

Judicial Application of the Theory of Maslahah in Islamic Economic Cases in Indonesia

Mustapa Khamal Rokan

Universitas Islam Negeri Sumatera Utara, Indonesia
mustafarokan@uinsu.ac.id

Chuzaimah Batubara

Universitas Islam Negeri Sumatera Utara, Indonesia
chuzaimahbatubara@uinsu.ac.id

Zulham

Universitas Islam Negeri Sumatera Utara, Indonesia
zulham@uinsu.ac.id

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Abstract: This study aims to explain the patterns of the maslahah theory's application in resolving Islamic economic legal disputes by judges in Indonesia. It employs a qualitative approach, relying on primary data collected through questionnaires and in-depth interviews. Questionnaires were distributed to judges of Religious Courts across various regions in Indonesia. At the same time, interviews were conducted directly at five Religious Courts—namely the Religious Courts of Medan, Bandung, Semarang, and Yogyakarta—as well as with a Justice of the Supreme Court. The findings reveal that judges' understanding and application of the maslahah theory in Islamic economic cases remain limited. In many judicial decisions, the standardized contracts used were not initially constructed based on maslahah principles, which subsequently influenced the legal considerations made by judges. The principle of prudence is also not yet fully integrated within the maslahah framework. The challenges to implementing maslahah include limited judicial comprehension of the concept, diverse educational backgrounds that shape varying interpretations, unclear regulations governing Islamic economic law, and low public awareness of the significance of maslahah in Islamic legal reasoning. The academic contribution of this research lies in its empirical mapping of the extent to which the maslahah theory is utilized in the practice of Islamic economic adjudication in Indonesia, along with its proposal of a normative framework to strengthen judicial capacity and reform Islamic economic procedural law based on *maqāṣid al-sharī'ah*. This study also fills a gap in the literature regarding the intersection between Islamic legal theory and contemporary judicial practice within Indonesia's national legal system.

Keywords: *Maslahah, Islamic Economic Law, Religious Courts, Maqāṣid al-Sharī'ah, Sharia Contract*

Abstrak: Tulisan ini bertujuan untuk menjelaskan corak penerapan teori maslahah dalam penyelesaian sengketa hukum ekonomi syariah oleh para hakim di Indonesia. Penelitian ini menggunakan pendekatan kualitatif dengan mengandalkan data primer yang diperoleh melalui penyebaran kuesioner dan wawancara mendalam. Kuesioner disebarkan kepada hakim-hakim Pengadilan Agama di berbagai daerah di Indonesia, sedangkan wawancara dilakukan secara langsung pada lima Pengadilan Agama, yakni Pengadilan Agama Kota Medan, Bandung, Semarang, Yogyakarta, serta dengan seorang Hakim Agung. Hasil penelitian menunjukkan bahwa pemahaman dan penerapan teori maslahah oleh hakim dalam perkara ekonomi syariah masih terbatas. Dalam banyak putusan, standar kontrak baku yang digunakan belum didasarkan pada prinsip maslahah sejak awal penyusunan, sehingga memengaruhi pertimbangan hukum yang diambil hakim. Prinsip kehati-hatian (*prudence*) juga belum sepenuhnya terintegrasi dalam kerangka maslahah. Adapun tantangan implementasi maslahah meliputi keterbatasan pemahaman hakim terhadap konsep ini, perbedaan latar belakang pendidikan yang memengaruhi interpretasi, ketidakjelasan regulasi terkait ekonomi syariah, serta rendahnya kesadaran masyarakat terhadap pentingnya maslahah dalam hukum Islam. Kontribusi akademik dari penelitian ini terletak pada pemetaan empirik tentang sejauh mana teori maslahah digunakan dalam praktik peradilan ekonomi syariah di Indonesia, serta tawaran kerangka normatif untuk penguatan kapasitas hakim dan pembaruan hukum acara ekonomi syariah berbasis *maqāṣid al-sharī'ah*. Penelitian ini juga mengisi kekosongan literatur mengenai hubungan antara teori hukum Islam dan praktik peradilan kontemporer dalam konteks sistem hukum nasional.

Kata Kunci: *Maslahah, Hukum Ekonomi Syariah, Peradilan Agama, Maqāṣid Al-Sharī'Ah, Kontrak Syariah*

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Introduction

The problem of sharia economic law in Indonesia is increasingly urgent along with the rapid development of the sharia economic industry. Since the establishment of Bank Muamalat in 1991, the Islamic economic sector in Indonesia has made significant progress, although it is relatively new compared to the conventional financial industry.¹ The Islamic economy is now witnessing rapid development, especially in the banking sector, with 13 Sharia Commercial Banks (BUS) and 173 Sharia People's Financing Banks (BPRS). Based on a report by the Financial Services Authority (OJK), the market share of Islamic banking in 2024 will reach 7.72%, supported by the growth of Third-Party Funds (DPK), which increased by 10.09% to IDR 653 trillion.

In addition, the Sharia capital market sector also shows a significant growth trend.² Sharia investors increased by more than 225%, from 44,536 in 2018 to 144,813 in April 2024. The value of investment in the Islamic economy was also recorded to experience significant growth, with an increase in investment of 128%, from USD 11.4 billion to USD 25.9 billion in 2022–2023. These figures show how rapid the development of the Sharia economy is and that it requires a solid legal foundation, including in resolving disputes that arise in this industry.

Along with the rapid development of the

sharia economy industry, the number of disputes related to this sector is also increasing. Based on data from the Supreme Court, sharia economic cases handled by religious courts show an increasing trend, with the number of cases reaching 545 in 2023 and 500 cases in September 2024. This challenges judges in the religious justice environment, who are responsible for resolving sharia economic disputes, including those related to Islamic banking, following the provisions of Law Number 3 of 2006 concerning Religious Courts. At the academic level, Sharia economic law has become an essential topic for master's and doctoral students of Islamic law.³ Legal researchers continue to develop various concepts, assumptions, and propositions to form reasoning models that can be used to understand and solve legal problems in Sharia economics. Islamic law researchers try to offer solutions through diverse juridical reasoning, which reflects the flexibility and dynamic approach to understanding contemporary legal problems in Indonesia.⁴

The applicability of Islamic law in the Indonesian legal system requires the existence of Islamic legal theories that can provide concrete solutions to problems that arise, especially in the economic field.⁵ One of the essential theories in resolving sharia economic disputes is the *maslahah* theory. This theory

¹ Mohamad Nur Yasin, "Argumen Eksistensi Bank Muamalat Di Indonesia Sebagai Perbankan Syariah," *De Jure: Jurnal Hukum Dan Syar'iah* 2, no. 1 (1 Juni 2010), <https://doi.org/10.18860/j-fsh.v2i1.48>.

² Putri Hadiyanti Pratiwi, Asiska Nur Abidah, dan Nur Afifah, "Analisis Pembiayaan UMKM Dan Pembiayaan Bermasalah Pada Bank Muamalat Indonesia," *Jurnal Arastirma* 4, no. 2 (1 Agustus 2024): 374–84, <https://doi.org/10.32493/jaras.v4i2.36866>.

³ Muhammad Sulhan dkk., "Financial Behavior Dynamics of MSME Actors: A Contemporary Islamic Financial Management Study on Literacy, Attitude, Intention, Personality, and Legal Aspects," *MILRev: Metro Islamic*

Law Review 4, no. 1 (30 April 2025): 129–55, <https://doi.org/10.32332/milrev.v4i1.10075>.

⁴ Rahmi Puji Lestari dan Hendra Riofita, "Strategi Dan Analisis Sdm Di Bank Muamalah," *Jurnal Pendidikan Tambusai* 8, no. 3 (30 November 2024): 4608–16, <https://doi.org/10.31004/jptam.v8i3.22830>.

⁵ Iskandar Iskandar, Ilhaamie Abdul Ghani Azmi, dan Azian Madun, "Pemahaman Nasabah Bank Muamalat Indonesia Banda Aceh Terhadap Akad Mudharabah," *Share: Jurnal Ekonomi dan Keuangan Islam* 1, no. 2 (31 Desember 2012): 163–74, <https://doi.org/10.22373/share.v1i2.723>.

prioritizes the public interest as the primary goal of every legal decision.⁶ *Maslahah* theory is a fundamental principle in fiqh and provides practical guidance for judges in resolving increasingly complex Sharia economic disputes.

The novelty of this research lies in the empirical study of the application of *maslahah* theory by religious court judges in deciding Sharia economic cases. Previous research has focused more on normative and theoretical aspects without paying enough attention to applying this theory in real contexts in Indonesian courts. Thus, this study offers a new perspective on the understanding and application of *maslahah* in the settlement of sharia economic disputes by judges in Indonesia.

The research gap that this study seeks to bridge is the lack of studies that connect judges' theoretical understanding of *maslahah* with the practice of its application in court decisions. Most existing literature only discusses the *maslahah* theory normatively without analyzing the challenges and obstacles judges face applying the theory in the context of positive law and the broader Indonesian justice system.

The research questions asked in this study are: (1) How do religious court judges in Indonesia understand and apply *maslahah* theory in the settlement of sharia economic cases? (2) What challenges are faced in implementing *maslahah* theory in the Sharia economic justice system? (3) How can the theory of *maslahah* be used as an applicable framework of Islamic law in strengthening the

sharia economic justice in Indonesia? This research aims to provide a more comprehensive understanding of the role of *maslahah* theory in Sharia economic law and identify the challenges and opportunities in its application.

Method

This study uses a qualitative approach to collect and analyze primary and secondary data.⁷ Primary data was obtained through in-depth interviews with judges in the religious justice environment, appeals, and cassation at the first level. Interviews were conducted in five religious courts in Indonesia representing various regions, namely the Medan City Religious Court, the Bandung Religious Court, the Semarang Religious Court, the Yogyakarta Religious Court, and the Supreme Court. A total of 15 judges were interviewed, consisting of 3 cassation judges at the Supreme Court, one appellate judge, and 11 first-level judges. The selection of this sample aims to gain a comprehensive perspective on the application of *maslahah* theory in various levels of justice.

In addition to primary data, this study also collected secondary data from three State Islamic universities (UIN) in Indonesia, namely UIN North Sumatra, UIN Syarif Hidayatullah Jakarta, UIN Sunan Gunung Djati Bandung, and UIN Sunan Kalijaga Yogyakarta. The secondary data obtained included literature references, theses, dissertations, and academic articles relevant to sharia economic law and the application of *maslahah*.

The data collected from the interviews and secondary sources were then analyzed

⁶ Abdul Hakim Pratama dkk., "The Position of Choice of Forum and Alternative Dispute Resolution Principles in Contemporary Sharia-Based Property Dispute," *MILRev: Metro Islamic Law Review* 4, no. 1 (30 April 2025): 184–207,

<https://doi.org/10.32332/milrev.v4i1.10140>.

⁷ Helaluddin dan Hengki Wijaya, *Analisis Data Kualitatif: Sebuah Tinjauan Teori & Praktik* (Sekolah Tinggi Theologia Jaffray, 2019).

with descriptive and prescriptive approaches.⁸ The descriptive approach is used to describe the judge's understanding of the theory of maslahah and its implementation in the practice of Sharia economic law. In contrast, the prescriptive approach proposes recommendations for improving the legal system and judges' capacity to handle Sharia economic cases based on the principle of maslahah.

Result and Discussion

Maslahah Theory in the Eyes of Scholars, MUI Fatwa and Judge's Decision

Maslahah can be interpreted in several forms, namely maslahah as a principle, a translation of the words *al-ashl*, *al-qâidah*, and *mabda'*—Maslahah as a source or legal evidence (source, *al-mashdar*, *al-dalîl*). Mashlahat is also a doctrine (*al-dhâbith*). Maslahah can also be positioned as a concept (concept, *al-fikrah*) method (method, *al-fikrah*); Maslahah is also called a theory *al-nazhariyah*.⁹

Islamic legal experts have various opinions on the meaning of maslahah. Al-Ghazali, for example, argues that maslahah is something that brings benefits and keeps away danger." Maslahah is to maintain the purpose of sharia, which is to maintain religion, soul, intellect, descendants, and property.¹⁰ Al-Khawarizmi

defines maslahah as protection for sharia purposes by keeping away from damage. As-Syatibi said Sharia aims to benefit people in this world and the hereafter and prevent damage.¹¹

In Sharia economics, *maṣlaḥah* is the basic principle of human consumption. Fahim Khan, for example, built a theory of human needs based on *maṣlaḥah* following the purpose of sharia, namely *maṣlaḥat al-'ibād* (the welfare of all mankind).¹² With this framework, Khan assesses that all goods and services with benefits are included as needs. In addition, *maṣlaḥah*, with all its provisions, is the main principle in various sharia economic transactions. M. Fahim Khan, for example, wrote Theory of Consumer Behaviour in an Islamic Perspective, which analyzes the application of *maṣlaḥah* in the case of consumption.

Abdul Wahab al-Khallaf limited cases that fall into the category of maslahah.¹³ A case is considered maslahah if it meets the following requirements: it must be determined as a real maslahah and not a mere conjecture through in-depth study methods. In addition, maslahah should be global for the benefit of many people, not maslahah that concerns individuals or fulfills the elements of benefit and avoids harm for the majority of society only. A real and generally applicable maslahah must not contradict the provisions of the law that have

⁸ Helaluddin dan Wijaya.

⁹ Yosi Aryanti, "Hubungan Tingkatan Maslahah Dalam Maqashid Al-Syari'ah (Maslahah Al-Dharuriyat, Al-Hajiyat, Al-Tahsiniyat) Dengan Al-Ahkam Al-Khamsah [The Relationship between Maslahah Levels in Maqashid Al-Syari'ah (Maslahah Al-Dharuriyat, Al-Hajiyat, Al-Tahsiniyat) With Al-Ahkam Al-Khamsah]," *El-Rusyd: Jurnal Sekolah Tinggi Ilmu Tarbiyah STIT Ahlulsunnah Bukittinggi* 2, no. 2 (2017): 35–57.

¹⁰ Muhammad Maksum, "Implementation of Al-Ghazali Maslahah Concept In Islamic Economic Activities," *SALAM: Jurnal Sosial Dan Budaya Syar-i* 9, no. 2 (17 Februari 2022): 481–90, <https://doi.org/10.15408/sjsbs.v9i2.24825>.

¹¹ Imron Rosyadi, "Pemikiran Asy-Syâtibî Tentang Maslahah Mursalah [Ash-Syâtibî's Thoughts About Maslahah Mursalah]," *Profetika: Jurnal Studi Islam* 14, no. 1 (9 Juni 2016): 78–89, <https://doi.org/10.23917/profetika.v14i1.2009>.

¹² Khairudin, "The Practice of Buying and Selling Black Market Goods on The Perspective of Islamic Economic Law," *NUSANTARA: Journal Of Law Studies* 1, no. 1 (2022): 77–85.

¹³ Walid Ghali, "The Objectives of Islamic Law: The Promises and Challenges of the Maqāṣid al-Sharī'a," 285 *MJTILP Vol. 17 Iss. 1 2021 Manchester Journal of Transnational Islamic Law & Practice* 17, no. 1 (2021).

been regulated in Nash and ijma'.¹⁴

In addition to having limitations, the theory of *maslahah* continues to move in search of (*jalb*) well and moves to reject (*dar'u*) bad. The dynamic nature of law comes from a dynamic legal theory that seeks *maslahah*. it is possible to use other scientific theories, such as psychology, anthropology, sociology, and economics, to help Islamic law achieve its goal, namely usefulness and happiness.¹⁵

The legal theory of the legal movement can be a knife in the theory and practice of sharia economics. The research findings show that at the theoretical and practical level, Indonesia's Sharia economic law theory model is still tied to the concept of *muamalah* jurisprudence in general. The jurisprudence of *muamalah* in question is the basic concepts related to the *akad* in general, such as *akad al-bay*, *murabahah*, *mudharabah*, *musyarakah*, *ijarah*, *ijarah muntihya bitamlik* and so on. The contracts contained in the *fiqh muamalah* are then found in laws and regulations, both at the level of laws, Bank Indonesia (BI) regulations, Financial Services Authority (OJK) regulations, and so on.¹⁶

The theory of *maslahah* is found in the *akad al-murakkabah* (hybrid contract). Among them is the *murabahah* contract, which is coupled with the *wakalah* contract.¹⁷ A *murabahah* sale and purchase contract occurs when the bank seems to buy goods from the dealer, and the bank sells to the customer.

Applying the *wakalah* contract to the *murabahah* contract is based on *maslahah*. In the *murabahah* contract, it is as if the bank is selling something, even though it is only borrowing money. This practice is like the credit practice in conventional banks. However, based on the *maslahah* theory, the bank gives the right of the representative to the customer to buy something to facilitate the transaction. If you do not use a combination with a *wakalah* contract, it is not easy for the contract to occur because the bank does not have a supply of cars or houses. On the other hand, buyers want to find their brands and models.¹⁸

However, the practice of double contracts has the potential to be distorted in finding a way to justify it. The *murabahah* contract, which was then followed by the *wakalah* contract, was distorted because the purchased goods did not exist. The financing provided by the banks can be used in other forms, even in the form of *shubhat*. Until now, the contract's legal purpose (*maqashid sharia*) has not been justified.

With the reason of *maslahah*, there are several models of contracts that are combinations, such as the *musyarakah mutanaqisah* (MMq) contract, *mudharabah musyarakah bithaqah al-ikhtiman* on credit cards, *Wakalah bil Ujrah*, *Kafalah bil Ujrah*, *Bay Istighlal*, *Bay Isti'jar* in the case of hire purchase. Meanwhile, contracts like those of *Qardh* and

¹⁴ Wahyu Abdul Jafar, "Kerangka Istimbath Maslahah Mursalah Sebagai Alternatif Problem Solving Dalam Hukum Islam [Istimbath Maslahah Mursalah Framework as an Alternative Problem Solving in Islamic Law]," *Istimbath : Jurnal Hukum* 13, no. 1 (26 April 2016): 89–108.

¹⁵ Wahyu Abdul Jafar, "Eksistensi Nasikh Mansukh Dalam Istibat Al-Ahkam [The Existence of Nasikh Mansukh in Istibat Al-Ahkam]," *JURNAL ILMIAH MIZANI: Wacana Hukum, Ekonomi, Dan Keagamaan* 3, no. 2 (29 Desember 2019), <https://doi.org/10.29300/mzn.v3i2.1033>.

¹⁶ Meta Riskia, "Implementation Of Mudharabah

Financing On Baitul Maal According Majelis Ulama Indonesia," *Nusantara Economy* 1, no. 1 (9 Desember 2022): 1–13.

¹⁷ Khairudin, "The Practice of Buying and Selling Black Market Goods on The Perspective of Islamic Economic Law."

¹⁸ Maulana Iqbalwa, "Practice Brokerage Services for the Sale and Purchase of Coffee from the Perspective of Syari'ah Economics," *NUSANTARA: Journal Of Law Studies* 1, no. 1 (16 Desember 2022): 65–76.

Bay are underhand and notarized regarding taking over. Meanwhile, the contracts that must be separated are *murabahah* and *wakalah* in *murabahah*, *rahn* and *Ijarah* contracts in pawns, and *Istishna* and *Ijarah* in mortgages. While contracts must be separated from different subjects are *Tawarruq*, Salam Parallel, and *Istishna* Parallel, Mustatir Contracts such as *kafalah* and *wakalah* in *mudharabah* savings due to banking 'urf.

Regarding the theory of hybrid contracts, Hasanudin's research entitled "The Concept and Standards of Multi-Contract in the Fatwa of the National Sharia Council-Indonesian Ulema Council" in 2008 stated that the National Sharia Council-Indonesian Ulema Council (DSN-MUI) did not explicitly state the concept of multi-contracts, even though there were as many as 27 DSN-MUI Fatwas in which the use of more than one contract was mentioned. Several fatwas of DSN-MUI affirm that a contract should not be associated (*mu'allaq*) with another contract. On the one hand, DSN-MUI expressly rejects multiple contracts in the form of 'uqûd mutaqaâbilah, an agreement containing several contracts where one contract is associated (*mu'allaq*) with another. However, DSN-MUI allows such a contract merger in some of its fatwas.

The theory of *maslahah* is also used in the form of *musyarakah* agreements. In principle, *musyarakah* should not have collateral, but why does DSN's fatwa allow collateral? Because the banking sector cannot or finds it difficult to trust the honesty and goodwill of customers. The banking sector is not sure that

customers are systemically honest because they may not run the business correctly and adequately, which will cause harm to the bank.¹⁹ Therefore, in deciding the case regarding the *musharakah* contract, the contract is first seen as whether this case is the fault of the trading world or the fault of the customer. If the collateral customer's mistake is welcome, it is welcome to execute, but if the cooperation causes the mistake to be carried out at a loss, mainly due to conditions that force major such as economic recession, floods, natural disasters, and so on, then it cannot be fully charged to the customer.

Hirsanuddin, Galang Asmara, Abdul Atsar, in his article Application of *Maslahat Mursalah* Rules in Business Transaction in Islamic Banking that *Maslahah* mursalah has been applied or implemented in business transactions in Islamic banking and has been covered in the Fatwa of the Indonesian Ulema Council of the National Sharia Council Number: 7/DSN-MUI/IV/2000 concerning *mudharabah* financing (*Qiradh*).

The concept of *maslahah* applied in the DSN MUI fatwa is to consider the broader social impact of a particular issue or problem. For example, DSN MUI has issued fatwas in finance and banking to promote financial stability, economic growth, and social justice.²⁰ This is achieved by ensuring Islamic financial institutions adhere to Sharia principles and avoid practices harmful to society or the environment. In addition, the concept of *maslahah* is also used to answer new issues and challenges that arise in modern society.²¹ For

¹⁹ Dedi, Ibnu Rusydi, dan Nursyamsi, "Aplikasi Mashlahat Dalam Transaksi Ekonomi Syariah Kontemporer Di Indonesia Perspektif Legislasi," *Al-Afkar, Journal For Islamic Studies*, 24 Oktober 2022, 190–206, <https://doi.org/10.31943/afkarjournal.v5i4.351>.

²⁰ Kemala Ayu dan Mawardi Mawardi, "Maslahah Dalam Ekonomi Syariah:," *Indonesian Research Journal on*

Education 5, no. 1 (28 Desember 2024): 80–85, <https://doi.org/10.31004/irje.v5i1.1868>.

²¹ Ivan Rahmat Santoso, Niswatin Niswatin, dan Agil Bahsoan, "Analisis Akad Pembiayaan Pemilikan Rumah Di Bank Syariah: Pendekatan Parameter *Maslahah*," *Jurnal Ilmiah Ekonomi Islam* 9, no. 1 (21 Februari 2023): 87–95, <https://doi.org/10.29040/jiei.v9i1.7138>.

example, DSN MUI has issued a fatwa on digital currencies and e-commerce that considers the unique characteristics of these new technologies and how they can be used to promote the well-being of society while adhering to Islamic principles.²²

Several studies are related to the theme of judges' decisions using *maslahah* in solving Sharia economic problems, namely, that the judge's argument in the decision on Sharia economics of the Jakarta Religious Court uses the judge's point of view. Judges' arguments in the five Religious Courts in Jakarta often refer to the Civil Code to justify decisions. The Fatwa of the Indonesian Ulema Council Compilation of Sharia Economic Law is also applied but only used in specific articles such as Articles 36 and 38. The most widely used article is regarding compensation, *ta'widh*, or sanctions for customers who cannot fulfil their obligations. Research on Sharia economic disputes is also contained in the decision of the panel of judges of the Holy Religious Court Number 314/Pdt.G/2020/Pa.Kds, and the Semarang High Court of Religion in its decision Number 372/Pdt.G/2020/PTA. The decision at the first level and the appeal do not reflect justice, usefulness, or legal certainty. The *maslahah* theory is used in the Supreme Court decision Number 658 K/Ag/2021.²³

Application of Maslahat Theory by Judges The judge did not understand the *maslahat* theory in depth

The *maslahat* theory is special, so not all judges understand it when deciding cases.²⁴ The data processed shows that as many as 50% of Religious Judges still do not know more deeply about the consideration of *maslahah*. This can be seen from the following data:

When questioned about the theory used in deciding Sharia economic cases, some judges said they rarely decide Sharia economic cases, let alone use the theory of *maslahat*. The *maslahat* theory is often heard and read but has not been understood in depth about this theory so it is not widely applied.²⁵

On the one hand, half of religious judges do not have a deep understanding of the *maslahat* theory, but on the other hand, more than half of the religious judges in Indonesia admit to using the *maslahat* theory in deciding Sharia economic cases. From research conducted on Religious Court Judges in Indonesia, as many as 62.5% decided cases considering *maslahah*. In general, judges use the arguments contained in existing rules to resolve sharia economic disputes.²⁶ In general, the legal theories in these various regulations are quite adequate for solving sharia economic law problems.¹ The judges have not gone out of these provisions much.²⁷

Specifically, in deciding Sharia economic

²² Hirsanuddin, Galang Asmara, Abdul Atsar, in his paper Application of Maslahat Mursalah Rules in Business Transaction in Islamic Banking

²³ Faqih Zuhdi Rahman, Mustolih Siradj, Asadurrahman, in the article Judge's Arguments in Decisions Involving Sharia Economic Disputes in the Regional Religious Courts of Jakarta, 2015–2022

²⁴ Muhammad Fadel dkk., “Konsep Maslahah Pada Produk Perbankan Sharia Card,” *Mutanaqishah: Journal of Islamic Banking* 2, no. 2 (2022): 56–68, <https://doi.org/10.54045/mutanaqishah.v2i2.377>.

²⁵ Interview with the Judge of the Semarang PA Religious

Court, April 12, 2023.

²⁶ Sultan Antus Nasruddin Mohammad dan Olla Triana Agilga, “Analisis Merger Bank Syariah Indonesia (BSI) Dengan Pendekatan Maslahah Mursalah,” *Tasyri': Journal of Islamic Law* 1, no. 2 (10 Juli 2022): 319–50, <https://doi.org/10.53038/tsyr.v1i2.38>.

²⁷ Ratna Ratna dan Neni Hardiati, “Aplikasi Maslahah Mursalah Dalam Perekonomian Islam Serta Relevansinya Dalam Penetapan Hukum Islam,” *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 1, no. 11 (27 Juni 2024), <https://doi.org/10.5281/zenodo.12570632>.

cases, religious judges refer to the fatwa of the National Sharia Council (DSN) MUI. The fatwa of the National Sharia Council (DSN) MUI is the primary reference in deciding on the Sharia economy. It's just that the DSN fatwa has not yet become a positive law; its position is only a source of positive law. When transformed into the Financial Services Authority (OJK) regulation, the DSN MUI fatwa can become a positive law. The DSN-MUI fatwa is binding if it is absorbed into laws and regulations. However, in essence, the fatwa issued by DSN-MUI is a positive and binding law because its existence is often litigated through laws and regulations by government institutions, so it must be complied with by Sharia economic actors.²⁸

The Pattern of *Maslahah* Theory in the Decision of Religious Judges in Indonesia

The pattern of the theory of *maslahat* in the decision of religious judges in Sharia economic disputes can be seen from private law, namely based on the agreement of the parties who agree.²⁹ Based on the theory of contracts, contracts agreed upon and proven by the parties' signatures are valid and become a binding law for both parties, called *facta sunt servanda*. The contract can still be revised if neither party has signed the agreement.³⁰ However, if the contract has been agreed and signed and is already running, it can no longer be done.

This happens in sharia economic law cases that have been decided in the Court. In

Decision Number 88 K/AG/2017, there is a case where a customer and the bank have agreed on a financing agreement, where the customer obtains the right to get funds and, at the same time, is obliged to pay monthly instalments. However, after making payments several times, the customer filed a lawsuit by postulating that the agreed *murabahah* contract was not eligible.

In deciding this case, the judge argued that the lawsuit against the *murabahah* contract should not have been carried out after the agreement had occurred and had been partially implemented but before the agreement occurred.³¹ In this case, the plaintiff can be categorized as a party without good faith, so it is not legally protected. If the plaintiff remains protected, it will be a bad precedent undermining Islamic financial institutions' order even though the debtor/Plaintiff has received funds from creditors with pure loan funds (*qardul hasan*) and has used them. If conditions are inappropriate, return the money first, then discuss the return contract. Based on the above case, there was a bad *i'tikad* on the part of the plaintiff. Deciding to punish the plaintiff follows the *Maslahat* theory.

In Decision Number 573 K/AG/2016, in the case of the auction of debt collateral objects, the judge based the decision on the agreement following the contract. According to the agreed contract, customers bound by a *murabahah* contract with the bank are proven not to pay debt instalments. The bank has warned customers 3 (three) times to pay debt

²⁸ Yeni Salma Barlinti, The Position of the Fatwa of the National Sharia Council in the National Legal System, Desertation of S3 University of Indonesia, Year 2010.

²⁹ Zaiyad Zubaidi, "Maslahah Dalam Putusan Hakim Mahkamah Syar'iyah Di Aceh Tentang Perkara Harta Bersama," *El-Ussrah: Jurnal Hukum Keluarga* 4, no. 1 (30 Juni 2021): 198–215, <https://doi.org/10.22373/ujhk.v4i1.10080>.

³⁰ M. Hasbi Umar, Muhammad Muhammad, dan Warfian Saputra, "Penerapan *Maslahah* Mursalah Sebagai Pertimbangan Hakim Dalam Memutus Perkara Di Pengadilan Agama," *Wajah Hukum* 4, no. 2 (19 Oktober 2020): 303–10, <https://doi.org/10.33087/wjh.v4i2.228>.

³¹ Interview with Supreme Court Justice, Amran Suedi, on September 21, 2019 at the Supreme Court of the Republic of Indonesia

instalments, but customers have not done it. So, the customer's actions are categorized as acts of default. Because of the default, the auction of the debt collateral object against the collateral object following the applicable procedures is carried out by the agency authorized to conduct the auction. Until now, the *maslahat* theory has been attached to the purpose of the contract in business activities.³²

The same thing is contained in Decision Number 383 K/AG/2016. This ruling relates to the auction of the object of the dependent rights that the holder of the dependent rights can carry out before maturity. This provision is accompanied by the condition that it must be proven that the customer has broken the promise against the contract. In this case, the dependent right gives privileges to the creditor, and its execution can be done in its power through a public auction without the dependent grantor's (customer) consent. The bank took the funds to pay off its receivables. The basis of this decision is the customer's default behaviour. Defaults committed can be used to execute the right of dependency even though they are not yet due. In other words, the right of dependency and other debt guarantees in the Sharia economic contract can still be executed in the event of default even though the repayment has not been due following the agreement after being warned following applicable provisions."³³

It differs from the application of *maslahah* in Decision Number 192 K/AG/2017. In this case, there is a difference in the calculation between the Panel of Judges and the plaintiff regarding the amount of the remaining principal

instalment and the profit contained in the plaintiff's lawsuit. It cannot make a lawsuit.¹ Differences in calculation may occur due to the waiver following the agreement. The judge looked at this issue by considering whether or not there were objections from the parties regarding the difference in calculation. So, the difference in calculation size is based on the presence or absence of the objecting party. According to the author, this consideration is based on considering benefits, where a detailed calculation will result in a lot of time and cost. However, counting efforts can still be made if anyone objects instead of denying justice. The following table summarizes selected judicial decisions that demonstrate the practical application of *maslahah* theory in resolving Sharia economic disputes

Table 1. of Judges' Decisions Applying the Theory of *Maslahah*

Decision Number	Type of Contract	Main Issue	Judge's Consideration	Application of <i>Maslahah</i>
88 K/AG/2017	Murabahah	Lawsuit after contract execution	Plaintiff acted in bad faith	Lawsuit rejected to maintain Islamic finance system stability
573 K/AG/2016	Murabahah	Default and collateral auction	Customer defaulted after 3 warnings	Auction justified for the benefit of financial institutions
383 K/AG/2016	Security Right	Execution before due date	Proven default	Execution allowed to preserve financing credibility
192	Murabah	Dispute	No	Avoids

³² Achmad Fauzi, "Urgensi Hukum Perikatan Islam Dalam Penyelesaian Sengketa Ekonomi Syariah," *La_Riba* 3, no. 1 (2009): 74–89, <https://doi.org/10.20885/lariba.vol3.iss1.art6>.

³³ Hafidah Ulya Adila, Oyo Sunaryo Mukhlis, dan Ramdani

Wahyu Sururie, "Penyelesaian Sengketa Ekonomi Syariah Berdasarkan Peraturan Undang-Undang," *Falah: Jurnal Hukum Ekonomi Syariah* 6, no. 1 (31 Juli 2024): 26–35, <https://doi.org/10.55510/fjhes.v6i1.248>.

Decision Number	Type of Contract	Main Issue	Judge's Consideration	Application of <i>Maslahah</i>
K/AG/2017	ahah	on installment calculation	objection from parties	unnecessary litigation for efficiency and benefit
1/Pdt.G.S/2020/MS. Bna	Murabahah Wakalah	Productive financing using consumptive contract	Mismatch of contract type and financing goal	Suggests appropriate contract aligned with <i>maqashid</i>

The Principle of Prudence to Uphold *Maslahah*

In deciding Sharia economic cases, judges use the principle of prudence or prudential to uphold *maslahah*. The principle of prudence is one of the essential principles in the business world, and it is in line with the principles of Islamic law.³⁴

The application of this principle can be seen in the judge's decision Number: 0318/Pdt.G/2011/PA.Btl. This case is a case between Marjono M.Ph. bin Ngadiran, Leader/Director of the BMT Bina Sejahtera Mandiri Multi-Business Cooperative (KSU BMT BSM) against Agus Wardoyo bin Supadmo and Nunik Ismayawati binti Sudiyo. Initially, the two parties entered into an agreement/Letter of Agreement for the Multiservice Ijarah Company. BMT has carried out everything following the agreement/agreement, in this case as *Sohibul Maal*. The plaintiff has financed part of the working capital required to run the

business on behalf of the defendant as *Mudhorib* with Multijasa Ijarah financing of Rp. 100,000,000. The defendants agreed to return the Principal of the Loan 1 (one) month after signing the agreement. In addition, the parties also agreed to provide an Rp fee. Ten million will be paid along with the principal payment of the abovementioned loan.³⁵

During their journey, the defendants never paid the principal of the loan of Rp. 100,000,000,- and never paid a fee of Rp. 10,000,000,- and never paid *kafarat* (fine) of Rp. 30,000,- per day. The plaintiff has also tried to resolve this case familiarly with the defendants but has always reached an impasse.

The defendants denied having committed a default. According to them, this agreement is that they are not as *mudhorib* who carries out the work but as the party who lends the house certificate. Meanwhile, the one who is drugged as *mudhorib* is PT UKB (Usahajaya Kita Bersama), represented by Moh Khoiri and Ahmad Rifa'i as PT's Director and President Director. UKB. Therefore, the Multijasa Sharia Ijarah contract agreement is binding on the defendant and PT. UKB as a user and recipient of the loan.³⁶

According to the judge, the agreement made is *Mudharabah*, so the provisions mentioned in the Fatwa of the National Sharia Council No. 07/DSN-MUI/IV/2000 apply. *Mudharabah* financing that is stuck must be in the status quo regarding the principal amount, financing, ratio, *ta'widh*/compensation as per

³⁴ Muhammad Rafki dan Neni Vesna Madjid, "Penyelesaian Sengketa Ekonomi Syariah Di Pengadilan Agama Padang Kelas IA," *Ekasakti Legal Science Journal* 1, no. 4 (31 Oktober 2024): 355–62, <https://doi.org/10.60034/b95ncw96>.

³⁵ Dudung Hidayat, "Implementasi Penyelesaian Sengketa Ekonomi Syariah menurut Perma No. 1 Tahun 2016 pada Lingkungan Peradilan Agama," *Jurnal Syntax*

Transformation 3, no. 11 (28 November 2022): 1508–24, <https://doi.org/10.46799/jst.v3i11.647>.

³⁶ Renny Supriyatni B dan Andi Fariana, "Model Penyelesaian Sengketa Ekonomi Syariah Yang Efektif Dikaitkan Dengan Kompetensi Di Peradilan Agama Dalam Rangka Pertumbuhan Ekonomi Nasional," *Jurnal Jurisprudence* 7, no. 1 (22 Juni 2017): 68–79, <https://doi.org/10.23917/jurisprudence.v7i1.4361>.

Supreme Court Jurisprudence No. 2899/K/Pdt.G/1994 dated February 15, 1996. The fund provider bears all losses resulting from *mudharabah*, and the manager shall not bear any losses unless they result from a wilful error, negligence, or breach of the agreement. This is emphasized in Article 243, paragraph 2 of the Compilation of Sharia Economic Law, which states that capital owners are not entitled to profits if the business carried out by Mudhorib loses. In addition, DSN Fatwa No. 43/DSN/VIII/2004 concerning Ta'wid states that in the *mudharabah* contract, there are no fees and *kafarat*.³⁷

Based on the above considerations, the Panel of Judges considered that the agreement between the Plaintiff and the Defendants regarding the ratio (fee) was contrary to the provisions of the provisions mentioned above so that the agreement dated September 23, 2008 (distribution of fee/*ujroh* of Rp 10,000,000 and fine/*kafarat* of Rp 30,000 per day) was rejected. The judge's decision to grant the lawsuit for the return of the financing on the one hand and reject the refund of the fine or *kafarat* is a form of punishment by the judge against the Sharia financing institution for not using the basis of prudence in providing financing.³⁸ The inability of customers to provide instalments from the first month shows that customers are unable or unwilling at all, so why is financing given? Therefore, the principle of prudence is used to enforce *maslahah* for all parties to the agreement.

Standard Contract: Standards for Enforcing *Maslahah*

In practice, some problems are obstacles to the development of sharia in Islamic financial institutions. In various cases handled by religious courts, Islamic financial institutions provide financing to customers with an agreement to provide collateral. On the other hand, customers feel that the financing provided is unfair. During the trial, there was debate and proof.³⁹

One of the crucial points that must be monitored is the standard contract standard. Do Islamic financial institutions make the standard contracts following Sharia? Not only that but whether the standard is understood by both parties, especially the customer, where the customer feels disadvantaged because the understanding of the occurrence of a Sharia contract is not the same as expected and reality. In this case, the customer usually only signs the contract without knowing the details of what and what mechanism in the agreed contract.⁴⁰

When existing laws do not provide a clear solution or when there is a gap between the legal text and the growing social reality. Therefore, *maslahah* theory is a significant way to overcome the uncertainty or ambiguity in the rules of Sharia economics. In many cases, the rules of Sharia economics often face the challenge of accommodating new situations that are unexpected or that have not been explicitly regulated in the fiqh literature.

³⁷ Andri Halim dan Oyo Sunaryo Mukhlas, "Implementasi Prinsip Sederhana Dalam Penyelesaian Sengketa Ekonomi Syariah Di Indonesia," *Ekasakti Legal Science Journal* 2, no. 1 (3 Februari 2025): 28–37, <https://doi.org/10.60034/hc2n7e50>.

³⁸ Interview with the Chief Judge of the Bantul Religious Court (PA) on October 29, 2019 in Bantul, Yogyakarta

³⁹ Mik Imbah Arbaina dan Fadoilul Umam, "Penyelesaian Sengketa Ekonomi Syariah Dalam Kerangka Hukum

Islam Dan Hukum Positif Di Indonesia," *Iqtishaduna: Jurnal Ilmiah Mahasiswa Hukum Ekonomi Syari'ah*, 7 Januari 2024, 152–67, <https://doi.org/10.24252/iqtishaduna.vi.44212>.

⁴⁰ Muhammad Nurcholis Alhadi, "Perkara Perbuatan Melawan Hukum Dalam Sengketa Ekonomi Syariah," *VERITAS* 7, no. 2 (1 September 2021): 37–58, <https://doi.org/10.34005/veritas.v7i2.1451>.

Therefore, *maslahah*, which focuses on benefiting the people, provides guidelines for judges, lawyers, and policymakers to interpret and apply the law with social welfare and the public interest in mind. Thus, although the regulation of Sharia economics has a strong basis in legal texts, *maslahah* theory provides flexibility in making fairer decisions and following society's needs, especially in the face of existing legal uncertainties.⁴¹

For this reason, the *maslahah* theory must continue to move to seek justice, not only when the case arrives in court trials. However, the root cause of the injustice must be sought, namely how the contract's content agreed upon by the parties can occur. Therefore, the *maslahah* movement must obtain upstream to downstream justice. The theory of *maslahah* must be implemented from the time of creating a contract, which is usually a standard contract. Customers and Islamic financial institutions must jointly understand the content of the contract. Likewise, the notary must be able to provide a correct explanation of the content of the contract following Sharia principles. Also, the function of the Sharia Supervisory Board must be strengthened to review the standard clauses so that the agreed clauses are following sharia. Up to this point, the role and function of the supervisor have become strong.

In the case of Number 88 K/AG/2017, as mentioned above, where the customer and the bank have agreed on a financing agreement; however, over time, after making several payments, the customer filed a lawsuit by

postulating that the *murabahah* contract did not meet the *murabahah* requirements due to the customer's lack of understanding of the contract.

In this case, the judge argued that a lawsuit against the contract, *murabahah*, that has been agreed upon and partially passed cannot cancel the agreement. In this case, the plaintiff can be categorized as a party with bad faith, which is not legally protected.¹ The agreement has indeed been mutually agreed upon, but it may be that the customer does not understand the whole thing, and the customer only understands when he cannot pay, which causes consequences that he does not know from the beginning. Although the judge had a reason, if the Plaintiff remained protected, it would be a bad precedent that damaged the order of Islamic financial institutions.⁴²

The conception and practice of sharia economic law must be the ultimate goal. *Maslahah*, as a theory, must move dynamically to uphold the legal goals. In private jurisdiction, the contract made by the parties must use the size of the *maslahah* from the beginning of the contract making. Contracts that are not made transparently pay attention to all interests of both parties, and, of course, the common good will reap problems in the future. Similarly, establishing laws and regulations on Sharia economics in public law must make *maslahah al-'ammah* the only goal.⁴³

A debtor (defendant) has entered into a working capital financing agreement using the *murabahah bil wakalah* contract with Bank Syariah as the creditor (Plaintiff) with land

⁴¹ Abdur Rahman Adi Saputera, "Penyelesaian Sengketa Ekonomi Syariah Di Indonesia," *Nizham Journal of Islamic Studies* 7, no. 01 (12 Juli 2019): 131–48.

⁴² Yunimar Yunimar, "Penyelesaian Sengketa Ekonomi Adat Minang: Perspektif Hukum Ekonomi Syariah," *Saqifah: Jurnal Hukum Ekonomi Syariah* 8, no. 2 (2023):

63–72.

⁴³ Ahmad Khotibul Umam, "Hukum Penyelesaian Sengketa Ekonomi Syariah Di Indonesia," *Risalah, Jurnal Pendidikan Dan Studi Islam* 3, no. 1 (2106): 1–15, https://doi.org/10.31943/jurnal_risalah.v3i1.21.

and/or land and building guarantees based on title certificates. According to the agreement, the defendant was given 48 months to make instalments and margin payments. However, Defendant could not pay his obligations every month and only paid eight instalments out of 48 months of instalments that should have been paid. In its postulate of the lawsuit, Plaintiff stated that it had tried to deliberate to find consensus on Defendant's financing conditions. However, Defendant still ignored his obligations, so Plaintiff summoned Defendant 3 times to pay off his obligations immediately. The attempt was also unsuccessful, so the Plaintiff stated that the Defendant had committed an injury to the promise (default).⁴⁴

The basis of the consideration of the judge of the Banda Aceh Syar'iyah Court in determining the decision No.1/Pdt.G.S/2020/MS. Bna shows that there is an inaccuracy in the use of the contract for financing purposes. They carry out a working capital agreement, which is productive financing using the *Murabahah* bil Wakalah contract, whose basis is buying and selling. In general, this *Murabahah* contract is used for consumptive financing. If productive financing is used in a sale and purchase contract such as *Murabahah* and not a cooperation contract, then the risk the customer bears is certainly greater, so the potential for default disputes also increases.⁴⁵

The continuity of using this inappropriate contract can increase the birth of disputes. Such problems then raise questions about the effectiveness of dispute resolution through simple lawsuits. It is hoped that judges in adjudicating and deciding cases can balance the use of formal and material legal foundations and pay more attention to the long-term impact of the decisions made.

Challenges of *Maslahah* Implementation in Resolving Sharia Economic Law Disputes

The implementation of the *Maslahah* Legal Movement in resolving sharia economic law disputes in courts in Indonesia faces various complex challenges. *Maslahah*, which focuses on the good and public interest, prioritizes justice in every legal decision. However, the challenges in its application require deep attention so that this principle can be optimized in the practice of sharia law.⁴⁶

One of the main challenges is the difference in interpretation and understanding of the principle of *Maslahah*. Many judges and lawyers come from different educational backgrounds, resulting in a varied understanding of applying this principle. About 65% of Sharia judges in Indonesia feel less confident in applying the *Maslahah* principle in their decisions, indicating the need for better training in this area.⁴⁷

In addition, the lack of clarity in regulations related to *Maslahah* is also a

⁴⁴ Nurhayati Nurhayati, "Penyelesaian Sengketa Dalam Hukum Ekonomi Islam," *Jurnal Hukum Ekonomi Syariah* 3, no. 1 (20 Juni 2019): 01–11, <https://doi.org/10.26618/j-hes.v3i1.2118>.

⁴⁵ Karmuji, "Kesiapan Peradilan Agama Dalam Sengketa Ekonomi Syariah," *Ummul Qura Jurnal Institut Pesantren Sunan Drajat (INSUD) Lamongan* 13, no. 1 (1 Maret 2019): 82–94, <https://doi.org/10.55352/uq.v13i1.410>.

⁴⁶ Erie Hariyanto, "Public Trust in the Religious Court to

Handle Dispute of Sharia Economy," *AHKAM: Jurnal Ilmu Syariah* 22, no. 1 (30 Juni 2022), <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/26216>.

⁴⁷ Abd Halim Mushthofa, "Aplikasi Teori *Maslahah* Dalam Produk Pengadilan Agama (Kajian Kritis Terhadap Beberapa Keputusan Pengadilan Agama)," *Tribakti: Jurnal Pemikiran Keislaman* 27, no. 1 (5 Januari 2016): 131 ~ 149-131 ~ 149, <https://doi.org/10.33367/tribakti.v27i1.262>.

significant obstacle. Law Number 21 of 2008 concerning Sharia Banking does not provide specific guidelines regarding applying *Maslahah* in dispute resolution. As a result, many courts struggle to find a solid legal basis when deciding cases involving these principles. In practice, many cases result in inadequate decisions due to a lack of supportive regulations. Sharia economic law disputes often involve complex situations like multi-party transactions or business deals.⁴⁸

A study conducted by Bank Indonesia in 2023 revealed that 75% of disputes submitted to Sharia courts involve more than two parties. In these cases, implementing *Maslahah* becomes more difficult due to the need to consider the interests of all parties involved, which are often at odds with each other.

In many cases, it has been revealed that one of the main problems in resolving sharia economic disputes through the consideration of *maslahah* is the lack of a deep understanding of the concept of *maslahah* by the parties involved, including lawyers. This significantly affects the dispute resolution process, as a lack of understanding can lead to improper application of the law and a lack of social justice in the decisions taken.

Research conducted by the author shows that about 75% of law enforcers involved in Sharia economic disputes seen in the diagram above show that they do not fully understand the principle of *maslahah*, which should be the basis for assessing any decision oriented toward the public interest and social welfare.

This lack of understanding often hinders the dispute resolution process, which should

prioritize social justice rather than mere adherence to rigid legal texts. *Maslahah* theory in resolving Sharia economic disputes is always dynamic; therefore, increasing understanding of the concept of *maslahah* among law enforcers and related parties is very important so that the settlement of Sharia economic disputes can be more effective and provide optimal benefits for the community.

In some cases, there is resistance from the parties involved in the dispute to the application of the *Maslahah* principle. For example, in the case of a dispute between two Sharia companies in Jakarta in 2023, one of the parties refused to accept mediation focused on mutual interests, preferring to continue litigation. This attitude reflects that some businesses are still more comfortable with conventional settlement methods, which can lead to more definitive decisions.⁴⁹

The lack of support and resources to apply the principles of *Maslahah* in the courts is also a challenge. Data from the Supreme Court shows that Sharia courts in Indonesia often lack the resources to provide adequate training for judges and staff. Only 30% of judges have taken special training on *Maslahah* and its application in dispute resolution. This has an impact on the effectiveness and fairness of the legal process. Evaluating the impact of the application of *Maslahah* in dispute resolution is also a challenge. There is no clear metric to measure how effectively this principle is applied in legal decisions. In a study by the Islamic University of Indonesia in 2022, only 20% of respondents felt they could objectively evaluate decisions based on the *Maslahah* principle. The absence of

⁴⁸ Rossy Ibnul Hayat dan Sukardi Sukardi, "Analisis Pertimbangan Hakim Dalam Memutus Perkara Ekonomi Syariah Terkait Wanprestasi," *Khatulistiwa Law Review* 1, no. 2 (8 November 2020): 163–81, <https://doi.org/10.24260/klr.v1i2.72>.

⁴⁹ Ani Yunita, "Efektifitas Penyelesaian Sengketa Ekonomi Syariah Melalui Badan Arbitrase Syariah Nasional Daerah Istimewa Yogyakarta," *Jurnal Hukum Progresif* 9, no. 1 (30 April 2021): 25–36, <https://doi.org/10.14710/jhp.9.1.25-36>.

these evaluation criteria makes it difficult for judges to make decisions that align with these principles.

No less important, the lack of public awareness about the principle of *Maslahah* in Sharia law is another obstacle. Based on the survey, some still do not understand what *Maslahah* is and how it is applied in dispute resolution. Society will not support using this principle in a legal context without an adequate understanding.⁵⁰

With these challenges, all stakeholders must work together to improve their understanding of and application of the *Maslahah* principle in settling Sharia economic law disputes in court. Efforts to provide better training, clarify regulations, and raise public awareness will go a long way in addressing these challenges. In this way, *maslahah* can function as a practical guideline for creating justice and goodness for all parties involved.

Conclusion

The application of *maslahah* theory in the settlement of sharia economic law disputes in Indonesia is still not optimal. Many religious judges do not understand this concept adequately, so they have not made it the primary basis for assessing the validity and fairness of economic contracts. The standard contracts used in practice are often rigidly drafted without considering the principles of *maslahah* from the start, which ultimately affects the substance of the judge's decision and does not reflect the values of justice in Islam. The main challenges in implementing

maslahah include the limited intellectual capacity of judges, disparities in understanding due to different educational backgrounds, and the lack of clarity in regulations that bind the principle of *maslahah* in the national legal system. In addition, the lack of public literacy regarding this principle further weakens its actualization in sharia economic practice. This condition shows the need for a more responsive legal approach to *maqāṣid al-sharī'ah*.⁵¹

To overcome this, it is necessary to strengthen the capacity of judges through training focused on the theory and application of *maslahah*, the improvement of regulations by lawmakers, and the positivization of the DSN-MUI fatwa by regulators so that they have binding legal force. On the other hand, increasing public awareness of the importance of the *maslahah* principle is also an essential part of building a fair and contextual sharia economic and legal system.

Credit Authorship Contribution

Mustapa Khamal Rokan conceptualized the research idea and designed the overall structure of the study. He led the formulation of the legal-theoretical framework on *maslahah*, supervised the field data collection process, and ensured coherence between empirical findings and Islamic jurisprudential principles. Chuzaimah Batubara coordinated qualitative data collection through interviews and questionnaire distribution to judges across Indonesian Religious Courts. She was also responsible for organizing and interpreting

⁵⁰ Muhammad Hajir Susanto, Fattah Nur Muizz, dan Muhammad Habibi Miftakhul Marwa, "Penerapan Alternatif Penyelesaian Sengketa Wanprestasi Atas Premi Pemegang Polis Di PT. Asuransi Jasindo Yogyakarta," *Borobudur Law Review* 3, no. 2 (16 Agustus 2021): 84–98, <https://doi.org/10.31603/burrev.5253>.

⁵¹ Abdur Rahman Adi Saputera, "Dilematika Penyelesaian Sengketa Ekonomi Syariah Dan Refleksi Hukum Islam Bagi Non Muslim Yang Bersengketa," *Iqtishaduna: Jurnal Ilmiah Mahasiswa Hukum Ekonomi Syari'ah*, 5 April 2021, 173–83, <https://doi.org/10.24252/iqtishaduna.v2i2.15630>.

empirical data, especially judicial patterns and legal reasoning in economic disputes. Zulham conducted an extensive review of regulatory documents including DSN-MUI fatwas, OJK regulations, and decisions from the Religious and Supreme Courts. He also contributed to drafting and refining the Results and Discussion sections, and ensured methodological consistency and adherence to ethical research standards

Declaration of Competing Interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this article. The authors gratefully acknowledge the State Islamic University of North Sumatra, for providing institutional support and access to judicial and academic resources essential to the completion of this study.

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