

Revisiting the Compilation of Islamic Economic Law in Indonesia: Legal Challenges and Pathways to Harmonization

Yasardin^{1*}, Syuhood B. Kooria²

¹Supreme Court of the Republic of Indonesia, Indonesia

²Vrije Universiteit Brussel, Belgium

*Corresponding Author: yasardin.101159@gmail.com

|| *Recieved: 20-11-2024* || *Revised: 18-06-2025* || *Accepted: 23-06-2025*

Abstract: This study examines the urgency of revising the significant gaps in the Compilation of Sharia Economic Law (KHES). Misalignment between the KHES and the fatwas of the National Sharia Council of the Indonesian Ulama Council (DSN-MUI)—the reference for sharia economic practices in Indonesia—has led to inconsistent application of Islamic economic law across the country. This study emphasized the necessity for realigning KHES with DSN-MUI and adapting to the evolving landscape of contemporary Islamic economics. Using a legal-normative approach, we conducted a literature review, analyzing relevant legislation, DSN-MUI fatwas, and other literature to assess the effectiveness of KHES and pinpoint areas for improvement. Our key findings indicated that KHES did not consistently align with the DSN-MUI Fatwa and fell short of addressing the norms required for modern Sharia economic practices. If this situation is not remedied, it could lead to a multi-level crisis of legitimacy, resulting in legal uncertainty and eroded trust in religious courts. A viable solution lies in legal harmonization, which can facilitate necessary normative adjustment and foster a radical transformation through systemic reconstruction and comprehensive restructuring of the existing normative framework.

Keywords: KHES; DSN-MUI Fatwas; Harmonization; Revising; Legal Certainty.

Introduction

The swift, accurate, and legally specific resolution of disputes fundamentally influences a country's economic climate (Kokocińska & Żywicka, 2023). An efficient dispute resolution mechanism expedites legal processes and fosters a conducive business environment, promoting a sense of safety and assuredness for domestic and foreign investor (Hutauruk, 2023; Topçu, 2023). In the context of Islamic economy, the Religious Court plays a strategic role in the hearing and adjudication of cases related to Islamic economics under the provisions of Law No. 3 of 2006, strengthened by Law No. 50 of 2009 and Constitutional Court Decision No. 93/PUU-X/2012 (Winarsi et al., 2021; Najib, 2020). Since 2024, religious courts have handled 3,601 Islamic economic cases, marking a double increase from 496 to 712 cases between 2022 and 2024 (Badilag, 2017-2025; Taufiki et al., 2022). These figures suggest a growing concern that Sharia economic disputes are becoming a growing concern within Indonesia's religious court system.

Despite the formal establishment of religious court authority to address Sharia economic cases, there is a lack of comprehensive law that specifically regulates dispute resolution of Sharia economics, particularly civil law or Sharia contracts in modern Islamic economic transactions (Abdullah et al., 2024). It leads to a legal vacuum, making the existing dispute resolution uncertain and challenging. In response, the Supreme Court issued the Supreme Court Regulation (PERMA) No. 2 of 2008, which issued the Compilation of Islamic Economic Law (KHES) as the primary guideline for religious courts in handling Islamic economic cases (Hasanudin et al., 2024). The KHES develops a legal framework consistent with Sharia principles, serving as a strong foundation in Sharia economic dispute resolution.

However, the implementation of KHES faces significant challenges. Several substantive legal provisions in the KHES are inconsistent with sharia economic practices in Indonesia. A study by the Policy Strategy Center (PUSTRAJAK) of the Indonesian Supreme Court revealed that the KHES has not fully accommodated the dynamics and complexity of the modern Islamic economy, such as the Sharia Exchange Traded Funds (ETFs), Government and Business Entity Cooperation Schemes (KPBU) Based on Availability Payment, the Application of Sharia Principles in the Protection of Capital Market Investor Assets, Online Shops, Dropship, and Marketplaces Based on Sharia Principles, and many others (Khairul et al., 2024). Also, some existing provisions lose relevance to the latest fatwas issued by the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) (Tarmidzi et al., 2024).

These issues fuel concerns about declining legal certainty and potential obstacles to upholding substantive justice according to Sharia principles (Hariyanto et al., 2023). Legal uncertainty arises due to a mismatch between two legal frameworks—religious rules of fatwa and the KHES legal system—governing the same economic transactions. Business and economic actors trust and rely on fatwas when performing transactions, but when disputes arise and legal settlement is in place, the court applies KHES, which may not perfectly align with the fatwas. Therefore, KHES's substantive contents need amendment to stay relevant with the development of Islamic economics, ensuring legal certainty, regulatory harmony, and strengthening the court authority to deliver fair and sharia-compliant decisions.

Robust studies have examined the KHES and the challenges it faces in resolving Sharia economic disputes. A normative legal approach found that religious court judges often face legal obstacles due to inadequate formal and material legal provisions in Sharia economics, including the KHES (Hasanudin et al. 2024). A study employing an empirical legal approach revealed discrepancies in *mudharabah* rules between the Quran, the Financial Services Authority Regulations (POJK), and KHES (Yuspin et al. 2020) and different implementations of *hibah* in KHES and the Compilation of Islamic Law (KHI) in a normative study (Apriantoro et al., 2023). These findings necessitate the alignment of KHES provisions with existing regulations. In fact, KHES is essentially a contemporary *ijtihad* formed using the *taghlyir* methodology that should stay relevant with the current era (Hidayat, 2025). Not all studies discussed the urgency of revising the KHES or the detailed revision process, including the consequences if it remains in the status quo.

This article outlines the urgency of revising the KHES and the potential impacts if the amendment is not followed. Conducting a comprehensive literature review, this study will address two primary questions: why amending the KHES is essential and what consequences will result if amendment is opted out. The results are expected to promote justice and legal certainty in resolving Sharia economic disputes in Indonesia and support a strong and sustainable Sharia economy.

Literature Review

The Role of KHES in the Indonesian Legal System

The Compilation of Sharia Economic Law (KHES) was developed to establish legal certainty in resolving sharia economic disputes (Hasanudin et al., 2024) after sharia economics became the domain of religious courts, as outlined in Law No. 3 of 2006 (Mudzhar, 2015). The KHES—produced from a collective *ijtihad* process—offers a more adaptable and responsive legal framework to support the growth of Islamic economics in Indonesia (Zulfa et al., 2025), provide legal certainty and protection for parties involved in Islamic economic transactions, and establish a robust and reliable legal framework (Kasim, 2021). KHES implementation is regulated in the Supreme Court Regulation (PERMA) No. 2 of 2008 (Sufiarina et al., 2020) as a temporary written legal fillers (Fauzan et al., 2022) that are specific, not generally binding, abstract, and only applicable internally. According to Pratiwi & Rifai (2018), KHES is not generally binding because the Supreme Court is not authorized to attribute or delegate the formation of legislation.

KHES is a robust set of rules that govern Islamic economic transactions. It encompasses a broad scope of subject matters, structured into four books with 796 articles. The first book addresses legal subjects and property (*amwal*) in three chapters and 19 articles (Sufiarina et al., 2020). The second book—the most important one—elaborates contracts (*akad*) in 29 chapters and 655 articles. The third book addresses *zakat* and gifts in four chapters and 60 articles, while the fourth book regulates Islamic accounting in seven

chapters and 62 articles (Sa'diyah et al., 2021). The content and references of KHES are heavily influenced by the provisions of *muamalat* contained in the *Majallah al-Ahkam al-Adliyah* and *Mursyid al-Ahyan*, which are codifications of law from the Ottoman Caliphate period. The KHES has been adapted to Indonesia's contemporary context and characteristics, leveraging dispute resolution for Islamic economics in the country (Pratiwi & Rifai, 2018).

Today, the KHES is the applicable legal source in religious courts across Indonesia to settle Sharia economic disputes (Huda & Ahyani, 2024). From the perspective of *fiqh mazhabi*, KHES has covered all schools of thought that have various methods of *istidlal* (Fauziah & Fathimah, 2020). KHES is expected to serve as an integrative bridge that combines classical *fiqh* with contemporary Islamic economic theory, a strategic step crucial in aligning sharia principles with the dynamics of modern economics (Fitriansyah & Komaruddin, 2024). Classical *fiqh* provides a solid normative and legal foundation for Sharia rules (Alfauzi, 2020). At the same time, modern Islamic economic theory serves as an adaptive response to the present era's complex social and economic challenges, resulting in more contextual and relevant interpretations (Salihin et al., 2024). This integration process is not merely a response to changing times but a comprehensive effort to strengthen social and economic development's ethical and practical foundations in line with Islamic values. Thus, this integration enriches the body of Islamic economic knowledge and plays an active role in realizing the ummah's welfare through applying adaptive and progressive Sharia principles.

Despite adapting classical Islamic law to modern and local contexts, KHES is reportedly facing challenges maintaining relevance and suitability with the dynamics of Islamic economics. The existing KHES has not been updated to encompass modern economic activities like e-commerce, drop shipping, and online shopping. Consequently, judges need to apply different laws as they see fit in the disputes, potentially leading to inconsistent rulings on similar cases due to the absence of standardized legal provisions and legal certainty. It necessitates ongoing evaluation and refinement to ensure that KHES can provide legal certainty and justice for Islamic economic actors in Indonesia.

Method

This study applied the normative/doctrinal legal approach with the literature review method (Diantha, 2016; Benuf & Azhar, 2020). Secondary data collection was sourced from three references: the legal materials (the Compilation of Sharia Economic Law/KHES and the Fatwa of the National Sharia Council of the Indonesian Ulema Council/DSN-MUI), the court rulings on resolving Sharia economic disputes and reports on Sharia economic cases, and relevant literature related to Sharia contract law (Disemadi, 2022). DSN-MUI fatwas—the key to Sharia economics development in Indonesia—must be the reference in harmonizing the KHES. The collected data were systematically analyzed to better understand the urgency of amending the KHES and the possible consequences if a timely amendment does not take place. The comprehensive analysis focused on two fundamental concepts of Sharia economic law: KHES's background and formation process and the regulation of Sharia contracts by DSN-MUI's fatwas, in addition to other relevant laws and regulations. The outcomes of the analysis were practical recommendations for amending KHES to align with applicable regulations originating from DSN-MUI, ensuring legal certainty in resolving Islamic economic disputes in Indonesia (Solehudin et al., 2024).

Results and Discussion

KHES as a Legal Instrument for Resolving Sharia Economic Disputes in Indonesia

The Compilation of Sharia Economic Law (KHES) represents an important turning point in Indonesia's legal system. It incorporates Sharia principles into the legal system to regulate economic activities (Fitriansyah & Komaruddin, 2024; Tarmidzi et al., 2024), to harmonize Sharia financial practices with the national legal system, and to address the complexities of Sharia economic disputes in religious courts (Firdaus et al., 2024). After the enactment of Law No. 3 of 2006 on Religious Courts, which incorporates Sharia economic disputes in the jurisdiction of Religious Courts (Mudzhar, 2015; Fauziah &

Fathimah, 2020; Fariana, 2021), KHES becomes the formal legal basis for religious courts to handle Sharia economic cases. It illustrates the importance of more structured and comprehensive regulations.

Following this, the Chief Justice of the Supreme Court formed a KHES Drafting Team through Decree No. KMA/097/SK/X/2006 on October 20, 2006, chaired by Prof. Dr. H. Abdul Manan, S.H., S.I.P., M.Hum. (Wiwin Sutoyo et al., 2024). The team was tasked with compiling and processing relevant legal materials, drafting the KHES, and holding discussions and seminars with relevant institutions, scholars, and experts to review and refine the draft before the final report to the Chief Justice of the Supreme Court. This process marked the first systematic step in creating a transparent and integrated legal framework for Islamic economics in Indonesia (Mughits, 2008; Sa'diyah et al., 2021). The KHES first came into effect in 2008 with the issuance of Perma No. 2 of 2008.

The KHES is a highly strategic legal instrument in resolving Sharia economic disputes, providing judges with consistent and standardized guidelines to adjudicate cases and to reduce legal uncertainty resulting from differences in *madhhab* interpretations (Hasanudin et al., 2024). Legal certainty is consistent and regular enforcement of regulations and laws, including ones applicable to economic activities (Horodovenko et al., 2022) to ensure that parties involved in the Islamic economy and finance industry feel secure and confident. KHES is the foundational pillar that supports the sustainable development of the Islamic finance industry, maintaining alignment between economic transactions & activities and Islamic norms and principles (Harahap et al., 2023; Karimah et al., 2024) and providing clear guidelines for economic actors to address various problems (Podrugina & Tabakh, 2020).

KHES serves as a pivotal legal instrument for resolving Sharia economic disputes in Indonesia and is expected to play a strategic and critical role in harmonizing Sharia economic practices with the national legal system. Through establishing KHES, religious courts gain a clear, consistent, and well-structured legal foundation to adjudicate various Sharia economic disputes, thereby providing legal certainty and supporting the stability and growth of Indonesia's economic and financial sectors. Consequently, KHES must continuously evolve in response to the changing times and emerging economic practices to offer adequate legal protection for business actors and resolve disputes fairly per Sharia principles. Suppose KHES can steadfastly uphold and implement these principles consistently. In that case, it will strengthen the standing of Sharia economics within the national economic framework and boost public and market confidence in Indonesia's Sharia legal system. This, in turn, fosters the development of a healthy, competitive, and sustainable Sharia economic ecosystem.

The Urgency of Revising KHES: Regulatory Disharmony and the Absence of Provisions for Modern Islamic Economic Transactions

The amendment of KHES is a strategic effort to create a comprehensive, adaptive legal system for the dynamic Islamic economy in Indonesia. There have been some inconsistent provisions of Indonesia's Islamic economic and financial practices stipulated in KHES and the DSN-MUI fatwas (the primary reference of Islamic law in Indonesia), causing problems in law enforcement (Nuraeni & Abdullah, 2024; Hasanudin et al., 2023). Due to KHES and DSN-MUI fatwas needing legal harmonization to facilitate consistent and practical applications of both laws (Tarmidzi et al., 2024; Apriantoro et al., 2023), align norms and regulations in both laws to avoid conflicts within the legal system (Weatherill, 2011), and achieve unity of ideas, consistent and coherent actions, and legal certainty (Arafiq et al., 2024). In Islamic economics, legal certainty and Islamic principles are the underpinning values for Islamic industry players and financial institutions. Misalignment between the KHES and the DSN-MUI fatwas can result in overlapping norms, causing confusion and legal uncertainty, which ultimately hinders the development of the Islamic economy industry in Indonesia (Yuspin et al., 2020; Tarmidzi et al., 2024). The table below shows a side-by-side comparison of KHES and DSN-MUI Fatwa, which articulate some provisions differently.

Table 1. Disharmony between KHES Norms and DSN-MUI Fatwas

No	Provision in KHES	Provision in DSN-MUI fatwa
1	Article 20, paragraph 9	Fatwa Number: 09/DSN-MUI/IV/2000

	<i>Ijarah</i> is the lease of goods for a specific period with payment.	The definition of <i>ijarah</i> is not only limited to <i>ijarah</i> of goods but includes <i>ijarah</i> of services.
2	Article 103 Payment for goods in <i>bai' salam</i> can be made at an agreed time and place.	Fatwa No: 5/DSN-MUI/IV/2000 Payment must be made at the time the contract is concluded.
3	Article 238, paragraph 2 Mudharib acts as the <i>representative of Shahib al-mal</i> in using the capital he receives.	Fatwa Number: 7/DSN-MUI/IV/2000: Mudharib is a partner of <i>Shahibul Maal</i> , not a representative of a <i>wakalah</i> contract.
4	Article 300 If the <i>Musta'jir</i> becomes the owner of the <i>ma'jur</i> , the <i>ijarah</i> contract automatically ends.	Fatwa Number: 73/DSN-MUI/ XI/2008 In a <i>Musyarakah Mutanaqishah</i> (MMQ) contract, the lessee (<i>musta'jir</i>) can be the owner of the <i>shirkah</i> object.
5	Article 548 The contracts used in <i>ta'min</i> and <i>i'adah ta'min</i> are: a. <i>Wakalah bil ujah</i> ; b. <i>Mudharabah</i> ; and c. <i>Tabarru'</i> .	Fatwa Number: 51/ DSN-MUI/III/2006 Akad for investment can use <i>mudharabah musyarakah</i> contract.

Source: Author (Processed Data)

In the first provision of Table 1, the concept of *ijarah* in the KHES only covers the rental of goods, while the DSN-MUI fatwa also includes *ijarah* of services. The second provision shows different regulations of payment in *bai' salam*, which, according to KHES, can be made at the time and place agreed upon; in contrast, the DSN-MUI fatwa emphasizes that payment must be made at the time the contract is agreed upon (Anwar et al., 2024). Another discrepancy is seen in the regulation of *mudharabah* and its relationship with *shahib al-mal*. KHES views *mudharib* as the representative of *shahib al-mal*, while the DSN-MUI fatwa emphasizes that *mudharib* is a partner, not a representative (Yuspin et al., 2020). The fourth provision shows different concepts of the *ijarah* contract between KHES and the DSN-MUI fatwa. KHES explains that if the *mustajir* (lessee in a lease or *ijarah* agreement) becomes the *majur* (leased object) owner, then the *ijarah* agreement automatically ends. In other words, ownership of the leased object automatically terminates the lease agreement. However, the DSN-MUI fatwa permits and regulates gradual ownership by the lessee. It means that the *mustajir* can become the object's owner without terminating the lease agreement (Ansori et al., 2023; Tarmidzi et al., 2024). The last provision is *ta'min*, or sharia insurance. KHES states that the types of contracts used in the context of *ta'min* (a type of Islamic insurance) are *Wakalah bil ujah* (leadership based on authority with compensation), *Mudharabah* (profit sharing), and *Tabarru'* (charity/gift). Meanwhile, the fatwa provides more detailed guidance to accommodate the development and complexity of contracts such as *Musyarakah Mutanaqishah* and investment through the *musyarakah* contract, while the provisions are more general and tend to be standardized.

Research conducted by the Supreme Court's Center for Strategy and Policy reveals that the KHES framework has yet to encompass regulations addressing modern economic activities, particularly those involving foreign parties or transactions driven by technological advancements (Khairul et al., 2024). The study reported two main findings: discrepancies between KHES and existing fatwas and approximately 87 unregulated norms in the KHES. The unregulated norms include innovations such as Sharia-compliant cards, oversight of *ujrah* practices within Islamic financial institutions (LKS), letters of credit (L/C) managed through *Kafalah Bil Ujah* agreements, Bank Indonesia Sharia Certificates (SBIS), and emerging economic practices like e-commerce platforms operating under Sharia law, Sharia exchange-traded funds (ETFs), and dropshipping models adhering to Sharia principles. This gap signals a critical need for KHES modernization to ensure legal certainty and harmonious alignment with contemporary Islamic financial transactions.

These differences are not merely technical but reflect fundamental differences in the understanding and application of Sharia principles, which must be appropriately accommodated to ensure that Sharia economic law functions effectively and fairly. This inconsistency is caused by not only outdated and irrelevant norms but also numerous aspects and Sharia financial products that remain unregulated in the KHES (Khairul et al., 2024). Such variation creates a legal vacuum in dispute resolution, leading to uncertainty and obstacles in the practical implementation of Sharia economics.

The first draft of KHES only contained 70 fatwas. As of 2025, it has increased dramatically to over 160 and only partially accommodates various emerging Islamic economic products and practices (Armansyah, 2022). Many new norms have emerged from recent fatwas and innovations in Islamic financial products that are not reflected in the existing KHES (Rofik et al., 2023). The innovations, including Islamic fintech, sukuk, Islamic sustainable investments based on Islamic principles, and other financial products, require detailed and specific legal guidelines. However, the KHES has not adequately addressed these issues.

Allowing two fundamental issues – the inconsistency between the Compilation of Sharia Economic Law (KHES) and the Fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI), as well as the absence of new norms in the KHES that are responsive to modern economic practices – will exacerbate legal uncertainty in dispute resolution. In this context, businesses and Islamic financial institutions face increasing legal risks due to the absence of clear and integrated guidelines to regulate new products and practices that continue to evolve. Meanwhile, in law enforcement, judges face confusion in determining the appropriate legal basis for adjudicating cases despite their normative obligation to explore, follow, and understand the legal values and sense of justice that are alive in society.

An analysis of Islamic court decisions obtained from the official channel of the Directorate General of Islamic Courts (Badilag), which compiles all Islamic economic decisions in Indonesia, reinforces these concerns (Badilag, 2025). Of the five decisions taken at random – Decision No. 62/Pdt.G/2023/PTA.JK, No. 172/Pdt.G/2023/PA.YK, No. 4/Pdt.G.S./2023/PA.Wng, No. 48/Pdt.G/2024/PTA.Mdn, and No. 6/Pdt.G/2024/PTA.YK – none of them used KHES as a legal basis. Instead, all of these decisions only refer to the fatwa of the DSN-MUI. This situation creates a profound legal paradox: the KHES remains formally in force but is not used in dispute resolution practice. As a result, it has become a kind of "dead letter" legal instrument – present in the legal framework but having lost its relevance and function in the eyes of legal enforcers and practitioners. The judges disregard KHES not merely due to their reluctance to use it as a basis for their decisions, but also because KHES itself is no longer relevant to the current development of Islamic economics. For example, some decisions rely solely on KHES without referring to other legal sources, such as Decision No. 442/Pdt.G/2022/PA.Btl., which was later deemed to lack diversity of perspective and to be improper (Hasanudin et al., 2024). This finding was also confirmed in a study by the Center for Strategy and Policy of the Supreme Court of the Republic of Indonesia (Khairul et al., 2024).

Leaving the KHES stagnant without revision is not merely perpetuating its ineffectiveness but also triggering a multi-tiered legitimacy crisis. To begin with, the inability of the KHES to respond to the dynamics of contemporary Islamic economics forces courts to continue relying on the more adaptive fatwas of the DSN-MUI despite their hierarchical inferiority (Nuraeni & Abdullah, 2024; Renie, 2021). Then, this dual dependency leads to a rise in structural inconsistencies: court decisions become fragmented pieces of law without a solid codification foundation (Rofik et al., 2023). Ultimately, all these crises lead to chaotic legal uncertainty, where business actors find it difficult to predict the legal consequences of their transactions.

This domino effect can erode trust, the lifeblood of the judicial system. Islamic economic actors may question the credibility of religious courts due to inconsistent rulings and lack of normative certainty (Hariyanto, 2022). When the public loses confidence in fair and consistent dispute resolutions, they will seek alternative channels outside the courts (Roussey & Deffains, 2012), leading to systematic delegitimization of religious courts and a paralyzed Islamic economic ecosystem in Indonesia. Market participants may avoid complex transactions if dispute resolution mechanisms remain unreliable, eroding the competitiveness and investment of the Islamic financial industry that requires legal stability. Instead of providing solutions, the KHES contributes more problems to the already complicated legal system.

Amendment to KHES is crucial to face these challenges, promoting normative adjustments at the superficial level and fundamental transformation through reconstruction and restructuring of existing legal norms. The amended KHES will become a legal framework applicable in practice and directly relevant to the pulse of the contemporary Islamic financial industry, which is characterized by innovation and rapid change (Basir et al., 2024). As suggested by Baidhowi & Setiawan (2019) and reinforced by

Mišćenić & Hoffmann (2020), the relevance and effectiveness of law in regulating such a dynamic ecosystem depend heavily on its ability to adapt substantially.

Tarmidzi et al. (2024) highlight the flexible application of three harmonization models to align KHES revision strategies with complex challenges. First, 'tinkering' harmonization focuses on optimizing the implementation of existing laws and refining what is already in place without making radical changes. 'Following' harmonization is more responsive, actively adapting legal norms to keep pace with and respond to market and industry practice changes. Lastly, 'leading' harmonization takes the most visionary role, positioning the law as a proactive catalyst for change to drive desired new development directions (Yunus, 2023). The three-pronged model has multifarious benefits. It makes the KHES remain static but dynamically aligned with the latest fatwas issued by the National Sharia Council of the Indonesian Ulama Council (DSN-MUI). Furthermore, it transforms the KHES into a proactive and anticipatory legal instrument. In other words, the KHES actively accommodates breakthroughs in innovative products, services, and business models within the Islamic economy while timely responding to new dynamics emerging in the global Islamic financial landscape. Therefore, harmonization is the key to creating a KHES as a robust, effective pillar for the sustainable growth of Indonesia's Islamic financial industry.

Multistakeholder collaboration is key to this harmonization process. The strategic institutions of the Supreme Court must collaborate with the DSN-MUI as the fatwa authority, the Financial Services Authority (OJK), which oversees the Islamic finance industry, and academics and civil society organizations that focus on Islamic economic development (Khairul et al., 2024). This collaboration safeguards the normative, practical, and responsive KHES to the real-world needs (Rofik et al., 2025). The outcomes may include an integrated legal framework that reduces ambiguous, overlapping regulations and assurance of substantial legal certainty for Islamic economic actors. Overall, misaligned provisions between KHES and the DSN-MUI fatwas, as well as partial inclusions of new relevant norms in modern Islamic economics, urgently call for a comprehensive amendment to the KHES. If an amendment is made promptly, the KHES can function optimally as a legal instrument, ensuring certainty, justice, and sustainability in resolving Islamic economic disputes in Indonesia.

Conclusion

The Compilation of Sharia Economic Law (KHES) is misaligned with the Fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) and fails to regulate modern Sharia economic practices. If unaddressed, it can trigger a multi-tiered legitimacy crisis, from legal uncertainty to eroded public trust in religious courts. One effective solution is legal harmonization, encompassing normative adjustment and a radical transformation through systemic reconstruction and comprehensive restructuring of the existing normative framework. KHES harmonization requires intensive collaboration between regulators, scholars, and Sharia economic actors to produce a responsive, contextual legal instrument. This study focused on normative aspects with a partial evaluation of their practical implementation. Therefore, further empirical research can measure the effectiveness of KHES revisions in the operational dynamics of the Islamic economy while ensuring alignment between legal theory and practical reality.

Acknowledgement

The authors express sincere appreciation to all contributors and supporting institutions involved in this research.

Conflict of Interest

The authors declared no conflicts of interest.

References

Abdullah, F. D., Doli Witro, Misbahul Munir Makka, Muhamad Sadi Is, & Syahid Mujahid Wiwaha. (2024).

- Contemporary Challenges for Sharia Financial Institutions to Increase Competitiveness and Product Innovation Perspective of Sharia Economic Law: Evidence in Indonesia. *MILRev : Metro Islamic Law Review*, 3(2), 141–173. <https://doi.org/10.32332/milrev.v3i2.9202>
- Alfauzi, R. (2020). The Dynamics of Qawaid Fiqhiyyah: The Construction and Application in Islamic Law. *Al-Bayyinah*, 4(2), 225–242. <https://doi.org/10.35673/al-bayyinah.v4i2.815>
- Ansori, M. A. Z., Royani, Muhit, M., Irvan Hilmi, & Mohamad Anton Athoillah. (2023). Axiological Harmonization of Sharia Economic Law Supremacy and DSN-MUI Fatwa in Indonesia. *Al Mashalih - Journal of Islamic Law*, 4(2), 95–110. <https://doi.org/10.59270/mashalih.v4i2.215>
- Apriantoro, M. S., Alis, M. N. I., Septianozakia, S., & Setiana, D. (2023). Comparing KHI and KHES in Marital Property Grant Disputes: An Analysis of Judges' Views. *Al-Istinbath: Jurnal Hukum Islam*, 8(1 May), 37. <https://doi.org/10.29240/jhi.v8i1.6464>
- Arafiq, F., Sukmariningsih, R. M., & Tumangkar, T. (2024). Legal Harmonization in Regional Development Planning: A Pathway to Good Governance. *Library Progress International*, 44(3), 20151–20158.
- Armansyah. (2022). *Hukum perikatan (akad) dalam kompilasi hukum ekonomi syariah: melacak jejak fikih dalam perma nomor 2 tahun 2008*. Prenada Media.
- Badilag. (2025). *Hukum Ekonomi Syariah*. https://ditbinganis.badilag.net/ekonomisyariah/berandahome.php?page=PUTUSAN_ALL
- Baidhowi, & Setiawan, A. (2019). Harmonization of Islamic Law Norms in Sharia Banking Laws. *Proceedings of the 2nd International Conference on Indonesian Legal Studies (ICILS 2019)*. <https://doi.org/10.2991/icils-19.2019.39>
- Basir, C., Emirzon, J., Syaifuddin, M., & Hasan, S. (2024). Reconstruction of Sharia Economic Procedural Law in Indonesia and Comparison of Sharia Economic Cases in Malaysia and Indonesia. *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat*, 24(1), 17–36. <https://doi.org/10.19109/nurani.v24i1.22625>
- Benuf, K., & Azhar, M. (2020). Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer. *Gema Keadilan*, 7(1), 20–33. <https://doi.org/10.14710/gk.2020.7504>
- Diantha, I. M. P. (2016). *Metodologi Penelitian Hukum Normatif dalam Justifikasi Teori Hukum*. Prenada Media.
- Disemadi, H. S. (2022). Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies. *Journal of Judicial Review*, 24(2), 289. <https://doi.org/10.37253/jjr.v24i2.7280>
- Fariana, A. (2021). Legal politics as a catalyst in forming sharia economic legal system in the Indonesia's new order and reform era. *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan*, 21(2), 197–212. <https://doi.org/10.18326/ijtihad.v21i2.197-212>
- Fauzan, A., Diniyanto, A., & Hamid, A. (2022). Regulation Arrangement through The Judicial Power: The Challenges of Adding the Authority of The Constitutional Court and The Supreme Court. *Journal of Law and Legal Reform*, 3(3), 403–430. <https://doi.org/10.15294/jllr.v3i3.58317>
- Fauziah, F., & Fathimah, E. (2020). Existence of Khiyar in Online Transactions (E Commerce) (Compilation of Shariah Economic Law). *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat*, 20(1), 13–24. <https://doi.org/10.19109/nurani.v20i1.6063>
- Firdaus, M. I., Retnowati, M. S., & Abdurrozaq, M. (2024). Settlement of Sharia Economic Disputes: Efficiency of Implementation in Indonesian Religious Courts. *Justicia Islamica*, 21(2), 335–356. <https://jurnal.iainponorogo.ac.id/index.php/justicia/article/view/9240>
- Fitriansyah, H., & Komaruddin, K. (2024). The Dynamics of Politics in the Development of Sharia Economic Law in Indonesia. *Al-Mustashfa: Jurnal Penelitian Hukum Ekonomi Syariah*, 9(2), 236–250. <https://doi.org/10.4108/eai.21-10-2023.2343513>
- Harahap, B., Risfandy, T., & Futri, I. N. (2023). Islamic Law, Islamic Finance, and Sustainable Development Goals: A Systematic Literature Review. *Sustainability*, 15(8), 6626. <https://doi.org/10.3390/su15086626>
- Hariyanto, E. (2022). Public Trust in the Religious Court to Handle Dispute of Sharia Economy. *AHKAM: Jurnal Ilmu Syariah*, 22(1). <https://doi.org/10.15408/ajis.v22i1.26216>
- Hariyanto, E., Harisah, Hidayatullah, Hamzah, M., Mujib, F., & Marheni, C. L. (2023). In Search of Ummah Welfare Model: The Revitalisation of Sharia Economic Law in Indonesia. *Sriwijaya Law Review*, 7(2), 244–261. <https://doi.org/10.28946/slrev.Vol7.Iss2.1080.pp244-261>

- Hasanudin, H., Mubarak, J., & Maulana, M. A.-F. (2023). Progressiveness of Islamic Economic Law in Indonesia: The Murā'at Al-'Ilal wa Al-Mašālih Approach. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 7(2), 1267. <https://doi.org/10.22373/sjhk.v7i2.17601>
- Hasanudin, Kamsi, & Anshori, A. Y. (2024). The Contestation of Legal Foundations in the Resolution of Islamic Economic Disputes in Religious Courts. *Al-Manahij: Jurnal Kajian Hukum Islam*, 271–288. <https://doi.org/10.24090/mnh.v18i2.11934>
- Hidayat, E. (2025). The Concept of Taghyir in Al-Bazdawi's Usul al-Fiqh and Its Relevance to Contract Law in the Compilation of Islamic Economic Law in Indonesia. *International Journal of Fiqh and Usul Al-Fiqh Studies*, 9(1), 91–104. <https://doi.org/10.31436/ijfus.v9i1.362>
- Horodovenko, V., Shandula, A., & Dmytriyeve, M. (2022). Legal certainty in law enforcement through the prism of ECtHR decisions. *Revista Amazonia Investiga*, 11(59), 43–53. <https://doi.org/10.34069/AI/2022.59.11.4>
- Huda, M., & Ahyani, H. (2024). Normative Justice and Implementation Related to Sharia Economic Law Disputes in Realizing Legal Certainty and Justice in Indonesia. *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan*, 24(1), 103–119. <https://doi.org/10.30631/alrisalah.v24i1.1467>
- Hutauruk, A. (2023). The Dichotomy Between Legal Certainty and Overlapping Court Rulings. *Jurnal Syntax Admiration*, 4(4), 416–425. <https://doi.org/10.46799/jsa.v4i4.571>
- Karimah, L. L., Syahpawi, S., & Nurnasrina, N. (2024). Legal Protection For Sharia Banking Customers. *MONEY: JOURNAL OF FINANCIAL AND ISLAMIC BANKING*, 2(2), 142–152. <https://doi.org/10.31004/money.v2i2.24218>
- Kasim, A. (2021). Sharia Economic Law: Its Existence in Indonesia. *Al-'Aqdu: Journal of Islamic Economics Law*, 1(2), 116. <https://doi.org/10.30984/ajiel.v1i2.1731>
- Khairul, A., Huda, N., & Basry, E. (2024). *Penyempurnaan Kompilasi Hukum Ekonomi Syariah* (KHES). Prenada Media.
- Kokocińska, K., & Żywicka, A. (2023). On the Perception of Law as a “Space of Opportunity” for Entrepreneurs. *Studia Iuridica Lublinensia*, 32(5), 427–442. <https://doi.org/10.17951/sil.2023.32.5.427-442>
- Mišćenić, E., & Hoffmann, A.-L. (2020). The Role of Opening Clauses in Harmonization of Eu Law: Example of The Eu's General Data Protection Regulation (GDPR). *EU and Comparative Law Issues and Challenges Series (ECLIC)*, 44–61. <https://doi.org/10.25234/eclic/11895>
- Mudzhar, M. A. (2015). Synergy or Conflict Of Laws? (Comparison Between The Compilation of Rules on Shari'ah Economy (KHES) and The National Shari'ah Board's (DSN) Fatwas). *Al-'Adalah*, 12(2). <https://doi.org/https://doi.org/10.24042/adalah.v12i2.207>
- Mughits, A. (2008). Kompilasi Hukum Ekonomi Syari'ah (KHES) dalam Tinjauan Hukum Islam. *Jurnal Al Mawarid*, 5(2), 97–112. <https://journal.uui.ac.id/JHI/article/view/151>
- Najib, A. (2020). Kepastian Hukum Eksekusi dan Pembatalan Putusan Arbitrase Syariah Pasca Putusan Mahkamah Konstitusi Nomor 93/PUU-X/2012. *Jurnal Konstitusi*, 16(4), 861. <https://doi.org/10.31078/jk1649>
- Nuraeni, N., & Abdullah, M. N. (2024). Qiyas Method of the National Sharia Board Fatwas and the Contemporary Islamic Economic Problems. *Jurnal Hukum Islam*, 22(2), 281–312. <https://doi.org/10.28918/jhi.v22i2.02>
- Podrugina, A., & Tabakh, A. (2020). Financial Markets: From the “Tragedy of Commons” to Balanced Regulation. *International Organisations Research Journal*, 15(2), 173–190. <https://doi.org/10.17323/19967845-2020-02-08>
- Pratiwi, & Rifai, A. (2018). Urgensi Pembentukan Kitab Undang-Undang Hukum Ekonomi Syariah Indonesia. *Journal of Islamic Law Studies*, 1(2), 79.
- Renie, E. (2021). The Urgency of Fatwa In The Law of Sharia Economics In Indonesia. *JURIS (Jurnal Ilmiah Syariah)*, 20(2), 201. <https://doi.org/10.31958/juris.v20i2.4059>
- Badilag. (2006-2024.). *Laporan Tahunan Tahun 2006-2024*.
- Rofik, A., Wijaya, A. B. D., & Prakoso, B. (2023). The Urgency of Systematizing Sharia Investment Law as an Effort to Reform Economic Development Law. *SEIKAT: Jurnal Ilmu Sosial, Politik Dan Hukum*, 2(6),

- 592–599. <https://doi.org/10.55681/seikat.v2i6.1053>
- Rofik, M., Boulanouar, Z., Yuli, S. B. C., & Wardani, D. T. K. (2025). Revisiting the impact of Islamic finance on economic growth: a decomposition analysis using Indonesia as a testing ground. *International Journal of Islamic and Middle Eastern Finance and Management*. <https://doi.org/10.1108/IMEFM-06-2024-0288>
- Roussey, L., & Deffains, B. (2012). Trust in judicial institutions: an empirical approach. *Journal of Institutional Economics*, 8(3), 351–369. <https://doi.org/10.1017/S174413741200001X>
- Sa'diyah, H. T., Sitti Lailatul Hasanah, Abdul Mukti Thabrani, & Erie Hariyanto. (2021). Sejarah dan Kedudukan Kompilasi Hukum Ekonomi Syariah dalam Peraturan Mahkamah Agung Nomor 2 Tahun 2008 di Indonesia. *Al-Huquq: Journal of Indonesian Islamic Economic Law*, 3(1), 96–118. <https://doi.org/10.19105/alhuquq.v3i1.3460>
- Salihin, A., Wathoni, W., & Mahsun, S. (2024). Economic Theory of Production in Islamic Context. *Journal Micro Economic Sharia*, 1(1), 37–47.
- Solehudin, E., Huda, M., Ahyani, H., & Ahmad, M. Y. (2024). Normative Justice and Implementation Related to Sharia Economic Law Disputes in Realizing Legal Certainty and Justice in Indonesia. *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan*, 24(1), 103–119. <https://doi.org/10.30631/alrisalah.v24i1.1467>
- Sufiarina, S., Sudrajat, H., & Mahmud, H. (2020). Gashb and Itlaf Arrangements in KHES and Authority of Justice (Review of Chapter XV of Book II of KHES). *Brawijaya Law Journal*, 7(1), 129–139. <https://doi.org/10.21776/ub.blj.2020.007.01.09>
- Tarmidzi, Khasanah, K., Arwani, A., Said, K., & Ramadhan, M. U. C. (2024). The Pursuit of Legal Harmony in the Integration of Sharia Economic Law Compilation, OJK Regulations, and DSN-MUI Fatwas. *Hikmatuna: Journal for Integrative Islamic Studies*, 10(1), 121–139. <https://doi.org/10.28918/hikmatuna.v10i1.7342>
- Taufiki, M., Darsyah, R., & Ridha, M. (2022). The Use of Maxims (al-Qawā'id al-Usūliyyah wa al-Fiqhiyyah) in Legal Argumentation of Sharia Economic Court Decisions in Indonesia. *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial*, 17(1), 165–188. <https://doi.org/10.19105/al-Ihkam.v17i1.6070>
- Topçu, G. (2023). Impact of Legal And Regulatory Qualities on FDI Inflow: A Comparison of Developed and Developing Countries. *Doğuş Üniversitesi Dergisi*. <https://doi.org/10.31671/doujournal.1301332>
- Weatherill, S. (2011). The Limits of Legislative Harmonization Ten Years after Tobacco Advertising : How the Court's Case Law has become a "Drafting Guide." *German Law Journal*, 12(3), 827–864. <https://doi.org/10.1017/S2071832200017120>
- Winarsi, S., Thalib, P., Hajati, S., & Kholiq, M. N. (2021). Sharia banking dispute resolution in Indonesia after the verdict of the constitutional court no. 93/puu-x/2012. *Utopía y Praxis Latinoamericana*, 26(2), 408–416.
- Wiwin Sutoyo, Luthfi Hamidi, & Nurinawati Kurnianingsih. (2024). The Development of Sharia Economic Law in the Constellation of Indonesian National Law. *Journal Equitable*, 9(1), 87–102. <https://doi.org/10.37859/jeq.v9i1.6459>
- Yunus, M. I. B. M. (2023). The Conceptualization of Legal Harmonization Approach in Malaysia. *Fiat Justisia: Jurnal Ilmu Hukum*, 17(1), 45–74. <https://doi.org/10.25041/fiatjustisia.v17no1.2508>
- Yuspin, W., Budiwati, S., Inayah, & Maulani, I. (2020). Legal reconstruction of mudharabah: A comparative study on the compilation of islamic economic law and financial services authority regulation. *International Journal of Innovation, Creativity and Change*, 12(2), 1–21.
- Zulfa, F. A., Achmad, M., Soylu, D., & Fadhil. (2025). Mapping Contemporary Islamic Legal Thought in Indonesia: A Dialog Between Fiqh and The Culture OF The Archipelago. *Al-Mawarid Jurnal Syariah Dan Hukum (JSYH)*, 7(1), 177–202. <https://doi.org/10.20885/mawarid.vol7.iss1.art10>