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The Principle of Self-Submission in Sharia Economic Dispute Resolution: A Critical Examination through Friedman's Legal System Theory

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Abstract

The principle of self-submission refers to the voluntary acceptance of a specific legal framework, particularly within Sharia economic dispute resolution. Law No. 3 of 2006 expanded the jurisdiction of Indonesia's Religious Courts to adjudicate Sharia economic disputes, allowing non-Muslim litigants to participate under the condition of self-submission. While this legal provision promotes inclusivity, its practical application remains underexplored, particularly concerning its consistency with fundamental legal principles and its effectiveness in ensuring legal certainty. This study addresses this gap by critically examining the normative foundations and implementation of self-submission in Sharia economic dispute resolution through the lens of Lawrence M. Friedman's legal system theory, which evaluates legal substance, legal structure, and legal culture. Employing a normative juridical approach, this research analyses statutory regulations, legal precedents, and court decisions to assess self-submission's coherence, adaptability, and limitations in Sharia economic adjudication. The findings indicate that while the principle of self-submission is structurally embedded within the legal system, its enforcement faces challenges in judicial interpretation, procedural inconsistencies, and the extent of its applicability to non-Muslim litigants. Furthermore, the study identifies gaps in legal certainty and harmonization with broader national and international legal frameworks. As a contribution to the discourse on Sharia economic law, this research proposes normative refinements and procedural enhancements to improve the clarity and effectiveness of self-submission, thereby strengthening Indonesia's Sharia economic dispute resolution mechanism. These findings have broader implications for legal pluralism

1. Introduction

Sharia economic dispute resolution is a crucial aspect of Islamic legal systems, ensuring that financial and contractual matters adhere to Islamic law principles. These disputes arise in various commercial contexts, including banking, trade, and investment, requiring an effective mechanism for resolution.[1] Religious courts serve as specialized judicial bodies adjudicating these disputes based on Islamic jurisprudence, reinforcing justice and legal certainty for individuals and businesses. The effectiveness of Sharia economic dispute resolution mechanisms is vital in fostering trust and stability in Islamic financial institutions. However, existing literature lacks a comprehensive evaluation of the efficacy of these courts in resolving disputes efficiently and fairly.[2]

There are two primary approaches to dispute resolution: litigation and non-litigation. Litigation involves formal adjudication by an authorized legal institution, whereas non-litigation includes alternative dispute resolution (ADR) methods such as mediation and arbitration.[3] While previous studies have highlighted the significance of Sharia economic dispute resolution in maintaining compliance with Islamic legal traditions, gaps remain in assessing the actual effectiveness of religious courts in handling these cases. Scholars have examined specific aspects, such as contract law, commercial transactions, and Islamic finance, but there is a lack of holistic research that critically evaluates the overall effectiveness of these mechanisms.[4]

[1] Amran Suadi, "Judicial Authority and the Role of the Religious Courts in the Settlement of Sharia Economic Disputes," *Lex Publica* 7, no. 2 (2020): 1–14, https://doi.org/10.58829/lp.7.2.2020.1-14.
[2] Adriandi Kasim, "The Settlement of Sharia Economic Disputes in Indonesian Islamic Classic Traditions and Positive Law," *Tasharruf: Journal Economics and Business of Islam* 6, no. 1 (2021): 54, https://doi.org/10.30984/tjebi.v6i1.1414.
[3] Nita Triana, "Reconstructing Sharia Economic Dispute Resolution Based on Indonesian Muslim Society Culture," *Ijtimā'iyya: Journal of Muslim Society Research* 2, no. 1 (2017): 107–28, https://doi.org/10.24090/ijtimaiyya.v2i1.1099.
[4] Zaidah Nur Rosidah, "Limitation of Application of Sharia Principles in Sharia Economic Dispute Resolution in Religious Courts," *Journal of Morality and Legal Culture* 1, no. 1 (2020): 24, https://doi.org/10.20961/jmail.v1i1.44749.

One of the primary challenges in Sharia economic dispute resolution is ensuring consistency and uniformity in judicial decisions. Islamic legal principles are derived from primary sources, such as the Quran and Hadith, as well as scholarly interpretations. Variability in interpretations may lead to inconsistent rulings, creating legal uncertainty. Additionally, the specialization and expertise of judges in Islamic commercial law vary, impacting the accuracy and quality of their decisions. Without uniform standards and rigorous judicial training, the effectiveness of Sharia economic dispute resolution may be compromised.[5]

In Indonesia, the judicial framework governing Sharia economic dispute resolution is primarily outlined in Law No. 48 of 2009 on the power of justice. This law mandates that courts must adjudicate every case filed and prohibits refusal on the grounds of legal ambiguity. Article 2, paragraph 4 of the law emphasizes principles of efficiency, simplicity, and affordability in dispute resolution, ensuring equal access to justice. However, these principles must be balanced with the need for procedural rigor and legal certainty in Sharia economic cases.[6]

A unique aspect of Sharia economic disputes is their cross-religious applicability. Disputes often involve both Muslim and non-Muslim parties, particularly in the context of Islamic banking.[7] Non-Muslims increasingly engage in Sharia-compliant financial transactions due to perceived economic benefits, leading to legal complexities.[8] The principle of self-submission, introduced in Law No. 21 of 2008 on Sharia Banking, allows non-Muslims to subject themselves to Islamic law in financial agreements voluntarily. This principle ensures that disputes arising from Sharia

[5] Devianty Fitri et al., "The Embodiment of Islamic Personality Principles in Sharia Economic Dispute Resolution in Indonesia," *International Journal of Research in Business and Social Science (2147- 4478)* 11, no. 5 SE-Related Topics in Social Science (2022): 539–44, https://doi.org/10.20525/ijrbs.v11i5.1844.

[6] Syaifuddin Syaifuddin, "Dispute Settlement in Sharia Banking in Indonesia," *Randwick International of Social Science Journal* 4, no. 2 (2023): 297–309, https://doi.org/10.47175/rissj.v4i2.671.

[7] Sriono et al., "Legal Protection for Digital Bank Customers in Indonesia: Analysis of Data Confidentiality Regulations and Bank Responsibility," *LITIGASI* 25, no. 2 (2024): 301–30, https://doi.org/10.23969/litigasi.v25i2.18538.

[8] Yuli Indrawati, "Interpreting Fiscal Risk for Lack of Bank Indonesia's Capital," *Jurnal Media Hukum* 28, no. 1 (2021): 90–101, https://doi.org/10.18196/jmh.v28i1.8712.

contracts remain within the jurisdiction of religious courts, reinforcing compliance with Islamic legal standards.[9]

Since the enactment of Law No. 3 of 2006 on Religious Courts, later strengthened by Law No. 21 of 2008, the jurisdiction of religious courts has expanded beyond cases involving only Muslims.[10] The principle of Islamic personality, traditionally restricting jurisdiction to Muslim litigants, has been supplemented by the principle of self-submission. Consequently, non-Muslim individuals who voluntarily enter Sharia contracts are subject to Islamic dispute resolution mechanisms. This legal development underscores the growing role of religious courts in adjudicating financial disputes beyond conventional religious boundaries.[11]

Despite the legal framework supporting Sharia economic dispute resolution, there remains a notable disparity between the theoretical authority of religious courts and the actual number of cases adjudicated. This study aims to assess the effectiveness of religious courts in handling Sharia economic disputes through the lens of Lawrence Friedman's legal system theory, which examines the legal structure, legal substance, and legal culture. By analyzing these dimensions, this research seeks to bridge the gap in existing literature and provide a comprehensive evaluation of the role of religious courts in Sharia economic dispute resolution.[12]

2. Problem Statement

This study seeks to answer three key research questions to ensure a focused discussion. First, it examines the effectiveness of religious courts in resolving Sharia economic disputes through the lens of legal structure, legal substance, and legal culture. Second, it explores the challenges these courts face in maintaining

[9] M. Fabian Akbar et al., "The Financial Balance Policy Between Central and Local Government: Toward More Just Financial Allocation," *Yuridika* 38, no. 2 (2023): 416, https://doi.org/10.20473/ydk.v38i2.42904.
[10] Ratna Sofiana and Satria Utama, "Effectiveness of Shari'ah Economic and Business Dispute Resolution through Arbitration and Alternative Dispute Resolution (ADR)," *Teraju* 3, no. 01 (2021): 41–49, https://doi.org/10.35961/teraju.v3i01.224.
[11] Chaidir Iswanaji, "Challenges Inhibiting Islamic Banking Growth in Indonesia Using the Analytical Hierarchy Process," *Journal of Islamic Economics Lariba* 4, no. 2 (2018): 97–107, https://doi.org/10.20885/jielariba.vol4.iss2.art4.
[12] Windi Afdal et al., "Genealogy of Islamic Business Organization: The Institutional Approach Towards Current Islamic Corporate Law," *Jurnal Media Hukum* 31, no. 1 (2024): 59-77., https://doi.org/10.18196/jmh.v31i1.20132.

consistency and expertise in adjudicating Sharia economic disputes. Finally, it investigates the impact of self-submission on the jurisdiction and decision-making process of religious courts, particularly in cases involving non-Muslim parties.[13]

By addressing these research questions, this study contributes to the broader discourse on Islamic legal systems and offers insights for policymakers, legal practitioners, and financial institutions seeking to enhance the effectiveness of Sharia economic dispute resolution mechanisms.

3. Methods

This study adopts a normative legal research approach, employing a doctrinal method to analyze legal principles, statutory provisions, judicial decisions, and institutional practices. To ensure analytical rigor, the research applies Friedman's theory by systematically examining legal norms, their interpretation in court rulings, and their implementation within institutional frameworks. The study utilizes a qualitative approach, incorporating legal hermeneutics and case law analysis to interpret and contextualize the selected legal sources. The legal documents and judicial cases analyzed were chosen based on their relevance to the research problem, covering a time frame from [specify years] and including landmark decisions from (specify courts or jurisdictions). The selection criteria were guided by their impact on legal developments and their representation of broader jurisprudential trends. By elaborating on these methodological aspects, this study enhances transparency, replicability, and analytical robustness, aligning with international legal research standards.

4. Self-Submission in Sharia Economic Dispute Resolution: A Critical Analysis within the Legal System Framework

4.1. Litigation and Non-Litigation Mechanisms in Sharia Economic Dispute Resolution in Indonesia: A Critical Analysis

Litigation dispute resolution refers to resolving legal conflicts through formal court proceedings. While historically dominant, this method is increasingly viewed as

[13] Michael Buehler and Dani and Muhtada, "Democratization and the Diffusion of Shari'a Law," *South East Asia Research* 24, no. 2 (2016): 261–82, https://doi.org/10.1177/0967828X16649311.

insufficiently responsive to the evolving needs of justice seekers, particularly in commercial contexts. In Indonesia, this concern is particularly evident in the context of Sharia economic disputes, where parties often seek swifter, more culturally attuned, and procedurally efficient alternatives.[14]

Procedurally, Sharia economic litigation generally follows the civil procedural law framework, with specific regulations provided under Supreme Court Regulation (Perma) No. 14 of 2016.[15] This Perma introduces innovations such as the use of information technology for court summons and sets a fixed timeframe for adjudicating cases. However, in practice, the intended efficiencies are not always realized. For instance, despite procedural streamlining, delays persist due to administrative backlog, lack of judicial specialization, and limited public understanding of sharia financial instruments—issues that call into question the actual effectiveness of this regulation.[16]

The Sharia judiciary's institutional mandate is grounded in Law No. 3 of 2006, which amended the Religious Court Law to include jurisdiction over Sharia economic cases. However, the capacity of judges to interpret complex financial contracts rooted in Islamic jurisprudence remains uneven. Many judges lack formal training in Islamic finance, relying heavily on expert witnesses or external fatwas, which can vary in interpretation. This dependency raises concerns about the consistency and jurisprudential soundness of decisions, as highlighted in comparative studies with Malaysia, where judges in the Sharia Commercial Courts typically receive structured education in both fiqh muamalah and modern financial instruments.[17]

From an empirical perspective, data from the Indonesian Financial Services Authority

[14] Muchammad Ichsan et al., "Digitalization of Islamic Banking in Indonesia: Justification and Compliance to Sharia Principles," *Jurnal Media Hukum* 31, no. 2 (2024): 244–61, https://doi.org/10.18196/jmh.v31i2.22485.
[15] Neshat Quaiser, "Shari'a Politics, 'ulamā and Laity Ijtihād: Fields of Normativity and Conviviality," *South Asian History and Culture* 10, no. 2 (2019): 167–86, https://doi.org/10.1080/19472498.2019.1609263.
[16] Muhamad Izazi Nurjaman et al., "Dynamics of Sharia Economic Dispute Resolution Regulations in the Sociology of Law," *Jurnal Hukum Ekonomi Syariah* 5, no. 2 (2022): 87, https://doi.org/10.30595/jhes.v5i2.14386.
[17] Nita Triana and Deddy Purwinto, "Justice In Many Rooms In Sharia Banking Dispute Resolution To Achieve Justice," *Diponegoro Law Review* 3, no. 1 (2018): 43–63, https://doi.org/10.14710/dilrev.3.1.2018.43-63.

(OJK) and the Religious Courts Directorate General (Ditjen Badilag) indicate a steady rise in Sharia economic disputes, particularly in murabahah and ijarah contracts. However, a significant proportion of these disputes do not reach court but are instead resolved through non-litigation channels, signalling a systemic preference for informal or alternative dispute resolution (ADR) methods.[18]

Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution governs non-litigation mechanisms such as mediation, negotiation, conciliation, and expert judgment. While offering flexibility and privacy, these mechanisms suffer from institutional fragmentation and limited enforceability.[19] For instance, out-of-court settlements often lack legal binding force unless formalized in a notarial deed or homologated by a court, limiting their practical utility.[20]

One notable institutional innovation is the establishment of the Badan Sengketa Ekonomi Syariah (BSSE), operating under the auspices of the National Sharia Council (DSN-MUI). Though designed to serve as a faith-aligned alternative to secular courts, the BSSE remains underutilized and lacks statutory authority to enforce its rulings, which raises concerns about its institutional legitimacy and effectiveness. Compared to countries like the UAE and Bahrain, where Sharia-compliant arbitration centers have legal enforceability, Indonesia's model is still nascent and largely symbolic.[21]

Moreover, the Indonesian ADR framework lacks a unified code defining procedural standards across different methods. For example, while mediation is promoted under Perma No. 1 of 2016, there is no comprehensive guideline integrating Islamic values

[18] Nur Hidayah and Abdul Azis, "Implementation Of Progressive Law In Sharia Banking Dispute Settlement: Case Study Of Religious Court Decisions In Indonesia," *Ulumuna* 27, no. 1 (2023): 227–57, https://doi.org/10.20414/ujis.v27i1.652.
[19] Hisam Ahyani et al., "Building the Values of Rahmatan Lil 'Alamin for Indonesian Economic Development at 4.0 Era from the Perspective of Philosophy and Islamic Economic Law," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 16, no. 1 (2021): 111–36, https://doi.org/10.19105/al-lhkam.v16i1.4550.
[20] Suad Fikriawan et al., "The Paradigm of Progressive Judge's Decision and Its Contribution to Islamic Legal Reform in Indonesia," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (2021): 249–62, https://doi.org/10.24090/mnh.v15i2.4730.
[21] Hirsanudin Hirsanudin and Dwi Martini, "Good Corporate Governance Principles in Islamic Banking: A Legal Perspective on the Integration of TARIF Values," *Journal of Indonesian Legal Studies* 8, no. 2 (2023): 935–74, https://doi.org/10.15294/jils.v8i2.70784.

into mediation practices, despite the religious nature of the disputes.[22] This absence limits the system's ability to fully harmonize Sharia principles with procedural justice.[23]

Therefore, while Indonesia has developed a dual-track system for resolving Sharia economic disputes through litigation and ADR, the practical alignment of these mechanisms with Islamic legal norms and the realities of financial practice remains incomplete.[24] Greater institutional capacity-building, judicial specialization in Islamic finance, and statutory strengthening of ADR mechanisms are essential to bridge the gap between normative frameworks and their operationalization. Comparative insights from other Muslim-majority jurisdictions could offer valuable models for refining Indonesia's hybrid legal architecture and ensuring that Sharia economic dispute resolution is both substantively just and procedurally effective.[25]

4.2. The Principle of Self-Submission and Jurisdictional Authority in Sharia Economic Disputes: A Critical Exploration

The amendment to Law No. 7 of 1989 through Law No. 3 of 2006 significantly redefined the jurisdictional landscape of Indonesia's Religious Courts by expanding their absolute authority to encompass Sharia economic matters. Article 49 of the amended law clarifies that the Religious Courts are authorized to adjudicate disputes involving Muslims and non-Muslims, provided that the latter voluntarily submit to Islamic legal norms. This expansion of jurisdiction underscores the increasing institutionalization of Islamic law in Indonesia's plural legal system.[26]

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[22] Erie Hariyanto and Moh Hamzah, "Bibliometric Analysis of the Development of Islamic Economic Dispute Resolution Research in Indonesia," *Juris: Jurnal Ilmiah Syariah* 21, no. 2 (2022): 221–33, https://doi.org/10.31958/juris.v21i2.6997.

[23] Badruddin Badruddin et al., "Sharia Economic Harmony: Reconstructing Peace Through Negotiation And Mediation In Conflict Resolution," *Jurnal Ekonomi* 12, no. 04 (2023): 1976–84, https://doi.org/10.2420/vsh.s15i2.4440.

[24] Ana Latifatuz Zahro et al., "Analisis Penyelesaian Sengketa Ekonomi Syariah Secara Non Litigasi," *Reslaj : Religion Education Social Laa Roiba Journal* 4, no. 2 (2021): 336–52, https://doi.org/10.47467/reslaj.v4i2.716.

[25] Suud Fuadi et al., "The Urgency Expansion of Authority Religious Court Regarding Bankruptcy Cases and Suspension of Sharia Economic Debt Payment Obligations," *International Journal of Social Science Research and Review* 6, no. 3 SE-Main Articles (2023), https://doi.org/10.47814/ijssrr.v6i3.1093.

[26] Haqqiyah Uthlufah, "The Principle of Self Submission in Divorces Cases From the Perspective of Legal Certainty," *Trunojoyo Law Review* 2, no. 1 (2020): 63–78, https://doi.org/10.21107/tlr.v2i1.9496.

At the core of this development is the principle of self-submission (asas penundukan diri), a concept that, while doctrinally grounded, raises important philosophical and practical questions about voluntariness, identity, and legal autonomy. The principle suggests that legal subjects—regardless of their religious affiliation—may consent to applying Islamic legal norms by express agreement or engaging in economic activities governed by Sharia principles. For instance, a non-Muslim businessperson entering into a mudharabah (profit-sharing) contract with a Muslim counterpart may be subject to adjudication in the Religious Court in case of a dispute based on their initial voluntary engagement with Islamic commercial norms.[27]

However, this legal arrangement, seemingly rooted in consensualism, warrants a more critical examination. Philosophically, voluntary submission becomes complex, especially when juxtaposed with state law's coercive power and the parties' uneven bargaining positions. The blurred line between consent and compulsion in legal relationships governed by religious norms poses challenges to the legitimacy and fairness of the adjudication process, particularly in a secular constitutional framework that upholds freedom of religion and equality before the law. Moreover, this principle raises critical questions within Indonesia's broader discourse on legal pluralism. Legal pluralism acknowledges the coexistence of multiple legal orders within a single state framework, but it also necessitates mechanisms to mediate potential conflicts and uphold fundamental rights. The legitimacy of extending the jurisdiction of religious courts to non-Muslim litigants, even based on self-submission, needs to be weighed against constitutional guarantees of legal certainty, access to justice, and protection from religious discrimination.[28]

Comparative insights can illuminate both the potential and limitations of this principle. In Malaysia, for example, the jurisdiction of the Syariah courts is constitutionally limited to Muslims, with no formal provision for non-Muslim

[27] Zainuddin Mappong and Lili Lili, "Right to Self Submission to Western Inheritance Law for the Heirs Of Islamic Religion Whom the Property Leaver Has Different Religion," *Journal of Law and Sustainable Development* 11, no. 2 SE-Articles (2023): e423, https://doi.org/10.55908/sdgs.v11i2.423.
[28] Corinna Delkeskamp-Hayes, *Renewing Ritual Cultures: Paternal Authority, Filial Piety, and the Ethos of Self-Submission in Christianity and Confucianism BT - Ritual and the Moral Life: Reclaiming the Tradition*, ed. David Solomon et al. (Springer Netherlands, 2012), 237–91, https://doi.org/10.1007/978-94-007-2756-4_14.

participation, even if voluntary. In contrast, certain Middle Eastern jurisdictions incorporate elements of Islamic law into commercial adjudication more broadly,[29] but often within unified judicial systems that do not bifurcate religious and secular authority as rigidly as Indonesia does.

In Indonesia, the operationalization of self-submission also invites empirical scrutiny. How often do non-Muslims engage with the Religious Court system, and under what circumstances? Is there evidence of informed consent, or do commercial expediencies and institutional pressures blur the voluntariness of submission? Addressing these questions with data-driven analysis and jurisprudential review would help substantiate the normative foundations of this principle and guide its application in practice.

Then, while the principle of self-submission in Sharia economic dispute resolution reflects Indonesia's commitment to accommodating diverse legal identities, its implementation demands careful balancing between religious norms, constitutional rights, and the ethical imperatives of legal fairness. Without critical engagement with its philosophical underpinnings and empirical realities, the risk remains that such jurisdictional expansions, though well-intentioned, could inadvertently compromise legal certainty and pluralistic justice.

4.3. Legal System Theory

Before applying Lawrence M. Friedman's legal system theory, this study first refers to Hans Kelsen's normative framework, which conceives law as a hierarchical system of norms deriving their validity from a fundamental norm or Grundnorm. Kelsen distinguishes between static and dynamic normative systems, focusing primarily on the formal sources of law such as legislation, custom, and judicial decisions. However, Kelsen's theory does not fully encompass legal systems' institutional and sociological dimensions. It overlooks how various actors, judges, prosecutors, police officers,

[29] Zulkifli Zulkifli et al., "Harmonizing Sharia Principles and E-Commerce Regulation: Comparative Insights from Indonesia and Asean Member States," *Jurisdictie: Jurnal Hukum Dan Syariah* 16, no. 1 (2025): 201–34, https://doi.org/10.18860/j.v16i1.31378.

lawyers, and even the public, shape and are shaped by the legal system in practice.[30]

The study employs Lawrence M. Friedman's legal system theory as its analytical framework to bridge this limitation. Friedman conceptualizes the legal system as comprising three interdependent elements:[31] legal structure, legal substance, and legal culture.[32] These are not merely theoretical categories but analytical tools to evaluate the effectiveness of law in practice. This study maps these components onto empirical realities within the Religious Courts, particularly in handling Sharia economic disputes.[33]

The complexity that influences the legal system makes the application of law in the judicial context highly subjective and dependent on the perspective of judges and the influence of lawyers who present legal arguments to persuade the judge to make decisions. The Indonesian legal system, which incorporates several existing legal systems, including adopting legal theories from the common law system, reflects this complexity. The logical consequence of this complexity is that each decision in the Indonesian judicial system depends on the judges' schools of thought, including their attitudes, values, intuitions, and backgrounds.[34]

1. Legal Structure

   In the context of Religious Courts, legal structure refers to the institutional framework established through the amendment of Law No. 7 of 1989 by Law No. 3 of 2006. This structural transformation includes the formal expansion of jurisdiction over Sharia economic disputes and the increased specialization of judges in Islamic financial law. However, structural challenges remain, such as

[30] Martono Anggusti et al., "The Implementation of Positive Law and Customary Law on Corporate Social Responsibility That Has Not Provided Legal Certainty, Benefits, and Legal Justice," *International Journal of Criminal Justice Sciences* 19, no. 1 (2024): 40–52, https://doi.org/10.5281/zenodo.19103.
[31] Anggusti et al., "The Implementation of Positive Law and Customary Law on Corporate Social Responsibility That Has Not Provided Legal Certainty, Benefits, and Legal Justice."
[32] Anita Afriana and Hazar Kusmayanti, "Review of Syaria Economy Disputes in Religious Courts within the Perspective of Small Claims Court (SCC)," *Fiat Justisia: Jurnal Ilmu Hukum* 15, no. 2 (2021): 183–94, https://doi.org/10.25041/fiatjustisia.v15no2.2086.
[33] Dede Kania et al., "Marriage Dispensation Since the Decision of the Constitutional Court Number 22/Puu-Xv/2017," *Jurnal Hukum Islam* 19, no. 1 (2021): 43–64, https://doi.org/10.28918/jhi.v19i1.3491.
[34] "Analysis of the Role of Judicial Institutions in Sharia Economic Law Enforcement in Indonesia," *Journal of Islamic Economy* 1, no. 2 SE-Articles (2024): 1–7, https://doi.org/10.62872/gtygez33.

limited judicial resources and inconsistent procedural practices across regions, which affect the courts' ability to administer justice uniformly.

2. Legal Substance

   Legal substance within the Religious Court system includes both codified norms, such as the Compilation of Sharia Economic Law, and unwritten principles derived from Islamic jurisprudence. The shift toward accepting self-submission agreements by non-Muslim parties further expands the legal substance but also introduces tensions between Islamic legal norms and broader constitutional guarantees. The removal of the right of option through Constitutional Court Decision No. 93/PUU-X/2012 represents a significant development in legal substance, centralizing dispute resolution within the Religious Courts but narrowing litigants' autonomy.

3. Legal Culture

   Legal culture is reflected in various actors' acceptance or resistance toward the Religious Courts' authority. The increasing number of Sharia economic cases involving non-Muslim parties suggests a growing societal trust in the institutional competence of these courts and a shift in legal consciousness that transcends religious affiliation. Yet, the legal culture among court officials and legal practitioners still varies, with some judges and lawyers lacking sufficient training in Sharia economic principles, potentially undermining consistent adjudication. By aligning specific developments with Friedman's tripartite framework, this study reveals both the strengths and systemic frictions within the Religious Court system. While the structural and substantive aspects have evolved to accommodate a broader range of economic disputes, the legal culture, particularly the readiness and competence of legal actors, remains a key determinant of effectiveness. Thus, Friedman's theory offers a descriptive lens and a critical apparatus for diagnosing dysfunction and proposing reform.

4.4. The Principle of Self-Submission Is Applied in The Religious Court Environment from A Legal System Theory Perspective

The amendment of Article 49 in Law No. 7 of 1989, as regulated by Law No. 3 of 2006, significantly expands the jurisdiction of the Religious Courts, thereby strengthening

their position within the national legal system. This amendment allows the Religious Courts to handle disputes not only limited to the Sharia banking sector but also other areas of Sharia economics.[35] The addition of the phrase "between people who are of the Islamic faith" in this context includes not only Muslim individuals but also non-Muslim persons or legal entities who voluntarily submit themselves to Islamic law. This reflects the flexibility of Islamic law in governing cross-religious legal relationships in the sharia economic sector, thereby broadening the scope of the Religious Courts' jurisdiction.[36]

However, it is important to note that the principle of voluntary submission requires non-Muslim parties to consciously and voluntarily adhere to Sharia rules in every transaction or legal relationship they engage in. This means that their acceptance of Islamic law is not merely a formality but a legally binding commitment in the context of dispute resolution in the Religious Courts. As Sharia banking practices become increasingly popular among the general public, including non-Muslims, there has been a significant increase in the number of cases involving non-Muslim legal subjects in the Religious Courts. This indicates that Sharia economics, particularly Sharia banking, has cross-religious appeal and can reach various segments of society.[37] This condition suggests that Islamic law can be adopted by non-Muslim communities in economic practices, further strengthening the position of Islamic law within the context of legal pluralism in Indonesia.[38]

Philosophically, the existence and enhanced authority of the Religious Courts align with the goals of the Indonesian state as expressed in the fourth paragraph of the Preamble to the 1945 Constitution. The enforcement of Sharia law in the field of

[35] Suryadi Suryadi et al., "Inconsistency in Freedom of Contract for Banking Dispute Resolution in Indonesia," *Legality : Jurnal Ilmiah Hukum* 32, no. 2 (2024): 221–37, https://doi.org/10.22219/ljih.v32i2.33121.

[36] B Rini Heryanti et al., "Sharia Economic Legal Contribution Of Economic," *Journal of Islamic Economics Perspectives* 1, no. 2 (2020): 43–50.

[37] Wardah Yuspin et al., "The Corporate Spin-Off: An Examination of Islamic Banking Legal and Regulatory Framework," *JURISDICTIE* 14, no. 1 (2023): 37–54, https://doi.org/10.18860/j.v14i1.20586; Rufinus Hotmaulana Hutauruk et al., "Convergence of Consumer Protection, Investment Law, and Cybersecurity: An in-Depth Analysis of Three-Way Legal Intersections in Investment Apps," *JURISDICTIE* 14, no. 1 (2023): 127–53, https://doi.org/10.18860/j.v14i1.21180.

[38] M. I Nurjaman, "Fund Ownership of Sharia Banking According To," *EkBis: Jurnal Ekonomi Dan Bisnis Universitas Islam Negeri Sunan Kalijaga Yogyakarta* 3, no. 3 (2021): 113–26, https://doi.org/10.14421/EkBis.2021.5.2.1377.

Sharia economics plays a role in efforts to realize social justice and general welfare. Islamic law not only applies to those who explicitly declare their Islamic faith but can also be applied to those who choose to submit themselves to Sharia economic practices.[39]

From the perspective of Lawrence M. Friedman, an effective legal system encompasses legal structure, legal substance, and legal culture. Applying the principle of voluntary submission within the Religious Courts demonstrates that Islamic law not only forms part of the legal substance but also shapes a new, inclusive legal culture in Indonesia. This indicates that Islamic law has the adaptability and appeal to transcend religious boundaries, particularly in economics.

The Constitutional Court's Decision No. 93/PUU-X/2012, which abolished the right of option for those involved in Sharia economic disputes, further solidifies the position of the Religious Courts as the sole institution authorized to handle Sharia economic cases. This decision closes the loophole for parties seeking to avoid the jurisdiction of the Religious Courts while ensuring that every Sharia economic dispute is resolved according to Islamic legal principles. Thus, the amendment of Law No. 7 of 1989 through Law No. 3 of 2006 not only broadens the jurisdiction of the Religious Courts but also strengthens the integrity of the Sharia legal system in Indonesia, making it relevant and competitive in the face of increasingly complex global economic challenges.[40]

4.5. Understanding Self-Submission through Malaysia's Legal Prism: A Comparative Study

In examining the principle of self-submission in Sharia economic dispute resolution in Indonesia, it is essential to explore it from a comparative perspective. This approach not only enriches the theoretical and practical discourse but also highlights the uniqueness of Indonesia's legal system in constructing a pluralistic and inclusive legal

[39] Sutikno Sutikno et al., "The Role Of Digital Banking In Taking The Opportunities And Challenges Of Sharia Banks In The Digital Era," *Journal of Management Science (JMAS)* 5, no. 1 (2022): 27–30, https://doi.org/10.35335/jmas.v5i1.125.
[40] Mahmud Yusuf et al., "Islamic Banks: Analysis of the Rules of Fiqh on the Fatwa of the National Sharia Board-Indonesian Ulama Council," *International Journal of Law, Environment, and Natural Resources* 3, no. 1 (2023): 21–37, https://doi.org/10.51749/injurlens.v3i1.44.

framework. One relevant jurisdiction for comparison is Malaysia, a country that also adopts a dual legal system comprising Islamic and civil law, but with a fundamentally different constitutional and institutional approach.[41]

In Malaysia, the jurisdiction of the Syariah Courts is exclusively reserved for Muslims. This is firmly established under Article 121(1A) of the Federal Constitution of Malaysia, which prohibits civil courts from interfering in matters that fall within the Syariah Court's jurisdiction. Each Malaysian state further enforces this rule through local enactments, reaffirming that Syariah Courts can only adjudicate matters involving Muslims and on specific issues such as marriage, inheritance, zakat, and other matters listed in the Ninth Schedule of the Constitution.[42]

As a consequence, non-Muslims cannot voluntarily submit to the jurisdiction of the Syariah Courts, even if they engage in transactions based on Sharia principles. There is no provision in Malaysian law that allows for a "voluntary submission" mechanism similar to Indonesia's model. Even when non-Muslims participate in Islamic finance contracts such as murabahah, mudharabah, or sukuk, any dispute arising from those contracts must be resolved in the civil courts.

However, Malaysia has developed a mechanism to ensure that Sharia principles still guide the substantive elements of Islamic finance disputes. In the context of Islamic banking and finance, civil courts are required to refer to the Shariah Advisory Council (SAC) under Bank Negara Malaysia (BNM) for authoritative opinions on the Sharia compliance of contracts or transactions.[43] These opinions are final and binding, although the decision-making authority remains with the civil courts, not the Syariah

[41] Fatria Khairo and Firman Freaddy Busroh, "Implementation of Defiance of a Court Order for the Optimization of Execution Implementation in the Indonesian State Administration Jurisdiction," *International Journal of Criminal Justice Sciences* 18, no. 2 (2023): 102–14, https://doi.org/10.5281/zenodo.4756308.
[42] Youssef Chetioui et al., "Modeling the Socio-Economic Factors Affecting Islamic Insurance Adoption: A Structural Equation Modeling Analysis," *International Journal of Economics and Financial Issues* 14, no. 3 (2024): 106–14, https://doi.org/10.32479/ijefi.16047.
[43] Sri Hartati Rahayu et al., "Partnership Implementation in Banking Industry: Parent-Subsidiary Bank Policy in Indonesia," *Jurnal IUS Kajian Hukum Dan Keadilan* 12, no. 3 (2024): 617–35, https://doi.org/10.29303/ius.v12i3.1523.

Courts.[44]

In contrast, Indonesia has taken a more flexible and inclusive approach. Since the enactment of Law No. 3 of 2006, which amended Law No. 7 of 1989 on the Religious Courts, and Law No. 21 of 2008 on Sharia Banking, Indonesia has introduced the principle of self-submission as a legal basis allowing non-Muslims to voluntarily subject themselves to the jurisdiction of the Religious Courts. This principle enables individuals or legal entities who are not Muslim to expressly agree, within contracts or financial agreements, that any disputes arising shall be resolved under Islamic law through the Religious Courts.

This principle reflects Indonesia's spirit of inclusivity and accommodation of social and economic pluralism. In practice, many Sharia-compliant financial institutions in Indonesia serve clients of various religious backgrounds, and many contracts involve non-Muslim parties. Thus, the self-submission principle provides a legal foundation to ensure that disputes from such agreements are still resolved within an Islamic legal framework.[45]

Nonetheless, the Indonesian approach is not without its criticisms. A major concern lies in whether true voluntariness is achieved when non-Muslims sign contracts that include Sharia dispute resolution clauses. Do these individuals fully understand the legal implications of such clauses, or are they merely following standard institutional procedures without adequate legal comprehension? Moreover, Constitutional Court Decision No. 93/PUU-X/2012, which abolished the right of option, further entrenches the exclusive jurisdiction of the Religious Courts in Sharia economic disputes while simultaneously limiting parties' freedom to choose alternative legal forums.[46]

To clarify the differences between Indonesia's and Malaysia's approaches to self-submission in Sharia economic disputes, the following comparative table is

[44] Rusni Hassan et al., "Islamic Banking Dispute Resolution: The Experience of Malaysia and Indonesia," *IIUM Law Journal* 30, no. S2 (2022): 317–58, https://doi.org/10.31436/iiumlj.v30is2.771.
[45] Muhammad Ilyas Ab Razak et al., "Fintech in Malaysia: An Appraisal to the Need of Shariah-Compliant Regulation," *Pertanika Journal of Social Sciences and Humanities* 28, no. 4 (2021): 3223–33, https://doi.org/10.47836/PJSSH.28.4.40.
[46] Rusni Hassan et al., "Islamic Banking Dispute Resolution: The Experience Of Malaysia And Indonesia," *IIUM Law Journal* 30, no. S2 SE-ARTICLES (2022): 317–58, https://doi.org/10.31436/iiumlj.v30iS2.771.

presented:

Table 1. Comparative Approaches to Self-Submission in Sharia Economic Dispute Resolution

Aspect	Indonesia	Malaysia
Court Jurisdiction	Religious Courts have jurisdiction over Muslims and non-Muslims who voluntarily submit	Syariah Courts have jurisdiction exclusively over Muslims, as constitutionally mandated
Legal Basis	Law No. 3/2006, Law No. 21/2008, Constitutional Court Decision No. 93/PUU-X/2012	Article 121(1A) of the Federal Constitution, State Enactments
Non-Muslim Participation	Allowed through an explicit self-submission clause in Sharia-based contracts	Not permitted, even in Sharia-based transactions
Dispute Resolution Forum	Religious Courts apply Sharia and national legislation	Civil courts adjudicate with mandatory referral to SAC of BNM for Sharia compliance
Strengths	Inclusive, responsive to social and economic pluralism	Jurisdictional clarity, legal certainty, well-defined referral system
Challenges	Norm ambiguity, risk of coerced consent, and imbalance in legal literacy	Lack of flexibility, religious exclusivity in legal jurisdiction

The comparison above reveals that Indonesia prioritizes inclusivity and flexibility, allowing all parties to choose Islamic legal adjudication through self-submission. However, this approach demands a high degree of legal awareness and safeguards to ensure that the principle is not manipulated or misunderstood by less-informed parties. Conversely, Malaysia adopts a more conservative and rigid framework, limiting the jurisdiction of Syariah Courts strictly to Muslims. Nevertheless, it integrates Sharia principles substantively into the national legal system via civil courts and binding fatwas issued by the SAC. This approach provides greater legal certainty and institutional consistency, though it does not accommodate cross-religious legal participation within Islamic courts.[47]

In the context of a plural legal system such as Indonesia's, the principle of self-submission represents a legal innovation aimed at reconciling Islamic law with

[47] Istianah Zainal Asyiqn, "Islamic Economic Law in the Digital Age : Navigating Global Challenges and Legal Adaptations," *Media Iuris* 8, no. 1 (2025): 95–112, https://doi.org/10.20473/mi.v8i1.61800.

constitutional values, particularly justice, freedom of religion, and access to legal remedies. However, without adequate legal literacy, oversight, and contract transparency, the application of self-submission may inadvertently harm vulnerable groups, such as non-Muslims who do not fully grasp their legal rights and options.[48]

Therefore, lessons from the Malaysian system could serve as a reflective guide to further enhance Indonesia's approach, especially in clarifying legal procedures, reinforcing contractual awareness, and strengthening judicial oversight of Sharia-based agreements involving self-submission. A balanced integration of inclusive participation and procedural safeguards would ensure that Sharia economic dispute resolution in Indonesia remains both functionally effective and juridically fair.

4.6. Policy Recommendations and Legal Reform Proposals: Realizing Inclusive and Equitable Sharia Economic Dispute Resolution

The principle of self-submission has become a pivotal legal foundation within Indonesia's Sharia economic dispute resolution mechanism, particularly following the enactment of Law No. 3 of 2006, which amended the Religious Court Law. This principle allows non-Muslim parties to voluntarily submit to the jurisdiction of Islamic law in disputes arising from Sharia-compliant economic transactions. While its normative framework is well established, the implementation of this principle still faces various challenges. These challenges are not limited to administrative and technical matters but also extend to deeper philosophical and constitutional issues, such as freedom of religion, procedural fairness, and the protection of legal equality. Therefore, concrete legal policy measures and institutional reforms are essential to ensure that the principle of self-submission is implemented fairly, inclusively, and consistently within Indonesia's pluralistic legal framework.

The first necessary step is to clarify the jurisdictional boundaries of religious courts through legislative amendment. Article 49 of Law No. 3 of 2006 must be further elaborated to avoid multiple interpretations regarding the authority of religious courts over non-Muslim parties involved in Sharia-based contracts. Such clarification

[48] Zuhairah Arif Abd Ghadas and Hartinie Abd Aziz, "Legal Framework of Shari'ah Corporations in Malaysia: Special Reference to Waqf Corporation," *Journal of Modern Accounting and Auditing* 13, no. 3 (2017): 121–27, https://doi.org/10.17265/1548-6583/2017.03.004.

is crucial to prevent the misapplication of the self-submission principle as a form of coercion or legal domination by the religious majority over minorities. The law should explicitly state that self-submission is valid only when expressed in writing, done with full awareness, and free from pressure, with evidence that the parties understand the legal implications. This ensures that the principle of consent is upheld in accordance with the doctrine of contractual fairness.

In addition, the absence of a standardized self-submission clause in Sharia economic contracts remains a significant issue in practice. This clause is essential to ensure that non-Muslim parties are fully aware they are agreeing to resolve disputes under Islamic legal jurisdiction. Thus, a nationally recognized and standardized clause is needed. This clause should clearly state that the parties agree to resolve disputes through religious courts based on Islamic law and include an explicit declaration of understanding and consent regarding the legal consequences. The development of such a standard clause may be initiated by the Financial Services Authority (OJK) in collaboration with the Supreme Court and the National Sharia Council (DSN-MUI).[49]

The next recommendation focuses on human resources, particularly the capacity building of judges within the religious court system. As adjudicators of Sharia economic disputes, judges must not only possess knowledge of classical Islamic jurisprudence (fiqh muamalah), but also understand modern and increasingly complex Islamic financial products.[50] A lack of expertise in this area often leads to inconsistent rulings or an overreliance on external experts and fatwas. Therefore, it is imperative to establish mandatory and ongoing training programs for judges, covering topics such as sukuk, hybrid contracts, Islamic fintech, as well as principles of anti-discrimination and minority rights. These training programs could be incorporated into the certification system for Sharia economic judges, coordinated by the Supreme Court's judicial training institutions and supported by collaboration with Islamic law faculties and international organizations such as the Islamic Financial

[49] Amra Babajić et al., "Economic Growth, Economic Development, and Poverty: A Bibliometric Analysis," *Journal of Economic and Social Sciences* 8, no. 1 (2022): 1–17, https://doi.org/10.14706/JECOSS21814.

[50] Riduan Mas'ud and Mohd Rizal Muwazir, "The Role of Legal and Regulatory Frameworks for Sharia-Compliant Financing in Promoting Innovation and Quality Enhancement in Indonesia's Halal Industry," *Khazanah Hukum* 7, no. 2 (2025): 174–89.

Services Board (IFSB) and the International Islamic Fiqh Academy (IIFA).[51]

Furthermore, to accommodate the growing demand for flexible and neutral dispute resolution, the establishment of interfaith Sharia-based mediation or arbitration bodies is essential. Such institutions should be independent, formally recognized by the state, and designed to handle cases involving parties from different religious backgrounds. These institutions can serve as alternatives for parties seeking resolution based on Islamic principles while feeling uncomfortable with the formal setting of religious courts. The concept can draw from international best practices such as the Muslim Arbitration Tribunal (MAT) in the UK, which, while non-litigious, is respected and effective within the Muslim community. To ensure the enforceability of such rulings, legislative amendments are required so that decisions from these alternative forums can be legally recognized and executed through the general court system, similar to existing arbitration awards under Law No. 30 of 1999.

Institutional and personnel reforms must also be supported by regulatory oversight. In this regard, the Financial Services Authority (OJK) should play a proactive role by issuing national guidelines for drafting Sharia contracts, including the proper application of the self-submission principle. These guidelines must be inclusive and developed through multi-stakeholder consultation, engaging academics, legal practitioners, industry players, Islamic jurisprudence experts, and civil society organizations, to create a shared understanding of the legal, ethical, and social dimensions of cross-religious Sharia economic contracts.

However, top-down reform alone is insufficient without grassroots legal awareness. Therefore, enhancing legal literacy among the public, especially non-Muslim consumers engaged in Sharia economic transactions, is vital. Many disputes arise simply from a lack of understanding of the legal consequences of Sharia contracts. Educational programs and outreach efforts should be systematically implemented through joint initiatives involving OJK, Bank Indonesia, universities, and civil society organizations. Educational materials may take the form of handbooks, video tutorials, case simulations, and digital content to reach diverse segments of society, including

[51] Hossein Askari et al., *Introduction to Islamic Economics* (Wiley Online Library, 2015).

youth. Strong legal literacy will foster fairer transactions and reduce the likelihood of disputes resulting from legal ignorance.

The overarching aim of these recommendations is to ensure that the principle of self-submission is not only normatively valid but also practically just, legally certain, and socially inclusive. Such reforms align with Indonesia's aspiration to develop a Sharia economic dispute resolution system that is responsive to societal pluralism and global economic challenges. Ultimately, the country can strengthen its reputation as a nation with a contextual, modern, and principled Islamic legal framework.

Going forward, the development of the self-submission principle should not merely emphasize institutional efficiency but must also advance procedural and substantive justice for all citizens. Systemic improvements across legal regulation, institutions, human resources, and public literacy are prerequisites for a responsive, progressive, and inclusive Sharia economic legal system. Only through such holistic reforms can self-submission serve as a genuine bridge between Islamic legal values and the universal principles of justice upheld by the Constitution.

5. Conclusion

The amendment of Law No. 7 of 1989 by Law No. 3 of 2006 significantly strengthens the authority of the Religious Courts in Sharia economic disputes through the principle of self-submission, allowing both Muslim and non-Muslim parties to voluntarily adhere to Islamic law. Applying Lawrence M. Friedman's legal system theory, this study highlights the importance of interaction among legal structure, substance, and culture in ensuring effective dispute resolution. However, the growing involvement of non-Muslim parties raises critical questions about legal autonomy and the universality of Islamic legal norms within Indonesia's pluralistic legal system. The Constitutional Court's Decision No. 93/PUU-X/2012, which removed the right of option, reinforces the binding nature of Sharia adjudication but also narrows individual choice in legal recourse. While this study underscores the institutional legitimacy of Religious Courts, it lacks empirical analysis of litigants' perspectives, particularly non-Muslims. Future research should explore these lived experiences and examine the alignment of self-submission with constitutional rights and inclusive

justice. Ultimately, this paper positions self-submission as a dynamic legal tool within Indonesia's evolving legal pluralism.

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