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The Legal Policy Regarding the Application of Sharia Economic Legal Principles in the Sharia Banking System in Indonesia

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ABSTRACT

The growth of the Sharia banking industry in Indonesia requires legal policies ensuring the effective application of Sharia economic principles within the national banking system. The enactment of Law Number 21 of 2008 concerning Sharia Banking, reinforced by Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK), demonstrates the state's commitment to strengthening Sharia banking regulation, governance, and supervision. This study analyzes legal policy regarding the application of Sharia economic principles within Indonesia's Sharia banking system, evaluates its implementation, and identifies future policy directions. The research employs a normative-juridical method using statutory, conceptual, and analytical approaches. Data were obtained through a literature review of primary, secondary, and tertiary legal materials and analyzed qualitatively using a descriptive-analytical method. The findings indicate that Sharia economic principles have a robust legal foundation through regulations concerning Sharia contracts (*akad*), Sharia compliance, and supervision by the Financial Services Authority (OJK) and Sharia Supervisory Board (DPS). However, implementation faces challenges involving regulatory harmonization, financial service digitalization, product innovation, and low public literacy. Therefore, legal policy strengthening should focus on regulatory harmonization, improved supervision, Sharia-compliant digital transformation, and enhanced financial literacy to establish a fair, sustainable, and competitive Sharia banking system.

Keywords: *Sharia Economic Law, Sharia Banking, Politics of Law, Sharia Principles, Regulation.*

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1. | INTRODUCTION

The development of the Sharia banking industry in Indonesia has shown significant growth over the past two decades. Sharia banking is viewed not only as an alternative financial system free from usury (*riba*) practices but also as an instrument for national economic development that prioritizes principles of justice, partnership, transparency, and balance. Unlike conventional banking systems which are based on interest mechanisms Sharia banking applies principles of Sharia economic law derived from the Quran, Hadith, consensus (*ijma'*), and scholarly legal reasoning (*ijtihad*). These principles have been incorporated into the national legal system through various regulations, most notably Law Number 21 of 2008 concerning Sharia Banking, which serves as the primary legal foundation for Sharia banking operations in Indonesia (Muyasaroh 2022).

The politics of law refers to the state's fundamental policy regarding the formulation, implementation, and development of law to achieve national objectives. In the context of Sharia banking, this legal policy aims to establish a banking system that not only provides legal certainty but also reflects values of justice, utility, and certainty in accordance with Sharia principles. The enactment of Law Number 21 of 2008 represents the state's commitment to legitimizing the Sharia financial system while fostering a business environment conducive to the growth of the Sharia banking industry in Indonesia. According to Rulanda et al. (2020), the politics of law concerning Sharia banking aims to create a sound and stable financial system capable of supporting national economic development through the consistent application of Sharia principles.

The regulatory framework for Sharia banking has been further strengthened by the enactment of Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK Law), which amends several provisions of Law Number 21 of 2008. This regulation reinforces the governance of Sharia financial institutions, risk-based supervision, and Sharia financial product innovation, while also bolstering the authority of the Financial Services Authority (OJK) to oversee and supervise the Sharia banking industry. The introduction of the P2SK Law demonstrates the evolution of national legal policy in adapting to the increasingly dynamic needs of the financial services sector and enhancing the competitiveness of the Sharia banking industry at both national and global levels. Nevertheless, the implementation of Sharia economic legal principles in banking practice continues to face various challenges. Research indicates discrepancies between the normative concepts stipulated in regulations and actual operational practices particularly regarding the application of Sharia contracts (*akad*), profit-and-loss sharing mechanisms, risk management, and compliance with the religious rulings (*fatwa*) of the National Sharia Board of the Indonesian Council of Ulama (DSN-MUI). According to Sari and Mustofa (2024), the increasing complexity of Sharia banking products necessitates the harmonization of state regulations, DSN-MUI, and business practices to ensure continued alignment with Sharia economic legal principles. Furthermore, the rise of financial technology and the digitalization of banking services present new challenges for the implementation of Sharia principles. While digitalization accelerates financial service innovation, it simultaneously requires updates to legal policies to ensure that compliance with Sharia principles is maintained. Nuraini (2023) asserts that future legal policy regarding Sharia banking must successfully integrate digital technological advancements with Sharia principles without compromising legal certainty or customer protection.

Given this context, this study aims to analyze the legal policy regarding the application of Sharia economic legal principles within Indonesia's Sharia banking system, evaluate the implementation of prevailing regulations, and identify the direction for strengthening legal policy to support the development of a Sharia banking industry that is equitable, sustainable, and aligned with Sharia values.

Based on this background, the study addresses three research questions: 1. How does legal policy in Indonesia govern the application of Sharia economic legal principles within the Sharia banking system? 2. How are Sharia economic legal principles implemented in the practice of Sharia banking in Indonesia, and what challenges are encountered in their execution? 3. What direction should legal policy take to strengthen and enhance the effectiveness of applying Sharia economic legal principles within Indonesia's Sharia banking system?

2. | RESEARCH METHOD

This study employs a normative juridical research method to analyze legal norms governing the application of Sharia economic law principles within Indonesia's Sharia banking system. This approach views law as a set of norms contained in legislation, legal doctrines, and relevant legal decisions that provide the foundation for Sharia banking operations. The study aims to examine the alignment between state legal policy and the implementation of Sharia economic law principles in banking practice. The normative juridical approach is appropriate because the research focuses on legal regulations, principles, and concepts rather than empirical measurements of banking activities. The study applies three approaches: the statute approach, conceptual approach, and analytical approach. The statute approach examines regulations governing Sharia banking, particularly Law Number 21 of 2008 concerning Sharia Banking, as amended by Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK), Law Number 21 of 2011 concerning the Financial Services Authority (OJK), and relevant OJK Regulations (POJK).

The conceptual approach analyzes the concepts of Sharia economic law, Sharia compliance, governance, and legal policy, while the analytical approach examines the relationship between regulatory provisions and their implementation. The legal materials consist of primary sources, including legislation; secondary sources, including books, scholarly articles, research findings, and recent academic journals; and tertiary sources, including legal dictionaries, encyclopedias, and relevant official documents. Data were collected through library research and selected based on their relevance to the research objectives. The legal materials were analyzed qualitatively using a descriptive-analytical method through systematic inventory, classification, and interpretation. The analysis evaluates the direction and effectiveness of legal policy, identifies regulatory gaps, and formulates recommendations for strengthening Sharia banking regulation, supervision, compliance, and institutional governance in response to the evolving financial sector.

3. | RESULTS AND DISCUSSION

The Legal Policy Regarding the Application of Sharia Economic Legal Principles in the Sharia Banking System in Indonesia

The politics of law refers to state policy regarding the formulation, implementation, and development of law to achieve national objectives as mandated by the 1945 Constitution of the Republic of Indonesia. In the Sharia finance sector, this political-legal approach is manifested through the establishment of regulations that ensure the application of Sharia principles across all banking business activities, thereby creating a financial system that is fair, transparent, and oriented toward the public interest (Haikal et al., 2024). Regulations concerning Sharia banking in Indonesia are specifically set forth in Law Number 21 of 2008 on Sharia Banking, which was subsequently reinforced by Law Number 4 of 2023 on the Development and Strengthening of the Financial Sector (P2SK). The existence of these two regulations demonstrates the government's commitment to strengthening the institutional framework, governance, and competitiveness of the Sharia banking industry amidst the evolution of the global financial system (Samsudin & Mukhlas, 2024).

Normatively, the application of Sharia economic legal principles is grounded in the concepts of justice (*al-'adl*), balance (*tawazun*), public interest (*maslahah*), and transparency (*amanah*), alongside prohibitions against practices such as usury (*riba*), uncertainty/ambiguity (*gharar*), gambling/speculation (*maysi*r), and bribery (*risywah*), as well as transaction objects that conflict with Islamic Sharia. These principles serve as the foundation for every financing product, fund-raising activity, and financial service provided by Sharia banks (Supriadi & Ismawati, 2020).

The implementation of these principles aims not only to satisfy religious requirements but also to establish a more equitable economic system through profit-and-loss sharing mechanisms. This system distinguishes Sharia banks from conventional banks, which rely on interest-based mechanisms to generate returns (Ramadhan et al., 2024). National legal policy also legitimizes the National Sharia Board of the Indonesian Ulema Council (*DSN-MUI*) as the authority responsible for issuing religious rulings (*fatwa*) regarding the Sharia compliance of banking products and business activities. These DSN-MUI serve as a reference for the Financial Services Authority (OJK) and Bank Indonesia when drafting technical regulations for Sharia banking operations (Rulanda et al., 2020). Nevertheless, the evolution of the Sharia banking industry reveals that implementing Sharia economic legal principles still faces various challenges. One such challenge is the growing complexity of Sharia financial products, which necessitates the harmonization of state regulations, DSN-MUI, and international standards issued by the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) and the Islamic Financial Services Board (IFSB). Furthermore, the digitalization of banking services has spurred the emergence of various financial technology (fintech)-based product innovations. While these innovations offer opportunities to enhance Sharia financial inclusion, they also present legal challenges concerning personal data protection, electronic transaction security, Sharia compliance, and operational risk mitigation (Irsyad et al., 2024). Supervisory oversight is another crucial aspect of Sharia banking legal policy. By strengthening the authority of the Financial Services Authority (OJK) following the enactment of the P2SK Law, the government aims to improve the effectiveness of supervision regarding Sharia banks' adherence to Sharia principles, good corporate governance, and risk management. Strengthening this supervisory function is expected to boost public confidence in the Sharia banking industry.

From the perspective of the politics of law, these regulatory developments demonstrate that the state functions not merely as a creator of legal norms but also as a facilitator for the development of a competitive and sustainable Sharia economic system. Consequently, regulatory updates must be continuously pursued to accommodate advancements in digital technology, financial product innovation, and evolving public needs, all while upholding Sharia principles. Based on the foregoing, it is evident that the legal policy regarding the application of Sharia economic legal principles in Indonesia has evolved progressively through the enactment of increasingly comprehensive regulations. Nevertheless, the effectiveness of its implementation still requires strengthened regulatory harmonization, enhanced supervisory quality, and synergy among the government, the OJK, the DSN-MUI, the banking industry, and the public.

Implementation of Sharia Economic Law Principles in the Sharia Banking System in Indonesia

The implementation of Islamic economic legal principles in Indonesia's Islamic banking system is a concrete manifestation of national legal policy that integrates Islamic values into the positive legal system. These principles include the prohibition of usury (*riba*), uncertainty (*gharar*), speculation (*maysir*), bribery (*risywah*), and transactions involving objects that conflict with Islamic law. All of these principles form the basis for organizing fundraising activities, disbursing financing, and providing Islamic financial services, as stipulated in Law Number 21 of 2008 concerning Islamic Banking and reinforced by Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK). This strengthening of regulations demonstrates the government's efforts to create an Islamic banking system that not only meets legal certainty but also supports the stability of the national financial system (Ichsandi 2024).

In practice, the implementation of Islamic economic law principles is realized through the use of various Islamic contracts, such as *mudharabah, musyarakah, murabahah, ijarah, istisna', and wakalah*. Each contract has different legal characteristics according to the purpose of the transaction and the distribution of rights and obligations of the parties. The mudharabah contract, for example, positions the bank as the capital provider and the customer as the business manager, with a profit-sharing mechanism based on an agreed-upon ratio, while the business risk is borne in accordance with Islamic principles. The application of these contracts is the main difference between the Islamic banking system and the conventional banking system, which uses interest as the basis for profit sharing (Asse 2021).

Beyond the application of contracts (*akad*), the implementation of Sharia principles is also reflected in Sharia compliance mechanisms. Every Sharia bank is required to ensure that all its products, services, and business activities align with the religious rulings (*fatwa*) issued by the National Sharia Board of the Indonesian Council of Ulama (DSN-MUI). Compliance is monitored by the Sharia Supervisory Board (DPS) within each Sharia bank and overseen by the Financial Services Authority (OJK). This multi-layered oversight system aims to maintain consistency in the application of Sharia principles while boosting public confidence in the Sharia banking industry.

Nevertheless, the implementation of Sharia economic legal principles faces various challenges. One such challenge is the emergence of digital-based financial product innovations, which necessitate adjustments to regulations and Sharia fatwas. The digitalization of banking services, the use of financial technology (fintech), and the rise in electronic transactions require more adaptive oversight mechanisms to ensure that product innovations remain aligned with Sharia principles. Furthermore, the complexity of modern financial transactions calls for the harmonization of national regulations with international standards issued by the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) and the Islamic Financial Services Board (IFSB) to continuously enhance the competitiveness of Indonesia's Sharia banking industry.

Another factor influencing the implementation of Sharia economic legal principles is the level of public literacy regarding Sharia banking products and services. Although Sharia banking assets and networks continue to grow, public understanding of the characteristics of Sharia contracts, profit-sharing mechanisms, and the fundamental differences compared to conventional banking systems remains varied. Therefore, enhancing Sharia financial education, strengthening governance, and fostering product innovation grounded in Sharia principles are crucial factors in increasing Sharia financial inclusion in Indonesia (Sutarsih 2023).

Based on the foregoing, it can be concluded that the implementation of Sharia economic legal principles within Indonesia's Sharia banking system rests on a robust normative foundation and is supported by increasingly comprehensive regulatory developments. Nevertheless, the effectiveness of its implementation still requires strengthening in terms of Sharia compliance, regulatory harmonization, institutional oversight, product innovation development, and the enhancement of public financial literacy. In addition, the effectiveness of Sharia economic law implementation depends on the consistency between normative requirements and banking practices. Regulatory compliance should not be limited to formal fulfillment of Sharia requirements but should also ensure that the substance of every transaction reflects justice, transparency, and balanced risk allocation. This is particularly important in financing activities, where the contractual relationship between banks and customers must provide clear information regarding rights, obligations, risks, and profit-sharing mechanisms. Strengthening institutional coordination between OJK, DSN-MUI, and DPS is therefore necessary to ensure that regulatory interpretation and supervisory practices remain consistent. Such coordination can also facilitate faster responses to emerging financial products and technological developments while maintaining the fundamental principles of Sharia economic law.

The Direction of Strengthening the Politics of Law regarding the Application of Sharia Economic Legal Principles in Indonesia

The development of the Sharia banking industry in Indonesia demonstrates that strengthening the legal policy involves not only the formulation of regulations but also enhancing the effective implementation of Sharia economic legal principles in banking practice. An adaptive legal policy is essential to ensure regulations keep pace with the evolution of the digital economy, financial product innovations, and public demand for financial services that align with Sharia principles. Through Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK), the government aims to reinforce the legal framework for the financial services sector including the Sharia banking industry by establishing a more comprehensive legal basis for institutional development, governance, supervision, and Sharia financial product innovation (Rohmah et al., 2024).

A key objective in strengthening this legal policy is to enhance harmonization among Law Number 21 of 2008 concerning Sharia Banking, the P2SK Law, implementing regulations issued by the Financial Services Authority (OJK), and the religious rulings of the National Sharia Board of the Indonesian Council of Ulama (DSN-MUI). Such harmonization is crucial to prevent divergent interpretations regarding the application of Sharia contracts and the development of Sharia financial products. According to Uspitawati and Mustafid (2024), the interplay between state regulations and Sharia fatwas is a vital factor in ensuring legal certainty and maintaining consistency in the application of Sharia principles across all banking activities.

Beyond regulatory harmonization, the strengthening of legal policy must also focus on enhancing Sharia compliance effectiveness by optimizing the function of the Sharia Supervisory Board (DPS). The DPS plays a strategic role in ensuring that all Sharia banking operations ranging from fund mobilization and financing to the provision of banking services align with Sharia principles. Syaifulloh (2024) explains that bolstering the independence and competence of the DPS is a key indicator of a successful Sharia supervisory system. Consequently, improving human resource quality, professional certification, and risk-based supervision constitutes a vital part of reforming Sharia banking legal policy.

Digital transformation is another aspect requiring attention within the legal policy framework for Sharia banking. The digitalization of financial services has spurred the emergence of digital banking, mobile banking, electronic payments, and various financial technology (fintech) innovations. While these developments offer significant opportunities to enhance Sharia financial inclusion, they also present legal challenges regarding cybersecurity, personal data protection, Sharia compliance, and operational risk mitigation. According to Rofiullah (2024), Sharia banking must be capable of accommodating digital transformation without compromising the substance of Sharia economic legal principles, which define the core character of the Sharia financial system.

Strengthening legal policy must also aim to enhance Sharia financial literacy and inclusion. Research indicates that limited public understanding of concepts such as Sharia contracts (*akad*), profit-sharing mechanisms, and the distinctions between Sharia and conventional banks remains a factor hindering the growth of the Sharia banking industry. Improving Sharia financial literacy can be achieved through public education, curriculum development, the promotion of Sharia banking products, and the use of digital media to disseminate information. These efforts are expected to boost public trust while simultaneously expanding access to Sharia financial services.

Furthermore, national legal policy needs to strengthen collaboration among the government, the Financial Services Authority (OJK), Bank Indonesia, the National Committee for Sharia Economy and Finance (KNEKS), the National Sharia Board of the Indonesian Council of Ulama (DSN-MUI), and industry players in formulating strategic policies for the development of the sharia economy and finance. Such inter-institutional synergy is essential to create an integrated sharia finance ecosystem, encompassing regulation, supervision, product innovation, and human resource development. Consequently, the strengthening of legal policy regarding the application of sharia economic legal principles must be pursued comprehensively through regulatory harmonization, the reinforcement of sharia supervisory systems, human resource capacity building, the optimization of digital transformation, the enhancement of sharia financial literacy, and improved inter-institutional coordination. These policies are expected to foster a sharia banking system that is more effective and competitive, while remaining grounded in the values of justice, utility, and legal certainty.

4. | CONCLUSION

Based on the research findings, it can be concluded that legal policy concerning the application of Sharia economic legal principles within Indonesia's Sharia banking system has developed progressively through various regulations that provide legal certainty for Sharia banking operations. Law Number 21 of 2008 concerning Sharia Banking, reinforced by Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK), demonstrates the state's commitment to establishing a financial system based on justice, public interest (*maslahah*), balance, and transparency, while prohibiting usury (*riba*), uncertainty (*gharar*), gambling (maysir), and transactions contrary to Sharia principles. The implementation of Sharia economic law is reflected in the application of Sharia contracts (*akad*), Sharia compliance mechanisms, supervision by the Sharia Supervisory Board (DPS), and strengthened oversight by the Financial Services Authority (OJK).

Nevertheless, the effectiveness of these principles continues to face challenges, particularly regulatory harmonization with the fatwas of the National Sharia Board Indonesian Ulema Council (DSN-MUI), digital transformation, financial product innovation, and limited public Sharia financial literacy. Therefore, effective implementation depends not only on comprehensive regulations but also on effective supervision, competent human resources, and institutional readiness. Future legal policies should prioritize regulatory harmonization, stronger Sharia supervision, improved human resource competence, responsible digital transformation, and increased Sharia financial literacy and inclusion. Synergy among the government, OJK, Bank Indonesia, DSN-MUI, industry stakeholders, and the public is essential to establish a more effective, competitive, and sustainable Sharia banking system. Strengthening this legal framework is expected to enhance legal certainty, public confidence, economic development, and the realization of justice and public welfare.

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The authors declare that there is no conflict of interest.

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Ethical approval was obtained for this study. The manuscript represents original work and has not been previously published, nor is it under consideration by another journal.

Data Disclosure Statement

The data that support the findings of this study are available from the corresponding author upon reasonable request.

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