

Legal Review of Business Dispute Resolution in the Sharia Capital Market

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ABSTRACT

An in-depth legal review of dispute resolution mechanisms in the Islamic capital market will ensure that investors' rights are well protected and that there is a clear legal path for investors to seek justice in the event of a dispute. This study aims to analyze the legal position in resolving business disputes in the Sharia capital market. The research method used is library research with a qualitative approach. The results of the study show that the resolution of business disputes in the sharia capital market must always be carried out in compliance with sharia principles and applicable regulations. With appropriate settlement mechanisms, such as Sharia arbitration and mediation and strict supervision from the Sharia Supervisory Board, all parties involved can achieve a fair and beneficial settlement. Compliance with Sharia laws and principles ensures the legality of transactions and increases the trust and integrity of the Sharia capital market.

1. INTRODUCTION

The Islamic capital market has experienced significant growth in recent years. With the increasing investor interest in Islamic financial instruments, it is important to ensure that the legal framework that governs this market is robust and able to accommodate the needs and interests of all parties involved. The existence of clear and firm regulations is very important to provide legal certainty to Islamic capital market players. Legal certainty will help prevent and resolve disputes more efficiently, as well as increase investor confidence.

The sharia capital market must always comply with sharia principles (Umam, 2016; Wulandari & Djakfar, 2022). Legal reviews help ensure that all activities and instruments in the sharia capital market are in accordance with sharia provisions, thus avoiding any non-halal or dubious transactions. In capital market operations, disputes between various parties (for example, between investors and issuers, or between market participants and regulators) may occur. A good legal review will help create a fair, fast, and efficient dispute resolution mechanism, so that it does not

harm the parties involved (Komarudin, 2014; Nurhadi dkk., 2023; Nurjaman & Witro, 2022).

One of the main objectives of capital market regulation is investor protection (Nurhadi dkk., 2023). An in-depth legal review of dispute resolution mechanisms in the Islamic capital market will ensure that investors' rights are well protected, and that there is a clear legal path for investors to seek justice in the event of a dispute. The Islamic capital market plays an important role in supporting economic development, especially in countries with a majority Muslim population. A solid legal framework will help increase participation in the sharia capital market, which in turn will support the financing of sustainable development projects. The Islamic capital market is not only developing in Muslim countries, but also in various other countries. Legal review of business dispute resolution in the Islamic capital market helps create internationally recognized standards and practices, facilitating cross-border collaboration.

Overall, legal review of business dispute resolution in the Islamic capital market is essential to ensure that this market can operate smoothly, fairly, and in accordance with sharia principles. This

study reveals a legal review of business dispute resolution in the sharia capital market.

2. THEORETICAL FRAMEWORK

The theoretical framework of research regarding legal review of business dispute resolution in the sharia capital market can be built by referring to various relevant theories and concepts. In the principle of Maqashid al-Shariah, in the context of economics is to ensure justice, welfare, and financial security (Historiawan & Syufaati, 2022). The analysis of dispute resolution in the sharia capital market must consider how maqashid al-shariah is achieved. Principles such as distributive justice, balance, and transparency are the foundation for dispute resolution in the Islamic capital market (Prakoso, 2017).

Maqashid asy-Sharia is a concept in Islamic law that refers to the main goals and objectives that sharia wants to achieve. This theory emphasizes that Islamic law aims to achieve the welfare and benefit of mankind by protecting the five basic needs (*al-daruriyyat*) (Nurbaeti, 2022). The theory of maqashid as-sharia provides a comprehensive framework for understanding the main goals and objectives of Islamic law. In the context of resolving business disputes in the sharia capital market, maqashid asy-sharia helps ensure that all actions and decisions are not only legal but also ethical and beneficial (bringing good) to all parties involved (Mahmudi dkk., 2023; Sari dkk., 2021).

The theory of Maqashid as-Sharia does provide a comprehensive framework for understanding the main goals and objectives of Islamic law (Hadiat, 2022). Ensure that all actions and policies support the practice and practice of religion. Safeguarding human life and ensuring physical and mental well-being. Protect human thinking and intellectual abilities. Ensure the continuity of legitimate offspring and maintain the integrity of the family, protect property ownership and ensure fair distribution. By focusing on the protection of religion, soul, intellect, heredity, and property, this theory ensures that financial laws and practices are not only legally valid but also ethical and bring benefits to the entire society.

3. RESEARCH METHOD

The research method used is *library research* with a qualitative approach (Creswell, 2009; Sugiono, 2015). The primary data sources are taken from articles and books that specifically examine the law on business dispute resolution in the Islamic capital market, while secondary data sources are taken from scientific writings that have a conceptual or practical relationship with the focus of the research. The data collection techniques used are observation and documentation. Then, the data that has been collected is selected, analyzed and then interpreted in order to obtain analysis results that can be accounted for and have a contributing value to scientific treasures.

4. DATA ANALYSIS AND DISCUSSION

4.1. Basic Concepts of Business Disputes in the Sharia Capital Market

The basic concept of business disputes in the sharia capital market involves various aspects of sharia law and economics which aims to ensure that all transactions and dispute resolution are in accordance with sharia principles (Ahmad Bisri Musthafa, 2022). Disagreements or conflicts that arise between parties involved in business transactions in the sharia capital market. This can involve companies, investors, brokers, and other entities operating in the Islamic capital market. The capital market segment operates in accordance with sharia principles. This includes the issuance and trading of financial instruments that meet sharia provisions, such as sharia stocks, sukuk, and sharia mutual funds (Rijaludawa & Yanti Nurniati, 2023).

All transactions in the Islamic capital market must be free of interest. Profits must be obtained through *profit-sharing* or other mechanisms in accordance with sharia. Transactions must be free from excessive uncertainty. All aspects of the transaction must be clear and transparent. Excessive speculation similar to gambling is prohibited. Investments must be based on rational analysis and accurate information.

Disagreements arising from the interpretation or implementation of sharia business contracts. This can involve issues such as payment terms, fulfillment of obligations, or breach of contract. Internal conflicts within companies listed on the

Islamic capital market, such as disputes between shareholders and management, or between shareholders themselves. Disagreements between investors and companies or between investors and brokers related to investments in Islamic financial instruments. Disputes regarding whether a transaction or business practice meets the applicable sharia provisions.

There are several dispute resolution mechanisms, including: (a) Litigation. Dispute resolution through the courts. Although this is a formal method, many Islamic capital market players prefer a mechanism that is more in line with sharia principles. (b) Shariah Arbitration. Dispute resolution through arbitration that refers to sharia law and principles. Sharia arbitration is usually chosen because the process is faster and the decisions taken are more in accordance with sharia provisions. (c) Mediation. Dispute resolution through mediation, where a neutral third party helps the parties reach an agreement. Mediation is often used in the context of sharia because of its peaceful and collaborative nature. (d) Reconciliation. Attempts to resolve disputes through direct negotiation between the parties to the dispute, with or without the assistance of third parties (Kabah, 2006; Komarudin, 2014; Nurhadi dkk., 2023).

The basic concept of business disputes in the Islamic capital market involves a deep understanding of sharia principles, the types of disputes that may occur, and the available dispute resolution mechanisms. By complying with sharia principles and using appropriate dispute resolution mechanisms, sharia capital market participants can ensure that all their business activities are not only legally legal but also ethical and beneficial to all parties involved.

4.2. Legal Concept Study on Business Disputes

The legal concept study of business disputes involves a thorough analysis of various aspects that affect business conflicts, including the legal basis, types of disputes, resolution mechanisms, and underlying principles. A business dispute refers to a dispute arising out of a business relationship between two or more parties, which can include companies, individuals, or other entities involved in

commercial activities (Putra, 2019; Putri, 2023). These disputes can relate to various aspects such as contracts, ownership, obligations, and business rights.

Most business disputes are handled under civil law, which governs the relationship between individuals and/or entities in commercial transactions. Contract laws, corporate laws, and consumer protection laws are part of civil law that are often the basis in business disputes. Commercial law specifically regulates trade and business activities, including corporate law, bankruptcy law, and capital market law. Some business disputes may also involve aspects of public law, such as tax regulations and antitrust regulations (Rahmi, 2022; Ridwan, 2020).

All business disputes in the sharia capital market must be resolved in accordance with sharia principles, which prohibit *riba* (interest), *gharar* (uncertainty), and *maysir* (gambling) (Ahmad Bisri Musthafa, 2022; Eriyanti, 2019). The existence of the Sharia Supervisory Board plays an important role in ensuring that the dispute resolution mechanism is in accordance with sharia principles. Fatwas from the National Sharia Council (DSN) or similar institutions are guidelines in resolving business disputes in the sharia capital market. In addition, the use of sharia arbitration and sharia mediation to resolve disputes in a manner consistent with Islamic teachings.

The study of legal concepts on business disputes involves an in-depth understanding of the various legal aspects that govern business relationships and effective and fair dispute resolution mechanisms. In the context of the Islamic capital market, sharia principles should be the main foundation in any dispute resolution, ensuring that all business activities are conducted in an ethical manner and in accordance with Islamic law. By understanding and applying these concepts, businesses can ensure that disputes are resolved effectively, fairly, and in a beneficial way for all parties involved.

4.3. Legal Implications for Business Dispute Resolution in the Sharia Capital Market

The legal implications for resolving business disputes in the sharia capital market include various aspects that affect how the dispute is resolved in

accordance with sharia principles. All dispute resolution must comply with sharia principles that prohibit *riba* (interest), *gharar* (uncertainty), and *maysir* (gambling) (Ahmad Bisri Musthafa, 2022; Wafa, 2020). Settlements that are not in accordance with these principles will be considered invalid in the view of sharia law. Contracts used in business transactions must comply with sharia principles. This means that the dispute resolution clause in the contract must also be prepared in accordance with sharia.

The legal implications for resolving business disputes in the sharia capital market are very broad and cover various aspects ranging from compliance with sharia principles to the role of sharia supervisory institutions and sharia courts (Komarudin, 2014; Rahmi, 2022; Ridwan, 2020). Effective and legal dispute resolution requires an in-depth understanding of sharia law, national regulations, and alternative mechanisms such as sharia arbitration and mediation. By adhering to these principles, businesses can ensure that their dispute resolution is not only legal but also ethical and beneficial to all parties involved.

The legal function in resolving business disputes in the sharia capital market is very important to ensure that all transactions and dispute resolution are carried out in accordance with sharia principles (Putri, 2023; Tegar Wahyudi dkk., 2022). The law ensures that all activities and dispute resolution in the sharia capital market are within the limits set by sharia principles, such as the prohibition of *riba* (interest), *gharar* (uncertainty), and *maysir* (gambling). This includes the creation of sharia-compliant contracts and dispute resolution mechanisms that meet Islamic justice standards. The law establishes a variety of formal and informal mechanisms for resolving business disputes, including sharia arbitration, sharia mediation, and sharia courts. This mechanism is designed to ensure that dispute resolution is carried out in a fair, speedy, and in accordance with applicable sharia principles.

The law provides legal protection to all parties involved in business disputes in the Islamic capital market. This includes the right to a fair procedure, freedom from discrimination, and legal certainty in

dispute resolution (Prakoso, 2017; Wafa, 2020). This legal protection is important to prevent abuse of power and ensure that decisions taken in dispute resolution are legally valid. The law regulates the supervision and enforcement of the compliance of the sharia capital market with sharia principles. The Sharia Supervisory Board (DPS) or similar institutions have an important role in ensuring that all activities, including dispute resolution, are carried out in accordance with applicable rules. Legal sanctions can be imposed for violations of the principle.

By ensuring that all transactions and dispute resolution are carried out in accordance with sharia principles and applicable regulations, the law plays a role in maintaining the harmony and trust of investors and the public in the sharia capital market. This trust is a key factor in the growth and sustainability of Islamic capital markets around the world. The law provides clear guidelines and predictable provisions for all parties involved in business transactions and dispute resolution in the Islamic capital market. This helps reduce legal uncertainty and increase effectiveness and efficiency in handling business disputes. Thus, the legal function in resolving business disputes in the sharia capital market not only ensures compliance with sharia principles, but also protects the rights of the parties involved and maintains the integrity and stability of the sharia capital market as a whole.

5. CONCLUSION

Dispute resolution in the sharia capital market must always comply with sharia principles, including the prohibition of *riba* (interest), *gharar* (uncertainty), and *maysir* (gambling). This compliance ensures that all transactions and dispute resolution mechanisms are aligned with Islamic values and ethics. The resolution of business disputes in the sharia capital market must always be carried out in compliance with sharia principles and applicable regulations. With appropriate settlement mechanisms, such as sharia arbitration and mediation, as well as strict supervision from the Sharia Supervisory Board, all parties involved can achieve a fair and beneficial settlement. Compliance with sharia laws and principles not only ensures the

legality of transactions but also increases the trust and integrity of the sharia capital market as a whole.

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