



The Effectiveness Of Sharia Arbitration In Resolving Sharia Business Disputes

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ABSTRACT

The rapid growth of the Islamic business sector in Indonesia necessitates dispute resolution mechanisms that are not only legally sound but also aligned with the principles of Islamic law. Sharia arbitration emerges as an alternative dispute resolution outside the court system, offering a more flexible, efficient, and substantively just process. A key institution in the implementation of sharia arbitration in Indonesia is the National Sharia Arbitration Board, which resolves disputes based on the parties' agreements while adhering to Islamic values. This study aims to examine the effectiveness of sharia arbitration in resolving Islamic business disputes, focusing on its legal foundation, cost and time efficiency, parties' satisfaction, and implementation challenges. The research employs a qualitative method, specifically library research, through a review of legislation, national scholarly journals, and relevant literature on arbitration and Islamic finance. The findings indicate that sharia arbitration is generally effective in resolving Islamic business disputes, particularly due to its straightforward procedures, relatively short resolution period, and ability to maintain harmonious business relationships. However, several obstacles persist, including limited public understanding of sharia arbitration, a shortage of arbitrators with specialized expertise in Islamic finance, and challenges in the enforcement of arbitration awards. To enhance its effectiveness, institutional strengthening, broader socialization, and human resource development are essential to optimize the role of sharia arbitration in Indonesia's Islamic business sector.

INTRODUCTION

Over the past two decades, the development of the Islamic economy in Indonesia has demonstrated a significant and sustained upward trend. This growth is reflected in the increasing number of Islamic financial institutions, the expansion of businesses operating under Sharia principles, and the widespread adoption of Sharia contracts (aqad) across various economic sectors, ranging from banking, insurance, and capital markets to real sectors such as trade, services, and halal industries. These dynamics not only indicate heightened public awareness of Islamic economic values but also show that the Sharia economic system has become an integral part of the national economy (Fitriyah & Soviana, 2021). Nevertheless, as with conventional business practices, legal disputes inevitably arise within the context of Sharia business transactions.

Disputes in Sharia business may occur due to differing interpretations of contract terms, defaults on obligations, violations of Sharia principles, or imbalances in bargaining power between parties. Such disputes are unique in nature because they not only involve civil law aspects but also pertain to compliance with Sharia principles, including justice (al-'adl), public interest (maslahah), and the prohibition of riba (interest), gharar (excessive uncertainty), and maisir (gambling). Consequently, dispute resolution mechanisms should ideally provide legal certainty while preserving the ethical and moral values underpinning Sharia-compliant transactions (Zahro et al., 2022).

In the Indonesian legal system, civil disputes can generally be resolved through litigation in court or through non-litigation mechanisms, such as arbitration and other alternative dispute resolution methods.

Litigation is often considered less efficient for business actors due to its formal procedures, multiple procedural levels, lengthy timelines, and considerable costs. Moreover, the public nature of court proceedings can potentially harm business relationships and reputations. These challenges have encouraged the growth of alternative dispute resolution mechanisms that are more flexible, efficient, and oriented toward amicable settlements, among which arbitration stands out (Zamaludin & Nuroni, 2025).

Arbitration, as an out-of-court dispute resolution mechanism, is legally recognized under Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution. This legislation provides the legal basis for parties to submit civil disputes to arbitrators based on mutual agreement. In the context of Islamic finance, arbitration has evolved into sharia arbitration, a mechanism grounded not only in positive law but also in Sharia principles, which guide both the examination process and decision-making (Rachman et al., 2022).

In Indonesia, the National Sharia Arbitration Board serves as the principal institution overseeing sharia arbitration. This institution was established to meet the demand for an independent, professional forum for resolving Sharia business disputes. National Sharia Arbitration Board is authorized to settle disputes as long as parties include a sharia arbitration clause in their contracts or agreements. Its presence is crucial in strengthening the Sharia economic ecosystem by providing a dispute resolution avenue that is adaptable to the characteristics of Sharia transactions.

Despite the normative advantages of sharia arbitration, its practical effectiveness remains a topic of discussion among academics and practitioners. The effectiveness of sharia arbitration is not solely measured by its legal foundation or institutional existence but also by its ability to deliver timely, cost-effective, fair resolutions that are acceptable and enforceable by the parties involved. Research indicates that sharia arbitration is relatively effective in resolving business disputes due to its simple and confidential procedures, which help preserve business relationships (Fitriyah & Soviana, 2021).

However, several challenges influence the effectiveness of sharia arbitration. A major obstacle is the limited understanding and awareness of business actors regarding the existence and function of sharia arbitration. Many Sharia businesses do not include arbitration clauses in their contracts, resulting in disputes ultimately being resolved through litigation in religious or general courts. Additionally, the shortage of arbitrators with expertise in both Sharia law and Islamic finance affects the quality of arbitration decisions (Musrifah & Khairunisa, 2020).

Another factor impacting effectiveness is the implementation and enforcement of arbitration awards. Although arbitration decisions are final and binding, administrative and legal obstacles in registering and executing awards in court still occur. These issues may reduce parties' confidence in sharia arbitration as a truly effective mechanism that guarantees legal certainty (Harahap, 2024).

From a Sharia perspective, however, arbitration holds normative advantages because it emphasizes dispute resolution through consultation (*musyawarah*) and prioritizes substantive justice. Sharia arbitration does not merely focus on winning or losing but aims to achieve fair and beneficial outcomes for all parties. This approach aligns with the objectives of Islamic law (*maqashid al-sharia*), which prioritize the protection of property, justice, and social harmony (Zamaludin & Nuroni, 2025).

Considering these advantages and challenges, examining the effectiveness of sharia arbitration in resolving Islamic business disputes is both relevant and important. Evaluating effectiveness not only measures the extent to which sharia arbitration achieves its intended goals but also provides a basis for formulating recommendations to strengthen institutions and policies in the future. This study is expected to contribute academically to the development of Sharia economic law and serve as a practical reference for business actors, arbitrators, and policymakers.

Based on this background, the present research focuses on analyzing the effectiveness of sharia arbitration in resolving Islamic business disputes in Indonesia, with particular attention to legal foundations, procedural efficiency, fairness and satisfaction of parties, and the implementation challenges faced by BASYARNAS as the national sharia arbitration body. Through this approach, a comprehensive understanding of the position and role of sharia arbitration within Indonesia's Islamic business dispute resolution system can be obtained.

RESEARCH METHODOLOGY

This study employs a qualitative approach with a normative legal research design. This approach is selected because the research focuses on examining legal norms, Sharia principles, and the concept of Sharia arbitration as regulated in legislation and elaborated in scholarly literature. Normative legal research aims to analyze the effectiveness of Sharia arbitration in resolving Islamic business disputes by studying relevant positive law provisions and legal doctrines (Saebani, 2021).

The research utilizes both a statutory approach and a conceptual approach. The statutory approach involves reviewing Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, along with other regulations related to dispute resolution in the context of Islamic economics. The conceptual approach is used to understand the concepts of effectiveness, Sharia arbitration, and the principles of Sharia economic law that form the foundation for resolving business disputes.

The sources of legal materials in this study consist of primary and secondary legal sources. Primary sources include legislation, relevant court decisions, and institutional regulations governing the National Sharia Arbitration Board. Secondary sources comprise accredited national scholarly journals, textbooks on Sharia economic law, previous research, and scientific articles discussing arbitration and dispute resolution in Islamic business.

Data collection was conducted through library research, involving the inventory, classification, and systematic examination of legal materials relevant to the study topic. The collected materials were then analyzed using a qualitative analysis method, which interprets legal norms and Sharia concepts systematically to provide a comprehensive understanding of the effectiveness of Sharia arbitration.

Data analysis employed deductive reasoning, drawing conclusions from general legal provisions to their specific application in the context of resolving Islamic business disputes. The results are presented in a descriptive-analytical format, offering an in-depth discussion of the strengths, weaknesses, and challenges in implementing Sharia arbitration in Indonesia. This methodology aims to provide an objective overview of the role and effectiveness of Sharia arbitration as a fair and sustainable mechanism for resolving disputes in the Islamic business sector.

DISCUSSION

Legal Basis and the Role of Sharia Arbitration

Sharia arbitration in Indonesia is supported by a strong legal foundation within the national legal system, particularly under Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution. This legislation provides parties with the legal authority to resolve civil disputes outside of the court system based on mutual agreement, including disputes arising from Sharia-compliant business activities. The law's recognition demonstrates the state's acknowledgment of arbitration as a legitimate, final, and binding mechanism for dispute resolution, provided that both formal and material requirements stipulated by law are fulfilled (Zamaludin & Nuroni, 2025).

In the context of the Islamic economy, arbitration serves not only as a juridical tool for resolving disputes but also as a means to uphold compliance with Sharia principles that govern contractual relationships between parties. Sharia arbitration emphasizes values such as justice, public interest (*maslahah*), and balance as core principles in the examination process and decision-making. This normative focus distinguishes it from conventional arbitration, which typically prioritizes civil law rules without integrating Sharia ethical considerations (Fitriyah & Soviana, 2021).

The strategic implementation of Sharia arbitration in Indonesia is carried out by the National Sharia Arbitration Board, established to meet the need for a professional, independent, and Sharia-compliant forum for resolving business disputes. National Sharia Arbitration Board has the authority to settle Islamic economic disputes as long as the parties include a Sharia arbitration clause in their contracts or agreements. The dispute resolution process at National Sharia Arbitration Board is designed to be flexible, confidential, and deliberative, aiming to preserve business relationships while providing legal certainty (Nurhabni, 2024).

Furthermore, National Sharia Arbitration Board contributes to strengthening the Sharia economic law ecosystem in Indonesia by offering an alternative dispute resolution mechanism that aligns with the characteristics of Sharia transactions. Sharia arbitration awards are assessed not only in terms of formal legality but also in terms of their conformity with Sharia principles, thereby providing a sense of substantive justice for the parties involved. Consequently, Sharia arbitration serves as an important bridge between national positive law and Islamic legal values in the practice of modern Sharia business (Harahap, 2024).

Time and Cost Efficiency in Resolving Disputes through Sharia Arbitration

One of the primary indicators for assessing the effectiveness of Sharia arbitration is its efficiency in terms of time and cost compared to dispute resolution through litigation. In court proceedings, resolving business disputes often requires extended periods due to formal and multi-tiered procedures, as well as the possibility of appeals and cassation. Such delays are considered disadvantageous for business actors, particularly in the Sharia business context, where certainty and continuity of business relationships are essential (Fitriyah & Soviana, 2021).

Sharia arbitration provides a relatively simpler and more flexible dispute resolution process. Parties are granted the autonomy to determine procedural rules, select qualified arbitrators, and set timelines for resolving the dispute in accordance with mutual agreement. This flexibility allows arbitration to proceed more swiftly than court litigation, thereby reducing potential economic losses caused by prolonged legal uncertainty (Zamaludin & Nuroni, 2025).

In terms of costs, Sharia arbitration is generally more economical because parties can manage expenses from the outset of the process. The absence of multiple court fees and the limited procedural stages make arbitration a cost-effective alternative, particularly for small and medium-sized enterprises operating within the Sharia economic sector. Additionally, the confidential nature of the proceedings helps minimize non-financial costs, such as reputational risks and the potential erosion of public trust in the businesses

involved (Ainun Nazib, 2025).

Nonetheless, the efficiency of time and cost in Sharia arbitration still faces practical challenges. Research indicates that a limited number of arbitrators with specialized expertise in both Sharia law and Islamic finance can affect the speed of dispute resolution. Furthermore, insufficient understanding of Sharia arbitration procedures among the parties may result in administrative obstacles that prolong the resolution process (Harahap, 2024).

Sharia Justice and Parties' Satisfaction

A key normative strength of Sharia arbitration lies in its orientation toward substantive justice grounded in Sharia principles. Unlike litigation, which often emphasizes procedural and formal-legal aspects, Sharia arbitration prioritizes justice, balance, and the public interest (*maslahah*) for all parties involved. These principles are reflected in the dispute resolution process, which encourages dialogue and deliberation, ensuring that the outcomes are not merely focused on winning or losing, but on achieving fair and mutually acceptable solutions (Nurhabni, 2024).

Justice in Sharia arbitration is further exemplified by the role of the arbitrator, who acts not only as a legal interpreter but also as a mediator familiar with the nature of Sharia contracts and Islamic economic principles. Sharia arbitrators are required to assess the compliance of agreements with *fiqh muamalah* (Islamic commercial jurisprudence) and the objectives of Islamic law (*maqashid al-sharia*), such as asset protection and fairness in transactions. This approach ensures that arbitration awards carry not only legal legitimacy but also moral and religious legitimacy for the disputing parties (Fitriyah & Soviana, 2021).

The satisfaction of the parties with the arbitration award serves as an important indicator of the mechanism's effectiveness. Studies have shown that Islamic business actors are more likely to accept arbitration decisions when the process is perceived as fair, transparent, and consistent with the Sharia principles they adhere to. The finality and binding nature of arbitration awards also provide quicker legal certainty, reducing the likelihood of further conflicts and helping maintain ongoing business relationships (Harahap, 2024).

However, parties' satisfaction is not uniformly high in all Sharia arbitration cases. Factors such as limited understanding of arbitration procedures, differing expectations regarding the outcome, and challenges in implementing and enforcing awards can affect perceptions of fairness and satisfaction. Therefore, enhancing the quality of the arbitration process, ensuring the professionalism of arbitrators, and maintaining procedural transparency are crucial for building and sustaining trust in Sharia arbitration as a fair and effective dispute resolution mechanism.

Challenges and Prospects of Sharia Arbitration in Resolving Islamic Business Disputes

Although Sharia arbitration offers numerous normative and practical advantages in resolving Islamic business disputes, its effectiveness in Indonesia still faces several implementation challenges. A primary issue is the limited understanding and awareness among business actors regarding the existence and function of Sharia arbitration. Many Sharia business contracts or agreements do not explicitly include a Sharia arbitration clause, which leaves parties without a legal basis to resolve disputes through arbitration when conflicts arise (Ainun Nazib, 2025).

Another significant challenge relates to human resources, particularly the availability of arbitrators with sufficient expertise in both Sharia law and Islamic finance. Sharia arbitrators are expected not only to be well-versed in arbitration procedures but also to possess in-depth knowledge of *fiqh muamalah* and Sharia business practices. This shortage of qualified arbitrators may affect the quality of arbitration awards and diminish parties' confidence in the Sharia arbitration institution (Nurhabni, 2024).

Moreover, the enforcement of arbitration awards remains a considerable obstacle. Although arbitration decisions are final and binding, practical difficulties still arise in registering and executing awards in court. Inconsistent understanding among law enforcement officers regarding the legal authority of Sharia arbitration awards can hinder legal certainty and reduce the overall effectiveness of arbitration as a dispute resolution mechanism (Harahap, 2024).

On the other hand, Sharia arbitration holds promising prospects alongside the continued growth of the *halal* industry and Islamic economy in Indonesia. Regulatory support, institutional strengthening of National Sharia Arbitration Board, and integration of Sharia principles into the national legal system present strategic opportunities to enhance the role of Sharia arbitration. Efforts to increase public awareness, improve arbitrator capacity, and harmonize regulations are expected to make Sharia arbitration a more effective, fair, and sustainable mechanism, supporting the development of the Islamic business sector in Indonesia.

CONCLUSION

Sharia arbitration serves as an alternative dispute resolution mechanism with a strategic role in supporting the development of Islamic business in Indonesia. Its legal recognition under Law No. 30 of 1999 demonstrates that the national legal system accommodates the resolution of civil disputes based on Sharia

principles. Through the National Sharia Arbitration Board, Sharia arbitration functions not only as a legal means of dispute resolution but also as an instrument for upholding values of justice, public interest (masalah), and balance in Sharia-compliant business transactions.

The study indicates that Sharia arbitration exhibits a relatively high level of effectiveness, particularly in terms of time and cost efficiency, procedural flexibility, and the ability to maintain confidentiality and good business relationships among parties. Furthermore, the focus on substantive justice and alignment with the objectives of Sharia law (maqashid al-sharia) enhances parties' acceptance of and satisfaction with arbitration outcomes. These characteristics make Sharia arbitration a relevant alternative compared to litigation, which tends to be formal, lengthy, and rigid.

However, the effectiveness of Sharia arbitration still faces several challenges, including limited awareness among business actors regarding Sharia arbitration clauses, a shortage of arbitrators with sufficient expertise in Sharia law and Islamic finance, and obstacles in the enforcement of arbitration awards. Therefore, strengthening National Sharia Arbitration Board as an institution, improving both the quality and quantity of Sharia arbitrators, and conducting broader outreach to Islamic business actors are essential measures. Such efforts are expected to optimize the role of Sharia arbitration as an effective, just, and sustainable dispute resolution mechanism within Indonesia's legal system.

REFERENCES

- Ainun Nazib, M. (2025). Optimalisasi penyelesaian sengketa ekonomi syariah melalui arbitrase syariah di Indonesia. *Bayani: Jurnal Studi Islam dan Ekonomi Syariah*, 5(1), 45–60.
- Fitriyah, N., & Soviana, R. (2021). Efektivitas Peran Arbitrase Syariah Dalam Menyelesaikan Sengketa Bisnis Syariah Di Indonesia. *Jurnal Hukum Ekonomi Syariah*, 5(02), 180-189.
- Harahap, S. K. (2024). Penyelesaian sengketa ekonomi syariah melalui mekanisme non-litigasi di Indonesia. *Yurisprudencia: Jurnal Hukum Ekonomi Islam*, 10(2), 201–218.
- Musrifah, M., & Khairunisa, M. (2020). Penyelesaian Sengketa Ekonomi Syariah Melalui Arbitrase Syariah: Penyelesaian Sengketa Ekonomi Syariah Melalui Arbitrase Syariah. *Al-Awwal*, 9(1), 1-12.
- Nurhabni. (2024). Peran Badan Arbitrase Syariah Nasional (BASYARNAS) dalam penyelesaian sengketa bisnis syariah. *Iqtishaduna: Jurnal Ilmiah Hukum Ekonomi Syariah*, 6(2), 89–104.
- Rachman, A., Devi, S. T., & Astuti, W. (2022). Peran Badan Arbitrase Syariah Nasional Majelis Ulama Indonesia (Basyarnas-Mui) Dalam Mengatasi Sengketa Perbankan Syariah Di Indonesia. *Madani Syari'ah*, 5(2), 108-120.
- Zahro, A. L., Fasa, M. I., & Ja'far, A. K. (2022). Analisis Penyelesaian Sengketa Ekonomi Syariah Secara Non Litigasi. *Reslaj: Religion Education Social Laa Roiba Journal*, 4(2), 336-352.
- Zamaludin, R., & Nuroni, A. M. (2025). Arbitrase syariah dalam perspektif Undang-Undang Nomor 30 Tahun 1999. *Al-Ikhtisar: Jurnal Hukum Ekonomi Syariah*, 4(1), 1–16.
- Rosidah, Z. N., & Mahfiana, L. (2020). Efektifitas Penerapan Prinsip Syariah dalam Penyelesaian Sengketa Ekonomi Syariah di Badan Arbitrase Syariah Nasional (BASYARNAS). *Tawazun: Journal of Sharia Economic Law*, 3(1), 15-30.
- Yunita, A. (2021). Efektifitas Penyelesaian Sengketa Ekonomi Syariah Melalui Badan Arbitrase Syariah Nasional Daerah Istimewa Yogyakarta. *Jurnal Hukum Progresif*, 9(1), 25-36.
- Ristiana, U., & Baidhowi, B. (2025). Efektivitas Peradilan Dan Alternatif Dispute Resolution (ADR) Dalam Penyelesaian Sengketa Ekonomi Syariah. *Jurnal Ilmiah Wahana Pendidikan*, 11(9. D), 291-197.
- Purwita, A. A., & Priadi, E. (2025). Harmonisasi Sistem Arbitrase Syariah Dan Pengadilan Agama Dalam Penyelesaian Sengketa Ekonomi Syariah: Strategi Meningkatkan Efektivitas Hukum Nasional. *AL-MANNAN: JURNAL ILMU-ILMU KEISLAMAN*, 3(2), 212-224.
- Fauzi, M., Yani, A., Sasena, E. I., Nasri, H., & Alexander, O. (2025). Efektifitas Penyelesaian Sengketa Ekonomi Syariah Pendekatan Mediasi Dalam Perspektif Yuridis Normatif. *Hutanasyah: Jurnal Hukum Tata Negara*, 4(1), 53-67.
- Musjtari, D. N., Yunita, A., & Hamsin, M. K. (2020). Efektivitas penyelesaian sengketa perbankan syariah melalui mekanisme fasilitasi oleh Otoritas Jasa Keuangan (OJK). *Masalah-Masalah Hukum*, 49(1), 1-13.
- Saebani, B. A. (2021). Metode Penelitian Hukum Pendekatan Yuridis Normatif.