



# Simplified Lawsuits in Dispute Resolution Within Sharia Economic Law in Indonesia

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## Abstract

This research is based on the numerous disputes in Sharia economic law within Sharia Business Financial Institutions, legal aid in the field of Sharia economic law, and civil matters that have not been well resolved. The Regulation of the Supreme Court of the Republic of Indonesia (PERMA RI) No. 4 of 2019 regulates the resolution of Sharia economic law disputes in a simplified manner. However, the socialization of this regulation to the public is still lacking, causing frequent obstacles in the implementation of this PERMA RI. This research is a literature study with a juridical approach aimed at analyzing the implementation of PERMA RI in the resolution of Sharia economic cases. The primary data in this research includes PERMA RI No. 4 of 2019, PERMA RI No. 14 of 2016, PERMA RI No. 2 of 2015, and PERMA RI No. 1 of 2016. Several relevant cases are used as important data to analyze the implementation of these regulations. The results of this research show that the process of simplified lawsuits in the resolution of Sharia economic disputes, which is expected to be easier, faster, and cheaper in court, has not been realized in accordance with PERMA RI. This needs to be a concern for the Supreme Court because most Sharia economic dispute cases involve companies and the public. If the Supreme Court regulations are not properly implemented in court proceedings, it will create a space for injustice. Therefore, the socialization of these Supreme Court regulations needs to be enhanced by academics and practitioners so that their implementation in the future can be better.

**Keywords:** Simple Lawsuit, Dispute Resolution, Sharia Economic Law.

## Abstrak

Penelitian ini didasari oleh banyaknya sengketa dalam hukum ekonomi Syariah di Lembaga Keuangan Bisnis Syariah, bantuan hukum di bidang hukum ekonomi Syariah, dan keperdataan yang belum diselesaikan dengan baik. Peraturan Mahkamah Agung Republik Indonesia (PERMA RI) No. 4 Tahun 2019 mengatur penyelesaian sengketa hukum ekonomi syariah secara sederhana. Namun, sosialisasi mengenai peraturan tersebut kepada masyarakat masih kurang, sehingga penerapan PERMA RI tersebut sering menghadapi kendala. Penelitian ini merupakan penelitian pustaka dengan pendekatan yuridis yang bertujuan untuk menganalisis implementasi PERMA RI dalam penyelesaian perkara ekonomi syariah. Data primer dalam penelitian ini meliputi PERMA RI No. 4 Tahun 2019, PERMA RI No. 14 Tahun 2016, PERMA RI No. 2 Tahun 2015, dan PERMA RI No. 1 Tahun 2016. Beberapa kasus yang relevan digunakan sebagai data penting untuk menganalisis implementasi peraturan-peraturan tersebut. Hasil penelitian ini menunjukkan bahwa proses gugatan sederhana dalam penyelesaian sengketa di bidang ekonomi syariah yang diharapkan dapat berjalan lebih mudah, cepat, dan murah di pengadilan, belum terealisasi sesuai dengan PERMA RI. Hal ini perlu mendapat perhatian dari Mahkamah Agung karena sebagian besar perkara sengketa ekonomi syariah melibatkan perusahaan dan masyarakat. Jika peraturan-peraturan Mahkamah Agung tidak dilaksanakan dengan baik dalam persidangan, hal ini akan membuka ruang ketidakadilan. Oleh karena itu, sosialisasi mengenai peraturan-peraturan Mahkamah Agung ini perlu ditingkatkan oleh para akademisi dan praktisi agar penerapannya di masa mendatang dapat lebih baik.

**Kata Kunci:** Gugatan Sederhana, Penyelesaian Sengketa, Hukum Ekonomi Syariah.



## Introduction

The development of financial and legal products in Islamic financial institutions (LKS) in the field of Islamic economics, especially in the field of agreements that use Sharia foundations today is experiencing significant growth. Along with its development in the substance of the contract, there must be a solution to *cover* how to resolve disputes (*dispute resolution*) if in the future there are cases or problems in the LKS. In this regard, both in the judiciary and outside the court, LKS needs to be supported by qualified human resources (SDI) skills in their fields, especially in handling sharia economic law cases.

In line with the development of a series of Sharia economic laws, the rise of community transactions in LKS causes cases among Sharia economic actors, especially cases among parties who are under contract using Sharia provisions. The development of law in the field of Islamic economics and civil society requires easier, faster methods of handling, and cheaper prices, especially in an easier set of laws. Regulations in Indonesia are modernized from *Herzien Inlandsch Reglement (HIR)*, *Rechtreglement Voor de Buitengewesten (RBg)*, not distinguished by a review flow between material object value of high or low value, therefore the handling of the case allegedly took quite a long time.<sup>1</sup>

The litigation dimension of religious justice is the judicial area under the Supreme Court regarding the essence of independent judicial authority in carrying out the judiciary to maintain law and justice. Law No. 3 of 2006 concerning the Improvement of Law No. 7 of 1989 concerning Religious Justice, has ushered in major improvements to the existence of the judiciary today. In addition to the path of litigation,<sup>2</sup> handling cases through arbitration and alternative dispute handling is prioritized in the countermeasures case in LKS whose legality has been confirmed by the birth of Law Number 30 of 1999 concerning Arbitration & Alternative Dispute Resolution (APS). Sociologically, the role is important, because, handling civil cases besides being able to be recommended to the general judiciary, open possibilities are recommended with arbitration and alternative dispute handling.<sup>3</sup> The Government, Legislation, Regulators, and Politics of Sharia Economic Law, each affiliated with and implicating judicial and legal policies in force in Indonesia.<sup>4</sup>

In Ani Yunita's opinion, efforts to increase public understanding of the existence of National Sharia Arbitration Agency (BASYARNAS) must continue to be promoted through training and legal counseling. Community cultural factors are also key factors that affect the effectiveness of case resolution in Basyarnas.<sup>5</sup> According to Yoghie Arief Susanto's research, dispute resolution in the Islamic economy still involves processes that are not aligned with its principles, such as execution processes that do not meet the principles of justice and honesty, and examination times that exceed 25 days, which are contrary to the principle of

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<sup>1</sup> Badilag MA RI, "Peraturan Mahkamah Agung RI Nomor 14 Tahun 2016 Tentang Tata Cara Penyelesaian Perkara Ekonomi Syariah. BNRI Tahun 2016 Nomor 2059." (2016).

<sup>2</sup> Undang-Undang Nomor 3, "Tentang Perubahan Atas Undang-Undang Nomor 7 Tahun 1989 Tentang Peradilan Agama" (2006).

<sup>3</sup> Undang-Undang Nomor 30, "Tentang Arbitrase Dan Alternatif Penyelesaian Sengketa," Undang-Undang § (1999).

<sup>4</sup> Dadin Solihin, "Tafsir Normatif Terhadap Perkembangan Politik Hukum Ekonomi Syariah," *Jurnal Pelita Nusa* 1, no. 1 (2023): 1–18, <https://doi.org/10.61612/jpn.v1i1.5>.

<sup>5</sup> Ani Yunita, "Efektifitas Penyelesaian Sengketa Ekonomi Syariah Melalui Badan Arbitrase Syariah Nasional Daerah Istimewa Yogyakarta," *Jurnal Hukum Progresif* 9, no. 1 (2021): 25–36, <https://doi.org/10.14710/jhp.9.1.25-36>.

responsibility.<sup>6</sup> Studying this general picture can certainly highlight gaps from previous researchers. Our study described the process of simple and nominal material losses according to the latest PERMA. It is also important and relevant to study, especially regarding the easy implementation of lawsuits for the settlement of Sharia economic law disputes, legal remedies, and legal protection for litigants.

## Method

This paper's research is juridically empirical with a qualitative approach, combined with the conceptual approach of the law. Terminology law in this case refers to the written positive legal order. Primary data is obtained from PERMA RI No. 4 of 2019, PERMA RI No. 14 of 2016, PERMA RI No. 2 of 2015, and PERMA RI No. 1 of 2016. Secondary data is obtained through various references and journals. The analysis technique uses an interactive model and data investigation views regarding simple lawsuit regulation and portraits of dispute resolution from the perspective of Islamic economic law. The presentation of normative analysis with library research is accompanied by a study of legal regulations related to contract cases in Islamic Financial Institutions (LKS). In legal research, one conducts research by performing legal activities to reveal the truth of the law, a scientific activity based on certain procedures, systematics, and understandings aimed at investigating certain legal indications, conducting in-depth reviews of the truth of the law, and addressing the disclosure of problems that arise in various case indications.<sup>7</sup>

## Sharia economic law

The Unitary State of the Republic of Indonesia is based on Pancasila and the 1945 Constitution as a *normative* reference in every form of justice. Religious Justice includes the realm of judicial authority. Where the position is in line with other courts to enforce the law. The Religious Judiciary is centered on the Supreme Court which is the highest state court institution. This is also stated in Article 3 paragraph 2 of Law No. 7 of 1989 regulates the Religious Judiciary, for the handling of cases the work cannot be released at all from religious law, namely Islam. Likewise, article 49 of Law No. 3 of 2006 has bestowed the intent of various cases into his authority. Religious Justice in Indonesia the formulation of its authority includes: *first*, the authority of the state, namely the authority of the judiciary that is free from the destruction of external groups and the power of other countries; *second*, the court in the territory of the Religious Justice, includes hierarchy, structure, leadership, judges, clerks, as well as other elements in the series of court networks; *third*, the method of the case in court, which includes the type of case, the law of procedure, and its products; *fourth*, cases in the fields of inheritance, marriage, grants, wills, representation, *zakat*, *shadaqah*, *infaq*. Sharia economy, including various cases whose authority is in the judicial body religion; *fifth*, regarding the cases of people who are Muslim, or seek justice; *sixth*, Islamic law becomes a material law that becomes a reference; *Seventh*, strengthening the law and justice.<sup>8</sup>

The solution to all economic problems, the thing that is desired for all economic *systems*, whether from the capitalist, socialist, or mixed economic *system* is the Islamic economy. The

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<sup>6</sup> Yoghi Arief Susanto, "Gugatan Sederhana Pada Penyelesaian Sengketa Ekonomi Syariah Di Pengadilan Agama Dihubungkan Dengan Prinsip Ekonomi Syariah," *Al-Ahwal Al-Syakhshiyah: Jurnal Hukum Keluarga Dan Peradilan Islam* 3, no. 1 (2022): 81–100, <https://doi.org/10.15575/as.v3i1.17535>.

<sup>7</sup> Beni Ahmad Saebani, *Metode Penelitian* (Bandung: Pustaka Setia, 2008).

<sup>8</sup> Diana Rahmi, "Ruang Lingkup Kewenangan Peradilan Agama Dalam Mengadili Sengketa Ekonomi Syariah," *Journal Of Institution And Sharia Finance* 0 (2014): 1.

spirit of the Islamic economic system is the existence of a fair balance (*tawāsuth*). The answers to all these systems are certainly varied. *The capitalist* system fights for how much consistency the economic system is just. I see the mechanism of forming a conglomeration system and monopoly in a handful of people with capital. *Socialist* system, see how effective this *system* is towards a prosperous economy. The spirit of *the* Islamic economic system is a just balance. The characteristics of balance are seen between the individual and society, as well as the establishment in various dimensions of life to achieve happiness in the world and the afterlife, physical and “*Rohani*” reason and conscience, idealism, and facts. It’s like Allah SWT. It has been described in the Qur'an and is proclaimed in the As-Sunnah of the Prophet Muhammad (peace be upon him).<sup>9</sup>

Studying the Islamic economic spirit system, then one of the factors emerges the dispute because it loses the balance between the rights and obligations of the parties, as outlined under the agreement (Akad) agreed upon by the parties. Implementation order, for example, *musyarakah* means an agreement between two people to unionize in terms of business management, capital, and profit-sharing. The profit result of <sup>10</sup> *musyarakah* is also the same regulated as in *mudharabah*, which is proportionally by the basis of division and loss (profit and loss sharing principle/PLS).<sup>11</sup> The DSN fatwa also says that *the musyarakah* fund is sourced from the provisions of participation of two parties in certain businesses, where each party bestows cost involvement on conditions, profits, as well as risks that will be borne by the joint agreement.<sup>12</sup>

### Dispute resolution practices

The views of experts regarding the terminology of simple lawsuits vary, Sudikno Mertokusumo explained that simple terms, namely clear procedures, are easy to understand and not rigid. The simpler the formal data that a court hearing requires, the better. The emergence of formalities that are difficult to understand, gives rise to various interpretations, lack legal certainty, and cause fear of making noise before the courts. The Black Law Dictionary defines a simple lawsuit as “<sup>13</sup> *a court that informally and expeditiously adjudicates claims that seek damages below a specified monetary amount, usu. Claims to collect small accounts or debts – also termed small-debts court; conciliation court.*<sup>14</sup>

The description is that courts are informal (outside of the general mechanism) with a quick examination to make decisions on claims, losses, or debt receivables. A simple lawsuit can resolve a lawsuit case promptly, quickly, and cheaply and avoid complex and formal litigation. A simple lawsuit is a legal institution that is intended to provide a quick and economical solution to resolve disputes that do not require expensive costs.<sup>15</sup> Dispute resolution in the practices known as two *systems* is a settlement in litigation and completion in non-litigation.

### Litigation settlement

Settlement litigation is the handling of cases or legal disputes using court lines. Munir Fuadi called it the conventional handling of cases using a court body that had been done

<sup>9</sup> Akhmad Mujahidin, *Hukum Perbankan Syariah* (Depok: PT. Rajagrafindo Persada, 2017).

<sup>10</sup> Sayyid Sābiq, *Fiqhu Al-Sunnah* (Beirut-Libanon: Dār Al-Fikr, 1427).

<sup>11</sup> Sutan Remy Sjahdeini, *Perbankan Syariah* (Jakarta: Kencana Prenadamedia Group, 2015).

<sup>12</sup> Fatwa DSN MUI, “Pembiayaan Musyarakah,” Tentang Pembiayaan Musyarakah § (2000).

<sup>13</sup> Sudikno Mertokusumo, *Hukum Acara Perdata Indonesia* (Yogyakarta: Liberty, 2006).

<sup>14</sup> Bryan A Gardner, *Black’s Law Dictionary* (West Publishing, 2004).

<sup>15</sup> Christopher J Whelan, *Small Claim Court-A Comparative Study* (New York: Oxford University Press, 1990).

hundreds of thousands of years ago. But, the longer the court body, the more trapped in a juridical fortress that is difficult to penetrate by justice seekers (*justiabelen*), especially by business people who are concerned with business disputes. Start thinking about other options to clear the case outside the court body.<sup>16</sup>

### Out-of-court settlement

Nonlitigation, both terms are linguistically composed of two words, namely, *non* and *litigation*. The origin of kata *non* is derived from the English *none* which means "no or reject".<sup>17</sup> The word *non*, then it has become an uptake word in the official Indonesian language (KBBI) which means "no or not".<sup>18</sup> The word *litigation* (*litigation*) is a court process or the course of a case.<sup>19</sup> So both terms can be interpreted as handling cases outside the court that are carried out peacefully. In the context of legal science, nonlitigation is known as *Alternative Dispute Resolution* (ADR).<sup>20</sup>

### Legal base on settlement of disputes non-litigation

The juridical dimension of resolving Sharia economic disputes in his time experienced a lot of development. It is characterized by the presence of:

1. Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (APS). LNRI 1999, Number 138. TLNRI, Number 3872. In this Law, it is more dominant to regulate arbitration, while the provisions regarding APS are not regulated in detail. The APS arrangement is contained in Article 1 number 10 and Article 6. There are only mentioned terms consultation, negotiation, mediation, conciliation, and expert assessment.
2. Islamic banking is regulated through Law No. 21 of 2008. LNRI 2008, Number 94. TLNRI, Number 4867. As contained in Article 55 paragraph (1) all handling of Islamic Banking disputes are handled by the court in the religious justice area.<sup>21</sup> *Jo.* Article 49 letter (i) with the enactment of Law Number. 3 of 2006 concerning Religious Justice, LNRI of 2006, Number 22. TLNRI, Number 4611, unequivocally states:
 

"Sharia Economic" is an activity carried out in Sharia theory including a. Sharia bank; b. Sharia microfinance institution. c. Sharia insurance; d. Sharia reinsurance; e. Sharia mutual funds; f. Sharia bonds, as well as important Sharia medium-term letters; g. Sharia securities; h. Sharia funding; i. Sharia pawnshop; j. the pension costs of Sharia financial institutions; k. Sharia business".
3. Regarding the Judicial Power Law Number 48 of 2009. LNRI 2009, Number 157. TLNRI, Number 5076. In Article 10 paragraph (2) it is reported: "The provisions of examining the case being tried do not close the effort to resolve civil cases peacefully".<sup>22</sup>

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<sup>16</sup> Amran Suadi, *Wanprestasi Dan Perbuatan Melawan Hukum, Dalam Penyelesaian Sengketa Ekonomi Syariah* (Jakarta: Kencana Prenadamedia Group, 2020).

<sup>17</sup> Jhon; Shadily M. Echols Hassan, *Kamus Inggris Indonesia-An English-Indonesian Dictionary* (Jakarta: PT. Gramedia Pustaka Utama, 2000).

<sup>18</sup> Pusat Bahasa Departemen Pendidikan Nasional, *Kamus Besar Bahasa Indonesia* (Jakarta: Balai Pustaka, 2008).

<sup>19</sup> M. Echols, *Kamus Inggris Indonesia-An English-Indonesian Dictionary*: p. 361.

<sup>20</sup> Amran Suadi, *Penyelesaian Sengketa Ekonomi Syariah - Teori Dan Praktik* (Jakarta: Kencana Prenadamedia Group, 2017).

<sup>21</sup> Suadi.

<sup>22</sup> Pemerintah Republik Indonesia, "Undang-Undang Tentang Kekuasaan Kehakiman" (2009), Nomor 48.

4. Law No. 8 of 1999 concerning Consumer Protection. LNRI 2009, Number 157. TLNRI, Number 5076. As written in Article 47 and Article 49 paragraph (1).
5. The Supreme Court System Number 2 of 2015 concerning the "Simple Lawsuit Method". BNRI 2015 Number 1172.
6. The Supreme Court system of the Republic of Indonesia Number 1 of 2016 concerning Mediation Procedures in the District Court. BNRI Year 2016 Number 175.
7. The Supreme Court system of the Republic of Indonesia Number 14 of 2016 concerning Methods of Handling Sharia Economic Cases. BNRI Year 2016 Number 2059.<sup>23</sup>
8. PBI No. 7/46/PBI/2005 concerning Jo. Banking Mediation. PBI Number 10/1/PBI/2008 concerning Improvements Regarding PBI Number 8/5/PBI/2006 concerning Banking Mediation, said that the requirements for collecting and distributing fees for banks that conduct business activities are based on understanding *Sharia*:

"General principles that meet the minimum requirements of this agreement, among others: the principle of transparency of products and services to achieve a Sharia Bank of integrity and trust; universal to all circles of society; prioritizing the resolution of disputes between banks and customers through deliberation; fairness and cost-effectiveness in dispute resolution through APS or Sharia arbitration."

9. Bank Indonesia System (PBI) Number 8/5/PBI/2006 concerning Jo. Banking Mediation. PBI Number 10/1/PBI/2008 concerning Improvements regarding PBI Number 8/5/PBI/2006 concerning Banking Mediation:

"The implementation of the banking mediation function by Bank Indonesia is carried out by bringing together customers and banks to review the subject matter of the dispute to reach an agreement without any recommendation, nor a decision from Bank Indonesia. Thus, the banking mediation function implemented by Bank Indonesia is only limited to providing places, helping customers and banks to bring up the subject matter of disputes, providing resource persons, and seeking to reach a dispute resolution agreement between customers and banks".

10. Regulation of the Supreme Court of the Republic of Indonesia Number 4 of 2019 concerning Improvements regarding the Supreme Court System Number 2 of 2015 concerning how "Simple Methods of Handling Lawsuits". BNRI 2019 Number 942. The substance stipulates that the easy handling of charges is a procedure for review in the trial of civil charges using a material value of at most Rp500.000.000 (five hundred million rupiah) will be cleared through procedures and evidence. which is easy. (Article 1 number (1). Also, plaintiffs and defendants can use the administration of cases in court electronically the same on the regulation agreement (Article 6 A).<sup>24</sup>

Sherwyn, David stated that simple lawsuit resolution, especially by way of arbitration is also very effective if applied in labor dispute cases with cost-effective considerations and the case process in court becomes simple.<sup>25</sup> Toshiya Jitsuzumi's thought, related to the impact of

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<sup>23</sup> Suadi, *Penyelesaian Sengketa Ekonomi Syariah - Teori Dan Praktik*.

<sup>24</sup> Perma Nomor 4 Mahkamah Agung RI, "Tata Cara Penyelesaian Gugatan Sederhana" (2019).

<sup>25</sup> David Sherwyn, "Arbitration of Employment-Discrimination Lawsuits: Legalities, Practicalities, and Realities," *The Cornell Hotel and Restaurant Administration Quarterly* 43, no. 6 (2002): 62-72, [https://doi.org/10.1016/S0010-8804\(02\)80072-6](https://doi.org/10.1016/S0010-8804(02)80072-6).

neutrality of resource allocation, regulation, or cost neutrality requirements, can provide benefits for litigants.<sup>26</sup>

Discourse necessity of institution *peace* (peace) of era modern like moment I certainly have one conversation and desire that still Utopian, but already enter Wed deep region practical. Handling case law economics sharia of deep Perspective law Islamic and Regulation that Occurred in Indonesia can describe schema bellow:

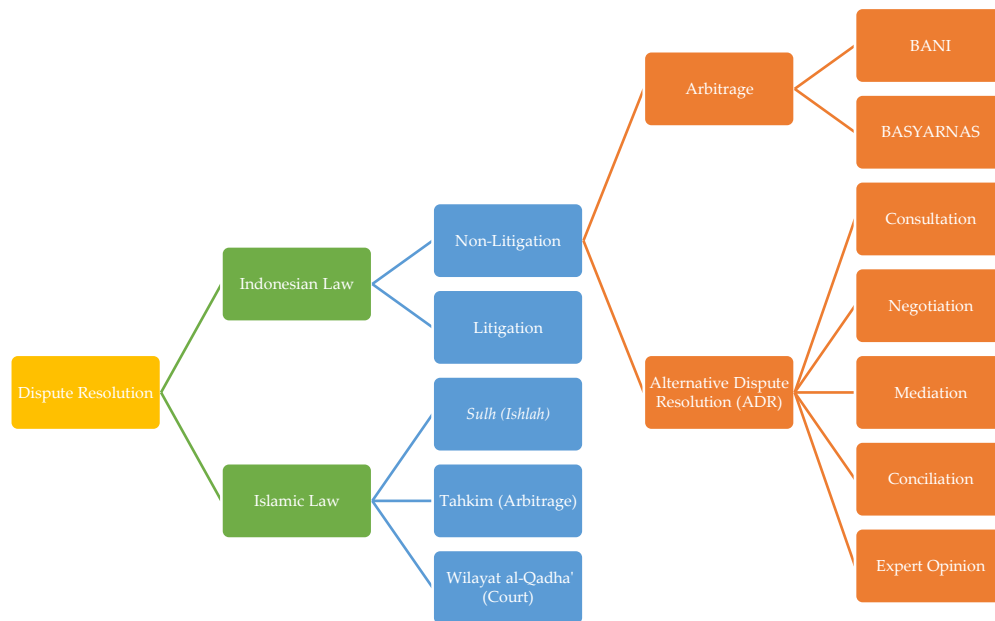


Figure 1. Dispute Resolution Scheme

Analyzing the above scheme, the management of Sharia economic law disputes uses many *nonlitigation* institutions, namely an out-of-court settlement process that is adjusted to the substance of the contract. As explained in Article 55 paragraphs (2) a, b, and c of Law No. 21 of 2008 concerning Islamic Banking, states:

"dispute resolution is carried out by the contents of the Contract" as below: a) deliberations; b) banking mediation; c) regarding the National Sharia Arbitration Board (Basyarnas) or other Arbitrate institutions; d) regarding the court in the general justice area."

The impact of the regulations issued from several agreements made is legally explained in Article 1338 paragraph (1) of the Civil Code. All contracts that are made officially act as a law for those who do. A contract cannot be canceled if there is no agreement between two parties, or if there is an article of the same law declared sufficient. The agreement not only contains matters that are certainly recognized but for all matters of a provision, required by propriety, habits, or legislation.<sup>27</sup> By law, the resolution of disputes by the content of this

<sup>26</sup> Toshiya Jitsuzumi, "Model Analysis on the Economic Impact of Paid Peering: Implications of the Netflix vs. SK Broadband Dispute," *Telecommunications Policy* 48, no. 4 (2024): 102736, <https://doi.org/10.1016/j.telpol.2024.102736>.

<sup>27</sup> Evita Premila Dhiljam Nuhqila, "Pengelolaan Tabungan Haji Perspektif Hukum Perjanjian Syariah" 18, no. 1 (2020): 85–101.

agreement is the same as the principle of the agreement as stated in Article 1338 of the Civil Code establishing: "All agreements made by the law apply as law to those who make it".<sup>28</sup>

Reviewing the regulation, some cases need to be studied by the parties concerned, namely regarding "resolving disputes by the substance of the counter" and the selection of legal forums (*choice of forums*) for handling contract cases by agreements or agreements. The contract can only be terminated by the agreement of the parties or the provisions required by law. The agreement must be carried out "in good faith" or "*Pacta Sunt Servanda*", meaning "the agreement of the parties must be abided". The enactment of the basis carries the influence that the parties are required to comply with or accept the agreement that has been made by the parties themselves.<sup>29</sup> Khalid's confirmation of the contract is also regulated in Article 1332 of the Civil Code, namely: 1). The ability between the parties, namely adults, is not under the ability; 3). About certain things, it means what is promised the rights and obligations of two parties if something arises; A halal reason, namely not violating laws and regulations.<sup>30</sup>

The provisions for dispute resolution of nonlitigation institutions above are also affirmed using alternative dispute resolution (APS), namely through the Arbitrate Institution (outside the General Court), as described in Article 1 paragraph (10) of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute management:<sup>31</sup>

"Alternative Dispute Resolution is an institution of dispute resolution or dissent through procedures agreed upon by the parties, namely out-of-court settlement using consultation, negotiation, mediation, conciliation, or expert assessment".

The alternative process of dispute resolution (APS) or *Alternative Dispute Resolution (ADR)*, even if using language that is commonly used (*holistic*). However, the concept of alternative dispute resolution (APS) cannot arbitrarily represent the integrity of the type and form of handling cases non-litigation, at least this opinion is based on several strong reasons.<sup>32</sup> The following in general, there are several forms and methods of *Alternative Dispute Resolution (ADR)*. Consultation. "Consultation activities are held to match the information between clients and legal counsel. A practice can be in the form of hiring a legal consultant for consultation or solving problems. In this case, the consultant is not dominant but only provides legal opinions that can later become a reference for the parties to the dispute".<sup>33</sup> Negotiations. "The transaction system by peaceful deliberation is to reach an agreement between the parties. Harmonization from both parties needs to be involved to obtain an agreement and accommodate various interests. The involvement of third parties can involve "mediators" but have no authority to make decisions, or through "adjudicators" who have the authority to make decisions".<sup>34</sup> Negotiation is the bargaining process carried out by both parties in a compromising and flexible manner.<sup>35</sup> Broadly speaking, there are two forms of negotiation, including *Positional Negotiation*, which includes: the final value of the deal targeted; the

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<sup>28</sup> Pustaka Yustisia, *Kitab Undang-Undang Hukum Perdata (KUH Perdata)* (Yogyakarta: Penerbit Pustaka Yustisia, 2015).

<sup>29</sup> Remy Sjahdeini, *Perbankan Syariah*.

<sup>30</sup> Subekti, *Hukum Perjanjian* (Jakarta: Intermedia, 2005).

<sup>31</sup> Undang-Undang Nomor 30, Tentang Arbitrase dan Alternatif Penyelesaian Sengketa.

<sup>32</sup> Suadi, *Penyelesaian Sengketa Ekonomi Syariah - Teori Dan Praktik*.

<sup>33</sup> Abdul Manan, *Hukum Ekonomi Syariah Dalam Perspektif Kewenangan Peradilan Agama* (Jakarta: Prenadamedia Group, 2016).

<sup>34</sup> Marhamah Saleh, "Metode Penyelesaian Sengketa Ekonomi Syariah Dalam Perpektif Hukum Islam Dan Indonesia," *Journal Of Institution And Sharia Finance*, n.d.

<sup>35</sup> Abdul Manan, *Hukum Ekonomi Syariah Dalam Perspektif Kewenangan Peradilan Agama*.



existence of a bargaining system; and the presence of a feeling of winning or losing; Success is determined by the relationship between expectations and the final result that has previously been agreed upon. *Interest-Based Negotiation (IBN)*: identification of problems and expectations; sharing information about each other's expectations, unrest, and positions; Uncovering problems to obtain desires and expectations from both parties.<sup>36</sup> Mediation. "The process of negotiating the handling of cases (disputes), the "mediator" does not favor anyone, is neutral, does not cooperate, or obtains something profitable". Mediation is a case-handling mechanism that includes mediators to help the parties to the dispute to obtain the handling of the case as stated in the agreement that has been agreed upon by the parties. party. In mediation activities, the mediator serves as a mediator in case of information disbursement, describes the point of similarity of the conversation or opinion between the two parties, and seeks to limit the emergence of differences. Mediation especially can be used for the handling of cases outside the court (*out-of-court settlement*) regarding civil disputes, as established in PBI Number 8/5/PBI/2006 through the "Banking Mediation Agency".<sup>37</sup> Conciliation. "Creating a misalignment of opinions, resolving a dispute by familial means with no sense of dispute in the court before the start of the trial where this is to avoid litigation."<sup>38</sup> Conciliation (Agreement) is an attempt to bring together the good faith of the warring parties to obtain a peace agreement over the dispute by including a third party (the conciliator). Technically handled in a way: "Conciliator may propose opinions openly and without the tendency to anyone; Conciliators do not have the power to make a final decision on the disputed party, because the decision taken must have the consent of all parties to the dispute; The conciliator is a neutral third party and is accepted by the parties to the dispute".

Expert Assessment. "All parties to an agreement, have the right to plead about the expert opinion of the Arbitrate Tribunal on certain legal cases based on the agreement of the parties".<sup>39</sup>

This regulation is the implementation of the duties of the Arbitrate Institution as mentioned in Article 1 paragraph 8 of Law Number 30 of 1999, the Arbitrate Institution is an institution appointed by the party with the dispute to submit a verdict on a particular dispute to the institution. Another is if a dispute arises in the future.<sup>40</sup> Studying how to resolve nonlitigation disputes in the context of this ADR has been by the development of law in Islamic economics and civil. Statement of Court considered: "Considering" letter c asserts that people's community requires an easier, shorter method of handling, and *relatively* cheap prices, especially in legal relationships that are ordinary. <sup>41</sup> Civil Code, Article 1365 regulates legal protection due to unlawful acts (*Onrechtmatige Daad*) namely: "any action against the law (PMH) that brings harm to others, it is mandatory for the person to compensate". PMH elements, namely:

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<sup>36</sup> Abdul Manan.

<sup>37</sup> Marhamah Saleh, "Metode Penyelesaian Sengketa Ekonomi Syariah Dalam Perpektif Hukum Islam Dan Indonesia.": p. 40.

<sup>38</sup> Abdul Manan, *Hukum Ekonomi Syariah Dalam Perspektif Kewenangan Peradilan Agama*: p. 445.

<sup>39</sup> Abdul Manan. Pasal 52, Undang-Undang Nomor 30 Tahun 1999.

<sup>40</sup> Undang-Undang Nomor 30, Tentang Arbitrase dan Alternatif Penyelesaian Sengketa.

<sup>41</sup> Perma RI Nomor 14, "Peraturan Mahkamah Agung Tentang Tata Cara Penyelesaian Perkara Ekonomi Syariah," in *Peraturan Mahkamah Agung* (Jakarta: Badilag MA, 2016).

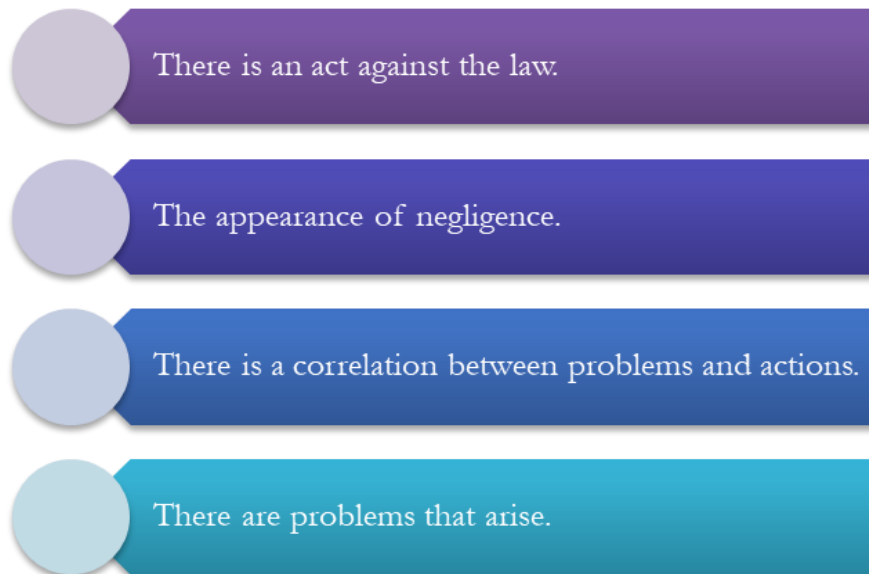


Figure 2. The plot of Sharia Economic Law Simple Lawsuit

*First*, it is mentioned that acts against the law if, violate the rights of others; there is a dispute, that violates decency and the principle of propriety that is considered either by society or the right to things. *Second*, negligence can occur due to intentional (*opzet dolus*) or lack of caution (*culpa*). *Third*, the problem caused by the act of defying the law is material, namely, a real problem felt against the law made by others, and the impact of *immaterial* losses. *Fourth*, to determine compensation to people who carry out actions against the law, there needs to be proof of guilt and causality between actions against the law and losses.<sup>42</sup>

### **Standard Operating Procedures (SOP) for resolving objections to simple lawsuits**

Regarding standard operating procedures (SOP) for handling objections to ordinary charge cases, technically regulator “Badilag” Supreme Court (MA) through PERMA RI explains several dimensions including:<sup>43</sup>

#### **Legal Basis**

Supreme Court Regulation Number 2 of 2015 concerning Ordinary Dispute Handling Methods. BNRI 2015 Number 1172. Jo. Supreme Court Regulation Number 1 of 2016 concerning Mediation Mechanism in The District Court. BNRI Of 2016 Number 175. Jo. Supreme Court Regulation Number 14 of 2016 concerning the Method of *Sharia* Economic Case. BNRI Year 2016 Number 2059.

#### **Relevance**

The relevance of the case can be seen from the Operational Standard proposed by your (SOP) Pen Method again Indictment or Ordinary Case by the Sole Judge and Standard Case Tracking Information System (SIPP).

<sup>42</sup> Nurbaiti Prastyandana Yuwono, “Perlindungan Hukum Terhadap Nasabah Koperasi Baitul Maal Wat Tamwil (BMT) Tidak Sehat Di Kota Yogyakarta,” *Jurnal Hukum Islam (JHI)* 18, no. Nomor 1 (2020): 37, <https://doi.org/10.28918/jhi.v18i1.2845>.

<sup>43</sup> Perma RI Nomor 14, “Peraturan Mahkamah Agung Tentang Tata Cara Penyelesaian Perkara Ekonomi Syariah.”

**Commemoration**

If the emergence of warnings with consequences, if SOP is not done, then the handling of a simple lawsuit will not be realized.

**Qualification of the Executor (KP)**

Its benchmarks can be seen from various aspects, namely understanding of the processing of data, duties, and functions in the Committee of the Religious Court, the method of receiving and handling simple lawsuits in the Committee of the Religious Court, methods of trial handling cases or simple charges, and methods of filling out register books in the Committee.

**Equipment**

Equipment can at least be seen from the background memory stuffing, case folders, the main register book of ordinary indictment cases, and *computer devices, scanners, and printers.*

**Recording and Data Collection (PP)**

Regarding recording and data collection, technically saved as electronic and manual data. As an overview can be studied in visualization the following link, also as described in the following Simple Lawsuit Pocket Book: <sup>44</sup> (Version Indonesian);-----  
 “[```

    graph TD
        A\[Pendaftaran\] --> B\[Pemeriksaan Kelengkapan Gugatan\]
        B --> C\[Pembayaran Panjar Biaya Perkara\]
        C --> D\[Penetapan Nama Hakim dan Panitera\]
        D --> E\[Pemeriksaan Pendahuluan atas Berkas\]
        E --> F\[Penetapan Hari Sidang\]
        F --> G\[Pemanggilan kepada Para Pihak\]
        G --> H\[Pemeriksaan Sidang & Perdamaian\]
        H --> I\[Pembuktian\]
        I --> J\[Putusan\]
        J --> K\[Penyerahan Salinan Putusan\]
    
```](https://putusan.mahkamahagung.go.id/pengadilan/mahkamah-agung/direktori/perdata-agama/ekonomi-syariah.”</a>”</p>
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Figure 3. The plot of Sharia Economic Law Simple Lawsuit

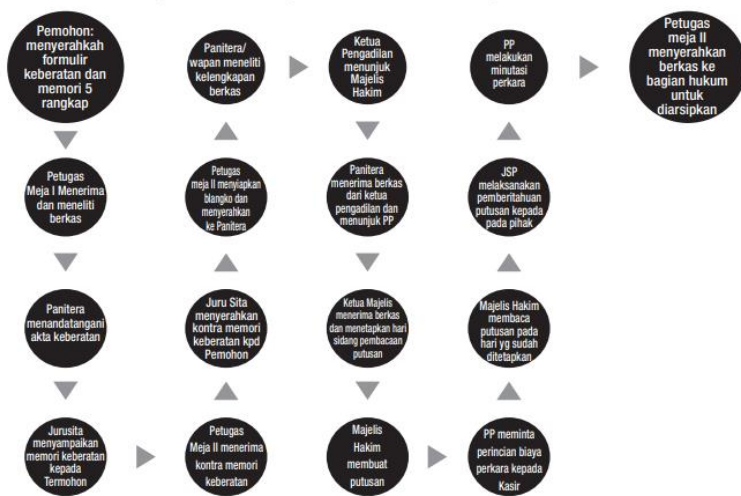


Figure 4. The plot of Sharia Economic Law Simple Lawsuit

<sup>44</sup> Perma RI Nomor 14.

Reviewing *the table chain* of the case above an overview of the flow of procedures for resolving simple lawsuits in terms of activities and procedures as released by the “Badilag” Supreme Court Republic of Indonesia, illustrated in the scheme and figure of the following register book:<sup>45</sup>

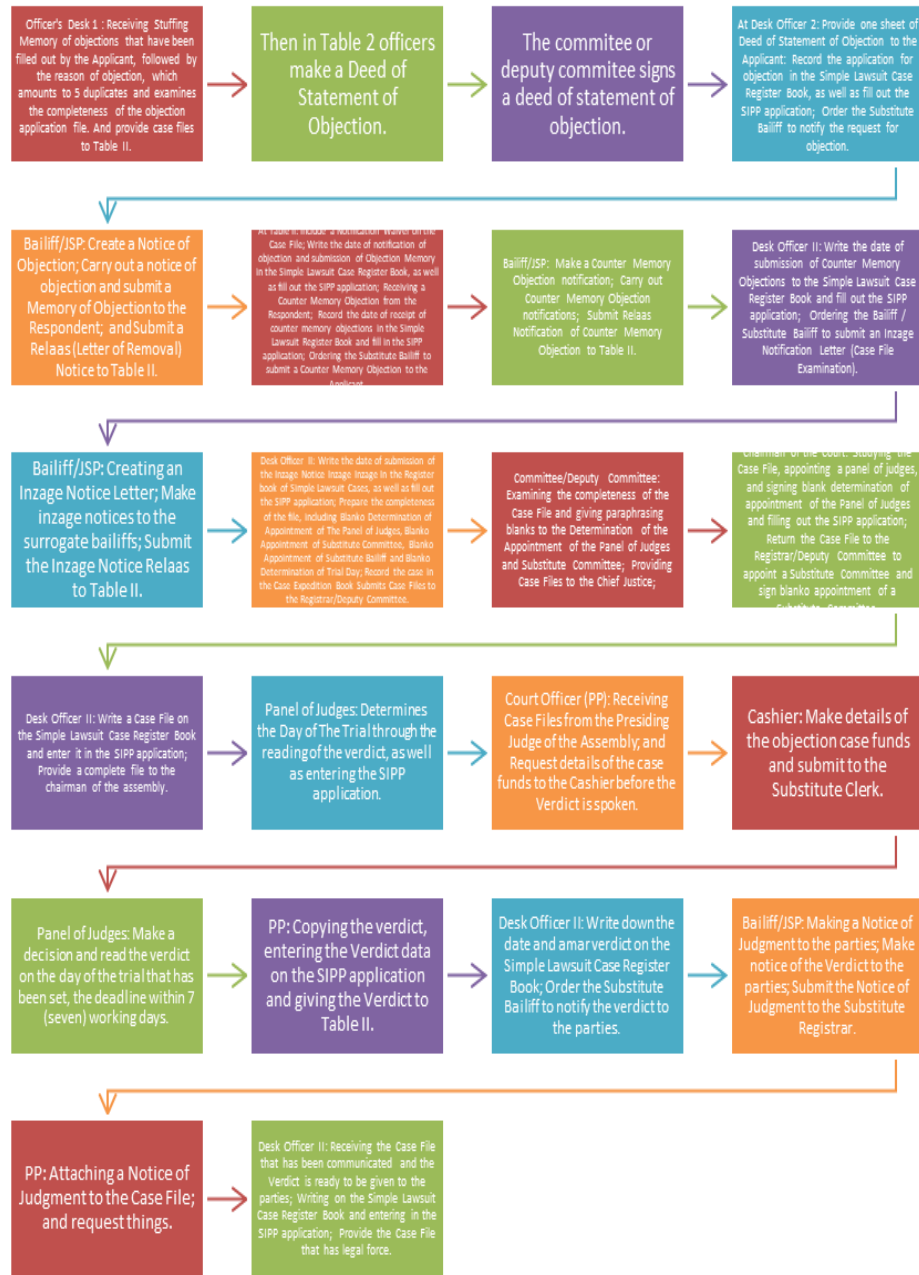


Figure 5. Chain of the Case Overview and Flow of Procedures.

Overview of Simple Dispute Resolution Cases in Indonesia, namely:<sup>46</sup> Supreme Court Decision Number 587 K / AG / 2023, dated June 22, 2023 (case of BANK OCBC NISP Syariah and partners, with the verdict: "grant the cassation request from the Cassation Applicant; Revoking the Decision of the High Court of Religion of Mataram Number

<sup>45</sup> Badilag MA RI, Peraturan Mahkamah Agung RI Nomor 14 Tahun 2016 tentang Tata Cara Penyelesaian Perkara Ekonomi Syariah. BNRI Tahun 2016 Nomor 2059.

<sup>46</sup> Supreme Court's decision, on matters of sharia economics (n.d.).

128/Pdt.G/2022/PTA.Mtr. dated December 7, 2022 AD to coincide with the 13th of Jumadil Awwal 1444 Hijri and the Decision of the Mataram Religious Court Number 352/Pdt.G/2022/PA.Mtr. dated October 24, 2022 AD to coincide with the 28th of Rabiul Awwal 1444 Hijri. Adjudicating and Rejecting the Exclusion of Defendant II; In Subject Matter). Declaring Plaintiff's claim inadmissible; 2). Sentencing the Cassation Applicant to pay the costs of the case at all levels of justice, which in this level of cassation is Rp500,000.00 (five hundred thousand rupiah).

Supreme Court Decision Number 403 K/AG/2023, dated April 18, 2023, regarding the BCA SYARIAH KC Lampung. Amar the ruling: Grant the appeal of the Cassation Applicant; Revoking the Decision of the Bandarlampung High Court of Religion Number 56/Pdt.G/2022/PTA.Bdl. dated November 2, 2022 AD to coincide with the 7th of Rabiul Akhir 1444 Hijri; Adjudicate and reject the Defendant's exception; The main case: Declaring that the Tanjungkarang Religious Court is not authorized to try case No. 717/Pdt.G/2022/PA. Trnk; Sentencing the Cassation Applicant to pay the costs of the case in all levels of justice, which in this level of cassation amounts to Rp500,000.00 (five hundred thousand rupiah).

Supreme Court Decision Number 497 K/AG/2023, dated June 9, 2023 (Case of PT. BSI, Tbk. KCP Sidoarjo Gajah Mada and Partners, Amar rulings that have permanent legal force: declaring the cassation application from the Cassation Applicant inadmissible; Cassation Applicant to pay the cost of the case at this cassation level in the amount of Rp. 500,000.00 (five hundred thousand rupiah).

Analyzing some of these cases, the dispute resolution process is examined from related decisions, starting from appeals, the first level is completed almost the same starting from 2022, until the cassation verdict in 2023, taking quite a long time. Analysis and the findings of the author, the correlation between the mighty disputes of Sharia economic law, as mandated by PERMA RI Number 4 of 2019 has not yet been achieved. Because reading from some cases the process is still so long and the trial costs are still expensive. Even though the national income is not a tax (PNBP) trial is clearly stated according to cheap and affordable regulations, in practice, there are still illegal levies.

## Conclusion

Non-litigation dispute resolution by the ADR method in the context of legal developments in the field of Islamic economics, as well as manners in society, is very important. This method of handling is necessary because it is easier, faster, and more financially affordable, especially in simple legal matters but does not violate applicable regulations. Indications of the case can be seen from the elements of unlawful acts, errors, and causal relationships between losses and actions, as well as the emergence of cases for settlement of *mu'amalah* disputes with simple claims, the implementation of which can be carried out through the Arbitration Institution, by Law Number 30 of 1999. An institution appointed by a disputing group to bring claims related to a particular dispute. The agency may provide binding opinions on certain legal relationships in cases of disputes on a non-litigation basis. "Badilag MA RI" through the Supreme Court Regulation (PERMA) RI, regulates the procedure and implementation of objection resolution in simple lawsuits in the field of Islamic economics with efforts to complete procedures more simply, quickly, and at low cost. The standard operational procedures (SOPs) for handling objections in simple lawsuits, can be reviewed through several PERMA RI, including Supreme Court Regulation (PERMA) Number 2 of 2015 concerning procedures for handling simple claims. BNRI Year 2015 Number 1172; PERMA RI Number 1 of 2016 concerning Mediation Procedures in District

Courts. BNRI in 2016 Number 175; PERMA RI Number 14 of 2016 concerning Sharia Economic Case Procedures. BNRI Year 2016 Number 2059; PERMA RI Number 4 of 2019 concerning Amendments to Supreme Court Regulation Number 2 of 2015 concerning Simple Lawsuit Handling Procedures. BNRI Year 2019 Number 942, as well as other regulations related to Sharia economic law in Indonesia. The substance confirms that the handling of simple cases is an examination procedure in the trial of civil cases regarding a maximum material amount of Rp500,000,000 (five hundred million rupiah) through simple procedures, and their validity is based on applicable regulations and has binding legal force. But from the implementation order, it was found that it was still not running effectively, quickly, simply, and cheaply.

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