.

Law No. 14 of 1967 stipulated the national economy of the Basic Principles of Banking and Foreign Banking. However, this law did not allow the establishment of Islamic economic institutions. This law was gradually revised to enable the formulation of Islamic economic laws. The revision occurred in the banking sector deregulation on 1 June 1982. This was followed by the October 1988 Package, dated 27 October 1998, and the oral explanation by the government during the meeting with Commission VII of the People's Representative Council on 5 July 1990.

Using the profit-sharing concept in Sharia becomes evidence of the insertion of Islamic values in national law. This is mentioned in Article 2 Paragraph (1) of Government Regulation No. 72 of 1992, stating that: "the profit-sharing principle as mentioned in Article 1 Paragraph (1) is the sharia-based profit-sharing principle used by the banks adhering to profit sharing principle."³⁰ Terminologically, Sharia economic law is legal norms related to Sharia economics. Authorised officials establish Sharia economic law and norms to regulate Sharia economic activities and punish violators.

Questions posed to the authenticity of the Sharia economy. How Islamic is the system? and how can it contribute to development?³¹ On the other hand, legal recognition of the Sharia economy is getting more apparent with the issuance of Law No. 3 of 2006 on the Completion of Law No. 7 of 1989 on the Religious Courts. The affirmation of Sharia economic law can also be found in the Religious Courts' authorities. These include the powers to inspect, decide, and resolve Sharia private law cases between Muslim litigants in marriage, *waqf* (endowment), *zakah* (almsgiving), *hibah* (gift), *sadaqah* (charity), and Sharia economy. This is mentioned in Article 48 of Law No. 3 of 2006.³² The explanation of Article 49 of this law states that the sharia economy is business activities conducted based on sharia principles.

Even though the current development has proven to increase economic growth, the social and environmental aspects have yet to succeed.³³ The Sharia economy can be considered an evolution of the neo-classic economy. The Sharia economy emerged when the modern economy slowed down in offering concrete or alternative solutions to contemporary economic challenges.³⁴ Laws and regulations mentioning the Sharia economy include Law No. 19 of 2008; Law No. 21 of 2008; Law No. 7 of 1992; Law No. 10 of 1998; Law No. 39 of 2005; Government Regulation No. 56, 57, 66, 67, 81 of 2008; Law No. 39 of 2005; Bank Indonesia Regulation No. 8/3/PBI/2006; Bank Indonesia Regulation No. 9/7/PBI/2007; Bank Indonesia Regulation No. 10/16/PBI/2008; DSN-MUI Fatwa No. 75/DSN-MUI/VII/2009; DSN-MUI Fatwa No. 01/DSN-MUI/IV/2000; DSN-MUI Fatwa No. 02/DSN-MUI/IV/2000; DSN-MUI Fatwa No. 03/DSN-MUI/IV/2000.³⁵ The development of those regulations illustrates the revitalisation of the Sharia

³⁰ Jusmaliani and Soekarmi, *Kebijakan Ekonomi Dalam Islam*.

³¹ Mohamad Akram Laldin and Hafas Furqani, "Innovation versus Replication: Some Notes on the Approaches in Defining Shariah Compliance in Islamic Finance," *Al-Jami'ah* 54, no. 2 (2016): 249–72, <https://doi.org/10.14421/ajis.2016.542.249-272>.

³² Yasin, *Politik Hukum Ekonomi Syari'ah Di Indonesia*.

³³ Irwansyah, "Research-Based Environmental Law: The Debate Between Ecology Versus Development," *Sriwijaya Law Review* 1, no. 1 (2017): 35–52.

³⁴ Jureid, "Peranan Ekonomi Syariah Dalam Upaya Revitalisasi Entrepreneurship Umat Muslim," *Jurnal Kajian Ekonomi Dan Kebijakan Publik* 6, no. 1 (2021): 353–66.

³⁵ Budi Darmawan, "Kumpulan Lengkap Peraturan Ekonomi Islam (Dari A Sampai Z)," *Ekonomi Islam.Com*, 2015. Accessed on 2 January 2023.

economic law as a reference for Muslims in establishing Sharia economic-based transactions. The following table briefly shows the development of the Sharia economic system.

Table 2: Sharia Economic Regulation in Indonesia

No	Laws	Notes
1	1 June 1983	The government plans to implement profit sharing in credit
2	October 1988 Package	Opening opportunities as vast as possible to the banking business to support the development
3	Law No 7 of 1989	The expansion of the Religious Courts' jurisdiction in dealing with Sharia economic disputes
4	Law No 7 of 1992	Banks with profit sharing system
5	Law No. 10 of 1998	A dual system of banking in Indonesia
6	Law No 24 of 2004	Sharia-based deposit guarantee
7	Government Regulation No 39 of 2005	Sharia-based guarantee
8	Law No 19 of 2008	Sharia-compliant state bonds (<i>Sukuk</i>)
9	Law No 21 of 2008	Sharia banking system

Source: Budi Darmawan, Kumpulan Lengkap Peraturan Ekonomi Islam, 2015. (Accessed on 2 January 2023)

Table 2 becomes evidence of the government's contribution to supporting and revitalising Sharia economic laws in Indonesia to provide legal protection for its people. Sharia economic activities focus on achieving financial objectives and ensuring the compliance of economic activities with Sharia norms and ethics.³⁶ Among the concrete implementation of the Sharia economy in Indonesia are the establishment of Bank Muamalah Indonesia and the issuance of laws and regulations on Sharia banking. These include Law No. 7 of 1992 on Banking, Law No. 10 of 1998 on the Amendment of Law No. 7 of 1992, and Law No. 21 of 2008 on Sharia Banking. Apart from those legislations, the regulation of Sharia banking also takes the form of the Compilation of Sharia Economic Law (Kompilasi Hukum Ekonomi Syariah (KHES)).

According to Yusuf Wibisono, as quoted by Ali Syukron, Law No. 1 of 2008 on Sharia Banking, with its 70 Articles, aims at achieving particular objectives. Firstly, the law ensures legal certainty and trust of stakeholders and society in using Sharia banking products and services. This legal certainty is available in various provisions about the implementation of Sharia, business type and feasibility, fund transfer, bank confidentiality, prohibitions in Sharia banks, and dispute resolutions. Secondly, the law is to ensure the Sharia compliance of the businesses. This can be seen in the obligations to avoid prohibited activities, follow the Sharia fatwa authority (Indonesian Ulama Council or Majelis Ulama Indonesia/ MUI), establish Sharia Supervisory Board in every Sharia bank, and obey all related laws and regulations and the Sharia Supervisory Board at Bank Indonesia. Thirdly, the law is to ensure the system's stability. This is shown by the adoption of 25 Basel Core Principles for Effective Banking Supervision, consisting of provisions about the bank establishment and ownership, controlling shareholders, governance, prudential principles, risk management obligations, development, and supervision. The spirit of this "system's stability" is more visible with the administrative and criminal sanctions.³⁷

³⁶ Andri Soemitra, "Higher Objectives of Islamic Investment Products: Islamizing Indonesian Capital Market," *Studia Islamika*, 2016, <https://doi.org/10.15408/sdi.v23i2.2408>.

³⁷ A Syukron, "Dinamika Perkembangan Perbankan Syariah Di Indonesia," *Economic: Journal of Economic and Islamic* 3, no. 2 (2013): 28–53.

Other Islamic banks have followed the path of BMI by opening Sharia branches. On 28 June 1999, IFI Bank opened its Sharia branches, followed by the conversion of Bank Susila Bakti to Bank Syariah Mandiri as the subsidiary of Bank Mandiri and the opening of the Sharia branches by Bank Negara Indonesia. In February 2000, there were five new Sharia branches opened. Several banks proposed opening Sharia branches and have been registered by Bank Indonesia. These banks are Bank Bukopin, Bank BTN, Bank BRI, Bank Niaga, Bank Mega, Bank Mega, BPD Jabar, and BPYD Aceh. The most current development is that the government supported merging three Sharia banks: BNI Syariah, BRI Syariah, and Bank Syariah Mandiri. This merger resulted in the establishment of Bank Syariah Indonesia (BSI).³⁸ However, the problem is that these banks still need to be put under the auspices of Bank Indonesia, a central bank with a conventional system. Ideally, they should fall under the supervision of Bank Indonesia Syariah, a special financial institution established by the government with equal status as Bank Indonesia.³⁹

Islamic law or Sharia offers significant excellence to the prosperity of society, as stated in the primary resources of Sharia. With the more comprehensive industrial and economic development, modern legal experts have widened the interpretation of sharia financial institutions' moral and religious obligations.⁴⁰ These institutions are the primary components in the operation of Sharia-based financial institutions. Their existence has been acknowledged in the global economic area.⁴¹ A conventional economic theory maintains that human needs fulfilment is a fundamental issue. The fulfilment of human satisfaction of all their needs is a survival objective. In this case, all economic instruments must be maximised to fulfil such satisfaction, regardless of religious principles. Consequently, many efforts need to pay more attention to the harmony of human life and the balance of nature. This is different from Sharia economic principles that prioritise *maslahah* and economic justice.

The rational economy is one of the concepts in the conventional economic system. This is reflected in someone's actions. Economic activity is considered rational if centred on self-interests as the primary aspect of human activities. The conventional economic concept regards maximum utilisation as rational behaviour and appropriate.

Furthermore, Adam Smith argued that considering self-interests will positively impact society. This is because market mechanisms and competition are maintained with invisible hands. The philosophical foundation of the conventional economy includes secularism, which separates religion from worldly matters. Religion is considered merely a means to regulate humans' interactions with the Divine. Meanwhile, interhuman interaction is not considered a religious zone. This notion leads to the understanding that worldly life is within humans' authority. Humans have full rights to determine their own lives. Therefore, rationality becomes the primary guideline in every human's action. This indicates that human existence becomes rational if it is based

³⁸ "PT Bank BSI," accessed January 10, 2023.

³⁹ Aminoel Akbar Novi Maimory, "Sejarah Lahirnya Bank Syariah Serta Praktek Di Dunia Perbankan," *Jurnal Pahlawan* 1, no. 2 (2018): 15–21.

⁴⁰ Norita Mohd Nasir, Mahendhiran Sanggaran Nair, and Pervaiz Khalid Ahmed, "Environmental Sustainability and Contemporary Islamic Society: A Shariah Perspective," *Asian Academy of Management Journal* 27, no. 2 (2022): 211–31, <https://doi.org/10.21315/aamj2022.27.2.10>.

⁴¹ Suadi Amran, "Peluang Dan Tantangan Lembaga Keuangan Syariah Dalam Menghadapi Era Pasar Bebas / Opportunities And Challenges Of Sharia Financial Institutions In Dealing With Free Market," *Jurnal Hukum Dan Peradilan* 7, no. 1 (2018): 1, <https://doi.org/10.25216/jhp.7.1.2018.1-22>.

on self-interest as the primary objective of every activity. The objectivity of the economy is considered the manifestation of capitalism that is free from morality and universally applicable (positivism). The equilibrium nature becomes the belief in capitalism as the balance of nature in Newtonian physics.

Jean Baptiste Say maintained that supply creates demand, which then impacts the balance of the economy.⁴² On the other hand, production activities develop demands. Consequently, the excess production and the increase in unemployment will not happen. In this system, the government does not interfere with economic activities, as the intervention is considered a disturbance to the natural balance. These assumptions are the strength of conventional economic paradigms and the greatness of the market in offering solutions to economic issues.

The Actualisation of the Sharia Economy in Indonesia as A Legal Concept

The spirit of legal reform has influenced the improvement of Islamic material law as a sub-national legal system. Islamic law has several characteristics, such as responsive, adaptive, and dynamic, as the results of the reform process.⁴³ In this case, Muslims should possess a specific perspective to face current development and advancement. One aspect discussed considerably is economic circulation, in accordance with current demands. The problems widen and vary as humans conduct various transactions to meet their needs. The issues emerged in the operation of companies, credits, cooperatives, insurance, and others, which often become more complex, especially when they face Islamic law.

Islamic law is a value system and rules, functioning as a solution to worldly problems.⁴⁴ In the Islamic legal system, decision-making is conducted by considering the notion of *maslahah mursalah* for worldly matters, including protecting human life and religious values.⁴⁵ Sharia economic law cannot be separated from Islamic legal resources. Human satisfaction is not only related to worldly matters but also the hereafter. As a consequence, there is a need to balance those two aspects. Regarding wealth and property, Islam protects them by legalising various transactions, such as trading, renting, pawning, and prohibiting usury, fraud, and thievery. Islam also determines hand amputation for robbery to achieve the ultimate goal of achieving public goodness. The *maslahah* in the economy becomes a crucial consideration influencing the balance of human social life. Muslim scholars initiated the implementation of sharia economic law in Indonesia, which has been well responded to by society. However, their awareness to fully interact with Sharia economic law remains limited.

⁴² Parakkassi, “Perkembangan Ekonomi Islam Berdasarkan Sejarah, Budaya, Sosial Dan Keagamaan Di Indonesia.”

⁴³ Anugrah Reskiani et al., “Reform Methods of Islamic Inheritance Law in Indonesia in Jurisprudence,” *Jurnal Ilmiah Syari’ah* 21, no. 1 (2022): 39–51.

⁴⁴ Asrul Hamid and Dedisyah Putra, “The Existence of New Direction in Islamic Law Reform Based on The Construction of Ibnu Qayyim Al-Jauziyah’s Thought,” *JURIS (Jurnal Ilmiah Syariah)* 20, no. 2 (2021): 247, <https://doi.org/10.31958/juris.v20i2.3290>.

⁴⁵ Muhammad Rafi Siregar et al., “Applying Syariah Principle To Islamic Capital Market,” *El-Iqtishady: Jurnal Hukum Ekonomi Syariah* 4, no. 2 (2022): 161–68.

From the perspective of Islamic law, *maslahah* is a must in the formation of law.⁴⁶ With this, the objective of Islamic law is to achieve the *maslahah* in the world and hereafter. This is to improve the position of humans as the noblest creatures. This means that the value of *maslahah* should consist of sharia compliance (*halal*), benefits, goodness (*tayyib*), and avoiding harm. *Maslahah*, in the sharia economy, is oriented toward the actors who always want *maslahah*. With *maslahah*, all economic potential will provide justice for all.

Besides, Islamic law is intended as *ibtilla'* (ordeal) and *ikhtibar* (lesson), testing Muslims' loyalty to their religious laws.⁴⁷ Humans, with their strengths and weaknesses, are required to live collectively, share, and create togetherness in social life to achieve public interests.⁴⁸ Islam pays significant attention to property ownership rights and makes it one of the five fundamental objectives of Sharia. These five objectives are protecting lives, honours, minds, wealth, and religion. Copyrights, in the form of writing, artworks, patent, and trademark, are among the legal rights of their owners, in Sharia or common perspectives. The practices are detailed in Sharia economic law to provide certainty in transactions and economic development.

In its actualisation, the commitment to God's provisions will influence someone's commitment to the value of humanity in business by prioritising the importance of kindness.⁴⁹ Sharia economic law consists of the godly dimension to achieve success in the world and hereafter (*falah*).⁵⁰ According to Umar Chapra, as quoted by Apridar, the basic principles of the sharia economy include, first, *tauhid* (unification of God), which is a belief and awareness that economic behavior should consider God's power in various aspects, to be a basis in maintaining justice and *maslahah*. Second, the principle of *khilafah* is an understanding that human existence on earth is not without purposes and is full of responsibilities. This is why humans are equipped with the capabilities to actualise their interests to submit themselves to the Creator. Third, the principle of justice is the fulfillment of human needs and stability to thrive equally with good (*tayyib*) and halal incomes.⁵¹

Philosophically and substantively, the value of justice in Islam differs from the normative substantive law. Normative law regarding civil procedural law is based on individualism and secularism approaches. The optical nature of the legal disputes becomes the fundamental distinction in Islamic justice.⁵² Indonesia is a nation of laws, and its national objectives are stated in the

⁴⁶ Mohammad Fauzan Ni'ami and Bustamin Bustamin, "Maqāṣid Al-Syarī'Ah Dalam Tinjauan Pemikiran Ibnu 'Āsyūr Dan Jasser Auda," *JURIS (Jurnal Ilmiah Syariah)* 20, no. 1 (2021): 91, <https://doi.org/10.31958/juris.v20i1.3257>.

⁴⁷ Munif Ahmad Suratmaputra, "Kemaslahatan Sebagai Tujuan Pensiaryatan Hukum Islam," *Jurnal Mimbar Akademika* 2, no. 2 (2017): 9.

⁴⁸ Firman Muh. Arif, "Muzara'Ah Dan Pengembangan Ekonomi Umat Di Pedesaan," *Al-Amwal: Journal of Islamic Economic Law* 3, no. 2 (2019): 108–36, <https://doi.org/10.24256/alw.v3i2.475>.

⁴⁹ Muhammad Djakfar, "Revitalisasi Dan Aktualisasi Nilai-Nilai Religiusitas Untuk Mewujudkan Ekonomi Wasathiyah Yang Berkeadaban," *Resented at The 6th International Conference of Islamic Economics & Business, 22 September 2018, Universitas Islam Negeri Maulana Malik Ibrahim Malang*, 2018, 1–17.

⁵⁰ Tri Hidayati, Masyitah Umar, and Fathurrahman Azhari, "Political Reorientation of Indonesian Sharia Economic Law : Legal Politics of Trade Law on Sharia Multilevel Marketing Trade Basis of the Indonesian State . Article 29, Paragraph 1 of the 1945 Constitution of the Republic of Indonesia States : " The Reput," *Mazahib Jurnal Pemikiran Hukum Islam* 21, no. 2 (2022): 245–90.

⁵¹ Apridar, *Teori Ekonomi-Sejarah Dan Perkembangannya* (Yogyakarta: Graha Ilmu, 2010), 130.

⁵² Erie Hariyanto, "Public Trust in the Religious Court to Handle Dispute of Sharia Economy," *AHKAM: Jurnal Ilmu Syariah* 22, no. 1 (2022).

fourth paragraph of the Preamble to the 1945 Constitution. Among the goals are to protect all the people of Indonesia and all the independence that has been struggled for and to improve public welfare.⁵³ With this, economic development should consistently be rooted in and based on Pancasila. The economic development should reflect the actualisation of Pancasila as a fundamental value and spirit of people's economy based on the principles of togetherness, justice, and independence.⁵⁴ In terms of legal material, Bustanul Arifin, as quoted by Djamil, states that Indonesian laws needed to seriously pay attention to Sharia-based trade or contracts. This is because the primary reference to the Indonesian rules mostly comes from colonial laws, as the continuation of French Law or Penal Code.⁵⁵

The legalisation and formulation of Sharia economic laws in Indonesia still meet various challenges. Among them is related to political constellations. With gradual development from time to time, Sharia economic law should be able to compete with conventional economic laws, which are more advanced and significantly developed. Apart from that ideological and macro reasons, Sharia economic laws have been strongly encouraged by establishing the National Sharia Board of the Indonesian Ulama Council (Dewan Syariah Nasional-Majelis Ulama Indonesia/ DSN-MUI). Practical and macro interests also influenced this establishment. At first, MUI initiated the establishment of Sharia banks. Other Sharia-based financial institutions and businesses follow this. For sustainability reasons, they need to be supported by the MUI. In this case, an institution focusing on the Sharia economy becomes crucial. The consideration of the Central Council of the Indonesian Ulema Council Decree mentions the need for banking facilities that are free from interests, which is *haram* (prohibited) in Islam.

Economic activity is considered *maslahah* if it meets two aspects: sharia compliance (halal) and benefiting all humans.⁵⁶ In other words, Sharia economic activities applied by Muslims are generally a form of or an effort to achieve prosperity. In those efforts, all parties should use a contract based on honesty and willingness to submit to a Sharia-based contract.⁵⁷ In this context, the establishment of the DSN-MUI has been to respond to Muslim people's aspirations in economic fields and encourage the implementation of Islamic teaching in economy or finance based on Sharia.⁵⁸ Another factor leading to the establishment of the DSN-MUI is the efficiency step in ulama coordination in responding to current issues on economy and finance. Various cases need fatwas (legal opinions) to be discussed by the ulama to achieve common perspectives in dealing with specific issues by Sharia Supervisory Board (Dewan Pengawas Syariah/ DPS) in

⁵³ Zidney Ilma Fazaada Emha, Ana Silviana, and Musahadi Musahadi, "Waqf Land Certification Postponement for Place of Worship Due to the Obscurity of the Toll Road Expansion Project (Re-Overview of Gustav Radbruch's Three Basic Legal Values Theory)," *Al-Ahkam* 32, no. 1 (2022): 17–40, <https://doi.org/10.21580/ahkam.2022.32.1.10745>.

⁵⁴ Ahmad Fauzan, Edy Kurniawansyah, and M. Salam, "Pengembangan Buku Revitalisasi Dan Reaktualisasi Pancasila Dalam Kehidupan Berbangsa Dan Bernegara Menghadapi Tantangan Globalisasi," *Jurnal Civic Education: Media Kajian Pancasila Dan Kewarganegaraan* 4, no. 2 (2021): 43, <https://doi.org/10.36412/ce.v4i2.2373>.

⁵⁵ Djamil, *Hukum Ekonomi Islam -Sejarah, Teori Dan Konsep*.

⁵⁶ Ziyadatus Shofiyah and M. Lathoif Ghozali, "Implementasi Konsep Maslahah Mursalah Dalam Mekanisme Pasar," *Al-Mustashfa: Jurnal Penelitian Hukum Ekonomi Syariah* 6, no. 2 (2021): 135, <https://doi.org/10.24235/jm.v6i2.8031>.

⁵⁷ Erie Hariyanto and Moh. Hamzah, "Bibliometric Analysis of the Development of Islamic Economic Dispute Resolution Research in Indonesia," *JURIS: Jurnal Ilmiah Syariah* 21, no. 2 (2022): 221–33.

⁵⁸ Dewan Syariah Nasional and Bank Indonesia, *Himpunan Fatwa DSN* (Jakarta: DSN dan BI, 2003), 281.

every Sharia financial institution.⁵⁹ DSN-MUI is primarily responsible for providing fatwas on the sharia economy. It becomes an authoritative institution to determine the sharia compliance of sharia banking products, institutions, and businesses.

Broadly, Sharia, especially Islamic law on *muamalah*, has a definite meaning and is relatively far from the branch of *fiqh*.⁶⁰ Therefore, the revitalisation of Sharia economic law to achieve public interests can be carried out with several tasks. First, there is a need for legislative members who call for a sharia financial system. Second, there is a need to promote the Sharia economic system through seminars, training, education, etc. Third, the state needs to codify Sharia economic laws comprehensively. Fourth, improving human resources competence in Sharia economics among academics and practitioners is crucial. Fifth, there is a need for research and studies on the Sharia economy in Indonesia. Sixth, there is a critical need to prepare professional information and technology. Seventh, an institution to offer assurance in financing and advocacy services when a dispute occurs is also essential. Eight, there is a need to supervise Sharia compliance in products and marketing.

CONCLUSION

Sharia economic law based on the Quran and Sunna has been in application since the period of the Prophet, his companions, and followers until today. Indonesia has a long history of Sharia economy. It started when the system used only the Quran and Sunna as the primary references, followed by the unification and codification of Sharia economic law within the national law. The Sharia economic law is crucial in the national and religious lives of the Indonesian people. Therefore, the law and its implementation within the state are needed. In Indonesia, the Sharia economic law is developed by involving various state elements, including the establishment of Sharia financial institutions initiated by Bank Muamalat Indonesia, the stipulation of Sharia economic law, the expansion of the Religious Courts' jurisdiction to deal with Sharia economic disputes, and the issuance of the National Sharia Board fatwa on sharia economy. These are followed by establishing Sharia economic organisations consisting of academics and practitioners. Also, higher education institutions play their role in opening Sharia economic departments, while *pesantren* education offers innovation in Sharia economic studies.

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⁵⁹ Soleh Hasan Wahid, "Pola Transformasi Fatwa Ekonomi Syariah DSN-MUI Dalam Peraturan Perundang-Undangan Di Indonesia," *Ahkam: Jurnal Hukum Islam* 4, no. 2 (2016): 171–98.

⁶⁰ Inama Anusantari, "Konsep Kemaslahatan Maqāṣīd Syarīah Ibnu 'Ashur Terhadap Permasalahan Di Era Milenial: Polemik Kebijakan Lockdown Dan PSBB Pemerintah Indonesia Dalam Menangani Pandemi Covid-19," *Al-Maslahah: Jurnal Ilmu Syariah* 17, no. 2 (2021): 189–213, <https://doi.org/10.24260/al-maslahah.v17i2.1936>.

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