Studi Multidisipliner Jurnal kajian keislaman
https://jurnal.uinsyahada.ac.id/index.php/multd

Vol. 13 No. 1 (2026): 127-140
e-ISSN: 2477-0280
DOI:10.24952/multidisipliner.v13i1.18419

The Existence of Sharia Economic Law in the National Legal Order

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Abstract

This research aims to analyze the existence of Sharia Economic Law in the national legal order in Indonesia. The research uses normative legal research methods by examining primary, secondary, and tertiary legal materials related to research problems. This study focuses on the existence of Sharia Economic Law in the national legal system, the principles of sharia economics, and the development of the sharia economy in Indonesia. Through this approach, this study provides a comprehensive overview of the position and role of Sharia Economic Law in the Indonesian legal system. The results of the study show that: (1) historically Sharia Economic Law has existed in Indonesia since the colonial period, although it is still in the early stages of development as an effort to confront the Dutch capitalist system. The establishment of banking institutions by Aria Wiraatmaja in 1898 became one of the initial solutions for national economic development which was substantively relevant to the concept of musharakah from the perspective of Islamic Economic Law; (2) the existence of Western Economic Law, especially treaty law that regulates the rights and obligations of the parties, has relevance to the theory of engagement in Sharia Economic Law so that Sharia Economic Law also functions as a reinforcement of existing law (li ta'kid); (3) Sharia Economic Law as a derivation of the religious beliefs of Muslims which is closely related to the concept of theology and muamalah occupies a position as part of efforts to formalize Islamic sharia into national law; and (4) the existence of Sharia Economic Law in the national legal system reflects the form of law obedience or the obedience of the Muslim community to God's law.

Keywords: Sharia Economic Law; National Legal System; National Economy

Abstrak

Penelitian ini bertujuan untuk menganalisis eksistensi Hukum Ekonomi Syariah dalam tatanan hukum nasional di Indonesia. Penelitian menggunakan metode penelitian hukum normatif dengan menelaah bahan hukum primer, sekunder, dan tersier yang berkaitan dengan permasalahan penelitian. Kajian ini difokuskan pada eksistensi Hukum Ekonomi Syariah dalam sistem hukum nasional, prinsip-prinsip ekonomi syariah, serta perkembangan ekonomi syariah di Indonesia. Melalui pendekatan tersebut, penelitian ini memberikan gambaran komprehensif mengenai kedudukan dan peran Hukum Ekonomi Syariah dalam sistem hukum Indonesia. Hasil penelitian menunjukkan bahwa: (1) secara historis Hukum Ekonomi Syariah telah eksis di Indonesia sejak masa kolonial, meskipun masih dalam tahap awal perkembangan sebagai upaya menghadapi sistem kapitalisme Belanda. Pendirian lembaga perbankan oleh Aria Wiraatmaja pada tahun 1898 menjadi salah satu solusi awal pembangunan ekonomi nasional yang secara substantif relevan dengan konsep musyarakah dalam perspektif Hukum Ekonomi Islam; (2) keberadaan Hukum Ekonomi Barat, khususnya hukum perjanjian yang mengatur hak dan kewajiban para pihak, memiliki relevansi dengan teori perikatan dalam Hukum Ekonomi Syariah sehingga Hukum Ekonomi Syariah juga berfungsi sebagai penguat terhadap hukum yang telah ada (li ta'kid); (3) Hukum Ekonomi Syariah sebagai derivasi dari keyakinan keagamaan umat Islam yang berkaitan erat dengan konsep teologi dan muamalah menempati posisi sebagai bagian dari upaya formalisasi syariat Islam ke dalam hukum nasional; dan (4) eksistensi Hukum Ekonomi Syariah dalam tata hukum nasional mencerminkan bentuk law obedience atau kepatuhan masyarakat Muslim terhadap hukum Tuhan.

Kata Kunci: Hukum Ekonomi Syari'ah; Tata Hukum Nasional; Ekonomi Nasional

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INTRODUCTION

The existence of Sharia Economic Law in the Indonesian national legal order is still facing various fundamental problems, both conceptually and implementively. On the one hand, the development of financial institutions and Islamic economic practices in Indonesia has increased significantly, characterized by the presence of Islamic banking, Islamic insurance, Islamic pawnshops, and various regulations that regulate sharia-based economic activities.[1] However, on the other hand, the position of Sharia Economic Law in the national legal system is still often debated, especially related to the harmonization between sharia principles and the positive legal system that applies in Indonesia.[2] This condition creates uncertainty regarding the extent to which Sharia Economic Law is recognized as an integral part of the national legal system.

Another problem arises in the aspect of law application, where the practice of sharia economics still faces challenges in the form of the dualism of the legal system between conventional economic law and sharia economic law.[3] Many provisions in national economic practice are still dominated by Western economic principles, especially in the field of agreements and business transactions, so that the implementation of sharia principles is often only an administrative formality without fully reflecting the values of justice, benefit, and prohibition of usury that are the basis of Islamic economics.[4] In addition, the low public understanding of the principles of Sharia Economic Law is also an obstacle in strengthening its existence in the midst of the national legal system.

Indonesia as a Democratic Law State hints that the development of National Law must certainly adopt laws that live in society. And one of them is Islamic Law which has historically been present in the Economic Order of the People of the archipelago.[5] Therefore, it is inevitable for Muslim individuals living in the Republic of Indonesia to transform their religious beliefs in the public realm. The most important reasons for the enactment of Islamic law in Indonesia are the reason of the constitution and the reason *for history* as well as the reason for the need for

[1] Qodariah Barkah et al., "Legal Transformation of Indonesian Sharia Banks Towards Digital Banking in the Era of Industrial Revolution 4.0," *Al-'Adalah* 21, no. 2 (2024): 347, https://doi.org/10.24042/adalah.v21i2.21254.

[2] Yasardin Yasardin and Syuhood B. Kooria, "Revisiting the Compilation of Islamic Economic Law in Indonesia: Legal Challenges and Pathways to Harmonization," *JURIS (Jurnal Ilmiah Syariah)* 24, no. 1 (2025): 127, https://doi.org/10.31958/juris.v24i1.13736.

[3] Muhammad Azam et al., "Harmonizing Contemporary International Commercial Law with Sharia-Based National Legal Systems: A Comparative Study of Pakistan, Turkey, Indonesia, Malaysia, and Saudi Arabia," *MILRev: Metro Islamic Law Review* 4, no. 2 (2025): 1074–96, https://doi.org/10.32332/milrev.v4i2.11334.

[4] A. H. M. Ershad Uddin, "Legal Ethics in Islamic Finance," in *The Regulation of Islamic Financial Institutions (IFIs) and Ethical Oversight in South Asia*, by A. H. M. Ershad Uddin, Palgrave Studies in Islamic Banking, Finance, and Economics (Springer Nature Switzerland, 2025), https://doi.org/10.1007/978-3-032-09828-3_1.

[5] Saldi Isra et al., "Rule of Law and Human Rights Challenges in South East Asia: A Case Study of Legal Pluralism in Indonesia," *Hasanuddin Law Review* 3, no. 2 (2017): 117, https://doi.org/10.20956/halrev.v3i2.1081.

Islamic law itself.[6] One of the developments of Islamic law is the presence of Sharia economic law in the Indonesian legal order. In the context of society, Sharia Economic Law is an Islamic Economic Law that is excavated from the Islamic economic system which is the implementation of fiqh in the field of community economy.[7] The legal position of sharia economics will be stronger if it is associated with Pancasila and the 1945 Constitution of the Republic of Indonesia.

Research on the existence of Sharia Economic Law in the national legal system has been carried out by many academics with various study approaches. Research conducted that the development of law in Indonesia cannot be separated from the social dynamics of society, including the emergence of the need for the recognition of sharia-based law in economic life. The study shows that the law must be able to adapt to the values that live in society, including the Islamic economic values that are developing in Indonesia.[8] However, this research focuses more on the aspect of progressive legal theory and has not specifically discussed the existence of Sharia Economic Law in the national legal order. Another research explains that Indonesian national law is built on the basis of a diversity of legal sources, namely customary law, Western law, and Islamic law. In this context, Sharia Economic Law is seen as part of the contribution of Islamic law to the formation of national law.[9] However, the research focuses more on constitutional aspects and has not elaborated in depth on the implementation of the principles of Sharia Economic Law in national economic practice. In addition, results of the study show that the growth of Islamic financial institutions in Indonesia has experienced quite rapid development and has received regulatory support from the government.[10] This research confirms that the existence of the sharia economy has become an important part of the national economic system. However, the study emphasizes more aspects of Islamic economic practices and financial institutions, so it has not comprehensively discussed the position of Sharia Economic Law in the national legal system.

Based on some of these previous researches, it can be understood that many studies on Sharia Economic Law have been conducted, both from legal, economic, and constitutional perspectives. However, research that specifically discusses the existence of Sharia Economic Law in Indonesia's national legal order is still relatively limited. Therefore, this study has a novelty by focusing on the analysis of the existence of Sharia Economic Law as part of the

[6] Rizal Al Hamid et al., "Political Conflict between Islamic Law and National Law in Indonesia," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 1 (2025): 48–62, https://doi.org/10.65586/insani.v1i1.4.

[7] Hilmi Ridho et al., "The Evolution of Islamic Philanthropy in Indonesia's Digital Age (2016–2023)," *Al-Ahkam* 35, no. 1 (2025): 31–58, https://doi.org/10.21580/ahkam.2025.35.1.23721.

[8] Khairuddin Tahmid and Idzan Fautanu, "Institutionalization of Islamic Law in Indonesia," *AL-'ADALAH* 18, no. 1 (2021): 1–16, https://doi.org/10.24042/adalah.v18i1.8362.

[9] Siti Mahmudah, "The Contextualization of Sharia and Its Contribution to The Development Of The Indonesian National Law," *AL-'ADALAH* 16, no. 1 (2019): 17–40, https://doi.org/10.24042/adalah.v16i1.3393.

[10] Adi Saifurrahman and Salina Hj Kassim, "Regulatory Issues Inhibiting the Financial Inclusion: A Case Study among Islamic Banks and MSMEs in Indonesia," *Qualitative Research in Financial Markets* 16, no. 4 (2024): 589–617, https://doi.org/10.1108/QRFM-05-2022-0086.

national legal system, including its relevance to the formalization of Islamic law and the legal compliance of the Muslim community in Indonesia.

RESEARCH METHOD

The methodology of this research uses a type of normative legal research with a conceptual approach and a statute approach. Normative legal research was chosen because this research focuses on the study of norms, principles, theories, and legal rules related to the existence of Sharia Economic Law in the national legal order in Indonesia[11]. The conceptual approach is used to analyze the basic concepts of Sharia Economic Law and its relevance in the national legal system, while the legislative approach is used to examine various regulations related to the Islamic economy in Indonesia.

The data sources in this study consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include laws and regulations related to Sharia Economic Law, such as the Sharia Banking Law, the Compilation of Sharia Economic Law, and other relevant regulations.[12] Secondary legal materials are obtained from books, scientific journals, previous research results, and academic articles that discuss Sharia Economic Law and the national legal system. The tertiary legal materials include legal dictionaries, encyclopedias, and other supporting sources relevant to the research.

Data collection techniques are carried out through library research by identifying, inventorying, and reviewing various literature and legal documents related to the focus of the research.[13] Furthermore, the data was analyzed using a descriptive-qualitative analysis method, namely by describing and interpreting the data systematically to obtain a comprehensive understanding of the existence of Sharia Economic Law in the Indonesian national legal system. The analysis is carried out through the stages of data reduction, data classification, legal interpretation, and drawing conclusions based on relevant legal arguments.

RESULTS AND DISCUSSION

The Existence of Economic Law in the National Legal System

The increase in national economic development and economic relations between countries shows the existence of a series of activities in the field of the rule of law. Based on that factor, economics with a set of arrangements and a set of arrangements makes it a branch of science that is called economic law by experts. The study of economic law[14] in its own right is expected to provide a basis for the development of activities in the economic field according

[11] Putri Wulandari, "Normative Legal Research Methodology from the Experts' Perspective: A Comparative Analysis of Concepts and Approaches," *Archipel: Journal of Indonesian Interdisciplinary Studies* 1, no. 6 (2026): 12–25, https://doi.org/10.65739/archipel.v1i6.34.

[12] Tunggul Ansari Setia Negara, "Normative Legal Research in Indonesia: Its Originis and Approaches," *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (2023): 1–9, https://doi.org/10.22219/aclj.v4i1.24855.

[13] Subhajit Panda and Navkiran Kaur, *Sustaining Library Collections: Documentation, Preservation, and Conservation through SDGs* (Discount Group of Publication, 2025), https://doi.org/10.5281/ZENODO.14969992.

[14] Discussion of issues and various opinions of experts on economic law has been carried out since the launch of economic law development activities in the National Economic Law Symposium in 1978 followed by the Study of Economic Law since 1980/1981; 1981/1982 and 1982/1983, cited in his book Soemantot, Economic Law. Ul Press, Jakarta, 1986, p. 16

to the channel of legal norms that are stable and provide certainty. However, until now experts have not agreed on the doctrine and the material of this economic law. The term economic law is a term with a new phenomenon The definition and understanding of economic law is still diverse and there is no agreement among experts. This is due to various reasons that rely on whether economic law is included in the realm of economic law studies? Does Economic Law fall into the realm of legal studies? whether economic law is studied comprehensively. Is economic law the study of the law of economics, law and economics, the law of development economics, the law of economics, and so on.[15]

The emergence of the concept of government intervention in the economic sector became the background as well as the main principle of the birth of the field of economic law. This is understandable considering that the intervention, although it contains economic policies, must be made with a clear legal basis or basis. This is where the existence of economic law appears. If we look at the early history of the birth of the field of economic law in Europe, it appears that the State in France was the first to develop economic law clearly and systematically.[16] In the academic environment, the term economic law *or Economic Law* began to be known in Indonesia since the early 70s. Starting from the early 1980s, there was an interesting development in the field of economic law studies in Indonesia, many parties from scientists, practitioners, entrepreneurs and the government itself began to pay great attention to the field of economic law. The growing concern for economic law cannot be separated from the emergence of various economic problems, both national and global, that hit the world, especially the Indonesian people one after another.[17] This is what has resulted in entrepreneurs and scientists finally starting to turn to the law to solve and overcome various micro and macroeconomic problems faced by the Indonesian nation.

In the XX century, the doctrine of Sharia Economics reappeared strongly. It is none other than intended to build an economic system with revelation (*Islamic Scepture*) and small traditions (to borrow the term Al-'Ati) that are around it. Beginning in the 1940s and continuing in the following decade, the concept of sharia economic law emerged in various parts of Islamic countries and Muslim countries. The progress of the growth of sharia economic practices is also very high. This is marked by the proliferation of the establishment of sharia financial institutions, both the banking financial industry and the non-bank financial industry, such as sharia cooperatives and *bait al-Mal Wa Tanwil*.[18] Olena provides the definition of economic law, which is a set of regulations that regulate economic activities carried out by

[15] Kateryna Sokolova, "Poland's Experience in Organising the Monitoring of Legal Support for Scientific and Technological, and Innovative Activities," *Philosophy, Economics and Law Review* 5, no. 2 (2025): 17–35, https://doi.org/10.63341/2786-491X-2025-2-17.

[16] Thomas Duve, "What Is Global Legal History?," *Comparative Legal History* 8, no. 2 (2020): 73–115, https://doi.org/10.1080/2049677X.2020.1830488.

[17] Robert Sparrow et al., "Indonesia Under the New Normal: Challenges and the Way Ahead," *Bulletin of Indonesian Economic Studies* 56, no. 3 (2020): 269–99, https://doi.org/10.1080/00074918.2020.1854079.

[18] Trimulato Trimulato, "The Role Sharia Non-Bank Financial Institutions To Support SDGS Program," *AL-ARBAH: Journal of Islamic Finance and Banking* 4, no. 1 (2022): 79–106, https://doi.org/10.21580/al-arbah.2022.4.1.14668.

economic actors.[19] Andi stated that economic law is the totality of rules and decisions of legal decisions that specifically regulate economic activities and life in Indonesia.[20] The development of Economic Law in Indonesia began with the precolonial era of the Netherlands. This is because the development of Economic Law in Indonesia goes hand in hand with the development of the law itself.

When the Dutch came to Indonesia for the first time, in Indonesia there was already its own legal system, namely the legal system of the Indonesian population. In stated that there was the first time that the Indonesian Archipelago arrived, in 1596 a Dutch ship at that time there was a country that was seen from the point of view of state law, not a "barren and empty" country, the country was crowded with constitutional institutions and administrative institutions, namely power over tribes, villages, unions, republics and kingdoms.[21] When the Dutch came to Indonesia, the indigenous people of Indonesia already had their own legal system. When the Dutch occupied several territories in Indonesia, the Dutch did not abolish the validity of the original legal system. The original legal system was left alive and the Dutch lived in the laws they brought themselves so that at this time there was a diversity of laws. The same is true of civil law and commercial law as the basis of business law.

The original legal system in its development is known as customary law. Customary law regulates various aspects of the lives of indigenous peoples, such as land issues, marriage, wealth, buying and selling, and so on. In terms of buying and selling, it is known as free trade, pawn selling, annual selling, and so on.[22] Regarding this customary law term, H. Aqib Sumitro quoted by Bustanil Arifin said that this customary law term was proposed by Van Vollenhoven. Even though the Indonesian people themselves actually do not understand what is called customary law. They only understand and know "customs". Customary law is an artificial, artificial or fabricated system, which is dressed in scientific clothes, the purpose of which is far beyond the field of law.[23] The reason for developing dat law is so that Dutch law is not forced to be treated to the umi putera group. Because if Dutch law is forced to be applied to the earth class, their sons believe it will cause Islamic law to develop more.

With the strengthening of Dutch power in Indonesia in the next development (1840-1890), the legal system in Indonesia was greatly influenced by liberal policies that tried to open

[19] Olena Pasechnyk et al., "INTERNATIONAL LEGAL CO-OPERATION IN COMBATING ECONOMIC CRIME," *Baltic Journal of Economic Studies* 11, no. 1 (2025): 174–80, https://doi.org/10.30525/2256-0742/2025-11-1-174-180.

[20] Andi Fariana and Prameswara Samofa Nadya, "Elevating Investment Confidence: The Imperative of Legal Certainty in Islamic Economic Framework," in *Advances in Business Strategy and Competitive Advantage*, ed. Ahmad Rafiki and Adel Sarea (IGI Global, 2024), https://doi.org/10.4018/979-8-3693-3980-0.ch007.

[21] Lego Karjoko et al., "Indonesia's Sustainable Development Goals Resolving Waste Problem: Informal to Formal Policy," *International Journal of Sustainable Development and Planning* 17, no. 2 (2022): 649–58, https://doi.org/10.18280/ijsdp.170230.

[22] Nguyen Thi Hang, "TOWADS A COLLABORATIVE PLURAL LEGALISM IN CAMEROON: MODERN STATE JURISPRUDENCE AND CUSTOMARY LAWS FOR A SOCIAL CONTROL SYSTEM THAT TAKES SOCIOCULTURAL REALITIES INTO ACCOUNT," *International Journal of Social Science, Management and Economics Research* 3, no. 3 (2025): 31–52, https://doi.org/10.61421/IJSSMER.2025.3303.

[23] Mariam Aroian, "Traditional Cultural Expressions and Copyright Law: Denoting the Long-lasting Confusion," *The Journal of World Intellectual Property* 28, no. 2 (2025): 568–88, https://doi.org/10.1111/jwip.12345.

up wide opportunities for and for private capital from Europe to be invested in large plantation businesses in the colonies.[24] At this time, the law used in Indonesia did not grow from within Indonesian society itself but came from abroad through the principle of concordance.[25] At this time, law was created pluralism as well as economic law. This legal pluralism, both formally substantial and materially, creates discrimination in many sectors of life, including the field of economic law. This starts from different legal sources that give birth to different legal statuses, opportunities to do business that are not the same, including business objects are differentiated. The treatment, regulation and implementation of these unhealthy laws continues until now. The reality now shows that the greatest opportunity is taken by those in power or who are close to power.

The period of independence, according to Soetandyo, in many countries, especially in developing countries, which built itself on the ruins of colonial power, the national economy was not developed according to the law of the inevitability of impersonal market mechanisms, but according to the laws of the state that function to implement government development plans. Here the *market economy* will tend to be abandoned, and *the planned economy* will tend to be chosen instead.[26] The legal function in the *market economy* system is very different from the legal function in the planned economy system. Freedom of contract will no longer be fully enforced, so that economic activities and business activities are basically no longer governed by the rules of law that are *publickrechtelijk*, but those that are *publiekrechtelijk.*[27] The law tends to be used as a provider of new powers to the government (and all its apparatus), or also as a provider of legitimacy to every action of the government (and all its apparatus).

According to Soetandyo, within the framework of *policies and programs planned economy*, a new doctrine in law is beginning to be known, namely *law as a tool of social engineering*. The acceptance of the doctrine *of law as a tool of social engineering* in developing countries that adhere to the tradition of the civil law system such as Indonesia today means implicitly the acceptance of the idea of centralizing control over all areas of life, both business and non-business. Regulation is not only through legal products, but also through executive decisions so that there is *over regulation*. The law no longer has a position of supremacy, but has been graded only as an instrument of control in the hands of the government. The above is one of the driving factors for the need for economic problems, for the sake of the public interest and the continuity, Indonesia must be able to protect public interests, both the life of the country, namely the State of the Republic of Indonesia. The nature of the economic law came.

[24] Jan Luiten Van Zanden, "COLONIAL STATE FORMATION AND PATTERNS OF ECONOMIC DEVELOPMENT IN JAVA, 1800–1913," *Economic History of Developing Regions* 25, no. 2 (2010): 155–76, https://doi.org/10.1080/20780389.2010.527689.

[25] Aan Eko Widiarto et al., "The Authority Relationship of Central and Local Governments in Forming Laws and Regulations: Between Indonesia and Malaysia," *Legality : Jurnal Ilmiah Hukum* 33, no. 1 (2025): 148–67, https://doi.org/10.22219/ljih.v33i1.36629.

[26] David Iria, "Essays on Economic Planning, Information and Computers," preprint, Università degli Studi di Siena, October 30, 2025, https://doi.org/10.25434/DAVID-IRIA_PHD2025-10-30.

[27] Marnix Wallinga, "Judicial Dialogue and Convergence of Private Enforcement: The Missing Pieces in Integrating European Capital Markets?," *SSRN Electronic Journal*, ahead of print, 2025, https://doi.org/10.2139/ssrn.5630371.

ISSN 2477-0280 (online) Studi Multidisipliner: Jurnal Kajian Keislaman Vol.13. No.(1) 2026

Economic Law must be able to look forward, based on the interests that exist now, as well as the interests in the past and the present experience.[28]

Since the development of *The Bretton Woods* agreement in the United States with the establishment of the IMF and World Bank and the signing of the GATT agreement, the world globally has taken sides and is driven by the interests of transnational corporations (TNCs) which are important actors of globalization. In this context, the integration of the national economy into the global system known as globalization has actually occurred.[29] In 2003 Indonesia was involved in ASEAN free trade (AFTA), while in 2010 Indonesia participated in the Asia Pacific (APEC) trade area. Therefore, there has been a change in the international economic environment. This affects economic law.[30] A country's ratification of an international treaty has two consequences, namely external and internal consequences. The external consequence is its attachment to the relevant international treaties together with other countries or international organizations that have ratified it. The internal or domestic consequence is the enactment of the international agreement into and becomes part of international law.

The Existence of Sharia Economic Law in Indonesia

The development of Sharia Economic Law in Indonesia cannot be separated from the development of Islamic law in Indonesia. Periodized the development of Islamic law in Indonesia as follows. The legal history in the Dutch East Indies era regarding the position of Islamic law can be divided into (2) two periods: First, the period of full interpretation of Islamic law called *reception in complexu*, which is the period when Islamic law is fully enforced for Muslims because they embrace Islam. At this time, what has been in force since the existence of the Islamic kingdom in the archipelago until the time of the VOC, Islamic law of origin, especially the law of marriage and inheritance, is still recognized by the Dutch, even the VOC recognized it in the form of the Resolutie der Indische Regeering regulation dated May 25, 1760 which was later given a legal basis by the Dutch in the Regering Reglemen (RR) of 1855. Second, the period of acceptance of Islamic law by customary law, which was later called *the theory of receptie*. This theory contains the understanding that Islamic law is valid if it is accepted or desired by customary law. This theory was given a legal basis in the Dutch East Indies constitution which replaced the RR, namely *Wet op de Staatinrichting van Nederlands Indie* (IS). Therefore, in 1929 through the IS promulgated in Stb. No. 212 Islamic law was revoked from the Dutch East Indies. The Dutch wanted to strengthen their power in the land of Nusan-tara and keep Islamic law away from the Islamic people on the basis of this theory.

Efforts by Muslims to reintroduce Islamic law into the Indonesian legal system were widely open after the establishment of the Indonesian Independence Preparatory Business Investigation Agency (BPUPKI) and convened during the Japanese colonial era. Islamic leaders

[28] S. I. Benn and G. F. Gaus, *Public and Private in Social Life*, 1st ed. (Routledge, 2025), https://doi.org/10.4324/9781003601678.

[29] Justine Kyove et al., "Globalization Impact on Multinational Enterprises," *World* 2, no. 2 (2021): 216–30, https://doi.org/10.3390/world2020014.

[30] Shujiro Urata, "Free Trade Agreements and Patterns of Trade in East Asia from the 1990s to 2010s," *East Asian Community Review* 1, nos. 1–2 (2018): 61–73, https://doi.org/10.1057/s42215-018-0007-3.

fought for Islamic law with the force of Islamic law itself without any relation to customary law. However, the members of BPUPKI are not all Muslims, the members consist of 'Islamic nationalists' and 'secular nationalists'. Therefore, as a compromise path, the Jakarta Charter was formed. In the era of independence, Islamic law also went through two periods*: First,* the period of acceptance of Islamic law as a persuasive source. *Second*, the period of acceptance of Islamic law as *an outoriative* source. The *persuasive source* in constitutional law is the legal source accepted as one of the results of the BPUPKI trial as a *persuasive source* for *the groundwet-interpretation* of the 1945 Constitution for 14 years, namely from June 22, 1945 when a *gentlement agreement was signed between Islamic nationalist leaders and secular nationalists until July 5, 1959 before the Presidential Decree of the Republic of Indonesia. Islamic law only became an authoritative source* (legal source that already has legal force) in constitutional law when the Jakarta Charter was placed in the Presidential Decree of the Republic of Indonesia dated July 5, 1959 as can be seen in the following decree considerations:

> "That we believe that the Jakarta Charter dated June 22, 1945 animates the 1945 Constitution and is a series of unity with the Constitution."

According to Juhaya, the word 'imbue' negatively means that laws and regulations in the State of the Republic of Indonesia should not be made that are contrary to Islamic law for its adherents. Positively it means that adherents of Islam are obliged to practice the sharia of İslam. Therefore, a law must be made that will enforce Islamic law in national law Political law of the new State Law enforces Islamic law for its adherents during the New Order period by enacting Law No. 1 of 1974 concerning Marriage. Article 2 of the law states that marriage is valid if it is carried out according to the respective religious law and Article 63 states that what is meant by the court in the law is the religious court for those who are Muslim and the general court for others This law is complemented by the Religious Courts Law No. 7 of 1989 so that the position, status, and competence of the religious court become solid and equal in legal status with other judicial institutions. This law was amended through Law No. 3 of 2006 and in 2010 by Law No. 50 of 2010 concerning the Second Amendment to Law No. 7 of 1989.

In an effort to apply Islamic law in accordance with the context of the times and times, new thinking has arisen to review several Islamic legal institutions such as inheritance and the review of banking institutions which are getting stronger. This thought has a strong basis in the history of theories of the development and enactment of Islamic law in Indonesia. Ichtijanto formulated six theories of the applicability of Islamic law in Indonesia, namely the theory of acceptance of legal authority, *the theory of reception in complexu, the theory of receptie,* the *theory of receptie exit,* and the theory *of receptio a contrario*. The theory of obedience to the law for Muslims is contained in the Qur'an and As Sunnah. The theory of acceptance of legal authority is a theory that has been embraced by all imams of Islamic law schools which states that whoever has declared himself to be a Muslim by saying two words of shahada, he is bound to obey and obey the laws and teachings of Islam. The theory of *reception in complex has* been described in advance. The death of *the receptie* theory began with the birth of the 1945 Constitution which was affirmed by the Presidential Decree of 1959 and was buried by the promulgation of Law No. 1 of 1974 concerning Marriage and Law No. 7 of 1989 concerning Religious Justice as amended by Law No. 3 of 2006.

ISSN 2477-0280 (online) *Studi Multidisipliner: Jurnal Kajian Keislaman Vol.13. No.(1) 2026*

The theory *of receptie exit* was introduced this theory states that the *theory of reception* must be removed from the theory of Indonesian national law because it is contrary to the 1945 Constitution and Pancasila and also contrary to the Qur'an and As Sunnah.[31] This theory was then developed by Sayuti Talib with *the theory of receptio a contrario* which states that the law that applies to the people is the law of their religion. This means that customary law only applies if it does not conflict with religious law. This theory is in line with the theories of Islamic jurists (*fuqaha*) about *Al urf* (what is decided in the soul that is acceptable to reason and accepted by common sense) and *Al adah* (repeated actions that are acceptable to common sense). Regarding the implementation of Islamic sharia in Indonesia.[32] According to him, the implementation of Islamic sharia can be carried out through six paths of Islamic sharia implementation in Indonesia. The First Path is the path of faith and piety. Through this path, believers of Islam in the Republic of Indonesia can implement Islamic law which is part of and comes from Islam. What is meant (in this regard) is Islamic law in the field of worship. The intensity of its implementation depends on the quality of faith.

Regarding the opportunities for the implementation of sharia economic law in Indonesia, according to Miranda Gultom, there are at least five factors that support the sharia economic and financial system in Indonesia. First, the Farwa of the Indonesian Ulema Council that bank interest is riba and haram. Second, the trend of awareness of Muslims is increasing, especially among the upper middle class. Third, the sharia economic system has managed to show its superiority, tested during economic crises. When conventional banks collapse and need an injection of government funds of up to hundreds of trillions, Bank Muamalat Indonesia, as the first Islamic bank in Indonesia, was able to get through the crisis safely without the help of a single penny of government funds. Fourth, the Sharia Banking Law will become a legal umbrella for Islamic banking in Indonesia. Fifth, the demand for the integration of Sharia Financial Institutions (LKS) that support each other. Sharia banks can use sharia insurance to cover financing risks for their customers. On the other hand, Sharia Insurance can store its funds in Islamic banks, Islamic capital markets, and Islamic mutual funds.[33]

Speaking of economic law, it is impossible to separate the study of treaty law that underlies the relationship between the parties as economic actors. Syamsul Anwar elaborated on the development of sharia treaty law in Indonesia starting from the customary law period, the VOC period, the Dutch colonial rule, and the independence period of Indonesia.[34] From its description, it can be seen that Islamic law, especially treaty law historically and sociologically, has been applied in Indonesia. After the independence phase, the juridical-constitutional

[31] Mohammad Syifa Amin Widigdo (Corresponding Author) and Awang Azman Awang Pawi, "Muhammad Abduh's Reformist Thoughts and Their Reception in Indonesian and Malaysian Islamic Reform Movements," *Journal of Al-Tamaddun* 20, no. 2 (2025): 361–74, https://doi.org/10.22452/JAT.vol20no2.25.

[32] Henri Chambert-Loir, "Islamic Law in 17th Century Aceh," *Archipel* 94 (2017): 51–96, https://doi.org/10.4000/archipel.444.

[33] Md. Mahmudul Alam et al., "The Islamic *Shariah* Principles for Investment in Stock Market," *Qualitative Research in Financial Markets* 9, no. 2 (2017): 132–46, https://doi.org/10.1108/QRFM-09-2016-0029.

[34] Gareth Knapman, "Sovereignty and Treaties as Colonial Instruments: The British Occupation of Java 1811–1815," *The Journal of Imperial and Commonwealth History*, February 13, 2026, 1–42, https://doi.org/10.1080/03086534.2026.2623438.

opportunity for the enactment of sharia treaty law is more open. Since the last decade of the last century, Islamic treaty law has received a new impetus to develop due to the birth of Islamic financial institutions and businesses, especially Islamic banks, which have made it the basis for it. Several forms of contracts have been formalized in the Bank Indonesia Regulation.

The presence of the Islamic economic system is considered very responsive, apart from being an alternative between the capitalist system and socialism, it also carries a divine mission that is very much in accordance with humanistic values (*caliphate*). Also, bringing the values of purity (*tazkiyah*) away from things that are forbidden, both in terms of objects, processes, and outputs, all of which must be based on the framework of limardhatillah (because of the pleasure of Allah). Realistically, it shows that the sharia economic system has competitive values that are able to bring this nation out of a sustainable economic crisis.[35] Islamic law is also the source of the formation of national law in addition to customary law, western law and other laws that grow and develop in the Republic of Indonesia.

CONCLUSION

Based on the results of the research, it can be concluded that Sharia Economic Law has a strong existence in the Indonesian national legal order, both historically, juridically, and sociologically. Historically, the existence of Sharia Economic Law has developed since the colonial period as a form of response to the capitalist economic system implemented by the Dutch. These developments then experienced a strengthening through the presence of various institutions and regulations of the Islamic economy in Indonesia. Juridically, Sharia Economic Law acquires legitimacy through various laws and regulations that regulate Islamic economic and financial practices, thus placing it as an integral part of the national legal system.

This research also shows that the principles of Sharia Economic Law have relevance to the modern legal system, especially in the aspect of agreements and legal relations between the parties. The values of justice, balance, benefit, and the prohibition of usury are important foundations in the practice of sharia economics that distinguish it from conventional economic systems. In addition, the existence of Sharia Economic Law in the national legal system reflects efforts to formalize Islamic law into national law as a form of fulfilling the legal needs of the Indonesian Muslim community.

Thus, the existence of Sharia Economic Law not only functions as a legal instrument in people's economic activities, but also becomes a manifestation of Muslims' compliance with sharia values in the life of society and the state. Therefore, it is necessary to strengthen regulations, harmonize laws, and increase public understanding so that the implementation of Sharia Economic Law can run more effectively and contribute optimally to the development of the national legal and economic system in Indonesia.

REFERENCES

Alam, Md. Mahmudul, Chowdhury Shahed Akbar, Shawon Muhammad Shahriar, and Mohammad Monzur Elahi. "The Islamic *Shariah* Principles for Investment in Stock

[35] Hanudin Amin, "Consumer Behaviour of Islamic Home Financing: Investigating Its Determinants from the Theory of Islamic Consumer Behaviour," *Humanomics* 33, no. 4 (2017): 517–48, https://doi.org/10.1108/H-12-2016-0102.

Market." *Qualitative Research in Financial Markets* 9, no. 2 (2017): 132–46. https://doi.org/10.1108/QRFM-09-2016-0029.

Amin, Hanudin. "Consumer Behaviour of Islamic Home Financing: Investigating Its Determinants from the Theory of Islamic Consumer Behaviour." *Humanomics* 33, no. 4 (2017): 517–48. https://doi.org/10.1108/H-12-2016-0102.

Aroian, Mariam. "Traditional Cultural Expressions and Copyright Law: Denoting the Long-lasting Confusion." *The Journal of World Intellectual Property* 28, no. 2 (2025): 568–88. https://doi.org/10.1111/jwip.12345.

Barkah, Qodariah, Romli Sa, Muhamad Sadi Is, Andriyani Andriyani, and A'dawiyah Bt Ismail. "Legal Transformation of Indonesian Sharia Banks Towards Digital Banking in the Era of Industrial Revolution 4.0." *Al-'Adalah* 21, no. 2 (2024): 347. https://doi.org/10.24042/adalah.v21i2.21254.

Benn, S. I., and G. F. Gaus. *Public and Private in Social Life*. 1st ed. Routledge, 2025. https://doi.org/10.4324/9781003601678.

Chambert-Loir, Henri. "Islamic Law in 17th Century Aceh." *Archipel* 94 (2017): 51–96. https://doi.org/10.4000/archipel.444.

Duve, Thomas. "What Is Global Legal History?" *Comparative Legal History* 8, no. 2 (2020): 73–115. https://doi.org/10.1080/2049677X.2020.1830488.

Fariana, Andi, and Prameswara Samofa Nadya. "Elevating Investment Confidence: The Imperative of Legal Certainty in Islamic Economic Framework." In *Advances in Business Strategy and Competitive Advantage*, edited by Ahmad Rafiki and Adel Sarea. IGI Global, 2024. https://doi.org/10.4018/979-8-3693-3980-0.ch007.

Iria, David. "Essays on Economic Planning, Information and Computers." Preprint, Università degli Studi di Siena, October 30, 2025. https://doi.org/10.25434/DAVID-IRIA_PHD2025-10-30.

Isra, Saldi, Ferdi Ferdi, and Hilaire Tegnan. "Rule of Law and Human Rights Challenges in South East Asia: A Case Study of Legal Pluralism in Indonesia." *Hasanuddin Law Review* 3, no. 2 (2017): 117. https://doi.org/10.20956/halrev.v3i2.1081.

Karjoko, Lego, I. Gusti Ayu Ketut Rachmi Handayani, Abdul Kadir Jaelani, and Muhammad Jihadul Hayat. "Indonesia's Sustainable Development Goals Resolving Waste Problem: Informal to Formal Policy." *International Journal of Sustainable Development and Planning* 17, no. 2 (2022): 649–58. https://doi.org/10.18280/ijsdp.170230.

Knapman, Gareth. "Sovereignty and Treaties as Colonial Instruments: The British Occupation of Java 1811–1815." *The Journal of Imperial and Commonwealth History*, February 13, 2026, 1–42. https://doi.org/10.1080/03086534.2026.2623438.

Kyove, Justine, Katerina Streltsova, Ufuoma Odibo, and Giuseppe T. Cirella. "Globalization Impact on Multinational Enterprises." *World* 2, no. 2 (2021): 216–30. https://doi.org/10.3390/world2020014.

Luiten Van Zanden, Jan. "COLONIAL STATE FORMATION AND PATTERNS OF ECONOMIC DEVELOPMENT IN JAVA, 1800–1913." *Economic History of Developing Regions* 25, no. 2 (2010): 155–76. https://doi.org/10.1080/20780389.2010.527689.

Mahmudah, Siti. "The Contextualization of Sharia and Its Contribution to The Development Of The Indonesian National Law." *AL-'ADALAH* 16, no. 1 (2019): 17–40. https://doi.org/10.24042/adalah.v16i1.3393.

Muhammad Azam, Anis Mashdurohatun, Angga Nugraha Firmansyah, Muhammad Dias Saktiawan, and King On Putra Jaya. "Harmonizing Contemporary International Commercial Law with Sharia-Based National Legal Systems: A Comparative Study of

Pakistan, Turkey, Indonesia, Malaysia, and Saudi Arabia." *MILRev: Metro Islamic Law Review* 4, no. 2 (2025): 1074–96. https://doi.org/10.32332/milrev.v4i2.11334.

Negara, Tunggul Ansari Setia. "Normative Legal Research in Indonesia: Its Originis and Approaches." *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (2023): 1–9. https://doi.org/10.22219/aclj.v4i1.24855.

Panda, Subhajit, and Navkiran Kaur. *Sustaining Library Collections: Documentation, Preservation, and Conservation through SDGs*. Discount Group of Publication, 2025. https://doi.org/10.5281/ZENODO.14969992.

Pasechnyk, Olena, Tetiana Fedorova, and Ruslan Biriukov. "INTERNATIONAL LEGAL CO-OPERATION IN COMBATING ECONOMIC CRIME." *Baltic Journal of Economic Studies* 11, no. 1 (2025): 174–80. https://doi.org/10.30525/2256-0742/2025-11-1-174-180.

Ridho, Hilmi, Ali Sodiqin, and Abdul Mujib. "The Evolution of Islamic Philanthropy in Indonesia's Digital Age (2016–2023)." *Al-Ahkam* 35, no. 1 (2025): 31–58. https://doi.org/10.21580/ahkam.2025.35.1.23721.

Rizal Al Hamid, Mohamad Sobrun Jamil, Rodhotun Nimah, Mahrus Alwi Hasan Siregar, and Supriyadi. "Political Conflict between Islamic Law and National Law in Indonesia." *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 1 (2025): 48–62. https://doi.org/10.65586/insani.v1i1.4.

Saifurrahman, Adi, and Salina Hj Kassim. "Regulatory Issues Inhibiting the Financial Inclusion: A Case Study among Islamic Banks and MSMEs in Indonesia." *Qualitative Research in Financial Markets* 16, no. 4 (2024): 589–617. https://doi.org/10.1108/QRFM-05-2022-0086.

Sokolova, Kateryna. "Poland's Experience in Organising the Monitoring of Legal Support for Scientific and Technological, and Innovative Activities." *Philosophy, Economics and Law Review* 5, no. 2 (2025): 17–35. https://doi.org/10.63341/2786-491X-2025-2-17.

Sparrow, Robert, Teguh Dartanto, and Renate Hartwig. "Indonesia Under the New Normal: Challenges and the Way Ahead." *Bulletin of Indonesian Economic Studies* 56, no. 3 (2020): 269–99. https://doi.org/10.1080/00074918.2020.1854079.

Tahmid, Khairuddin, and Idzan Fautanu. "Institutionalization of Islamic Law in Indonesia." *AL-'ADALAH* 18, no. 1 (2021): 1–16. https://doi.org/10.24042/adalah.v18i1.8362.

Thi Hang, Nguyen. "TOWADS A COLLABORATIVE PLURAL LEGALISM IN CAMEROON: MODERN STATE JURISPRUDENCE AND CUSTOMARY LAWS FOR A SOCIAL CONTROL SYSTEM THAT TAKES SOCIOCULTURAL REALITIES INTO ACCOUNT." *International Journal of Social Science, Management and Economics Research* 3, no. 3 (2025): 31–52. https://doi.org/10.61421/IJSSMER.2025.3303.

Trimulato, Trimulato. "The Role Sharia Non-Bank Financial Institutions To Support SDGS Program." *AL-ARBAH: Journal of Islamic Finance and Banking* 4, no. 1 (2022): 79–106. https://doi.org/10.21580/al-arbah.2022.4.1.14668.

Uddin, A. H. M. Ershad. "Legal Ethics in Islamic Finance." In *The Regulation of Islamic Financial Institutions (IFIs) and Ethical Oversight in South Asia*, by A. H. M. Ershad Uddin. Palgrave Studies in Islamic Banking, Finance, and Economics. Springer Nature Switzerland, 2025. https://doi.org/10.1007/978-3-032-09828-3_1.

Urata, Shujiro. "Free Trade Agreements and Patterns of Trade in East Asia from the 1990s to 2010s." *East Asian Community Review* 1, nos. 1–2 (2018): 61–73. https://doi.org/10.1057/s42215-018-0007-3.

Wallinga, Marnix. "Judicial Dialogue and Convergence of Private Enforcement: The Missing Pieces in Integrating European Capital Markets?" *SSRN Electronic Journal*, ahead of print, 2025. https://doi.org/10.2139/ssrn.5630371.

Widiarto, Aan Eko, Muhamad Sayuti Hassan, Mohd Hazmi Mohd Rusli, and Endrianto Bayu Setiawan. “The Authority Relationship of Central and Local Governments in Forming Laws and Regulations: Between Indonesia and Malaysia.” *Legality : Jurnal Ilmiah Hukum* 33, no. 1 (2025): 148–67. https://doi.org/10.22219/ljih.v33i1.36629.

Widigdo (Corresponding Author), Mohammad Syifa Amin, and Awang Azman Awang Pawi. “Muhammad Abduh’s Reformist Thoughts and Their Reception in Indonesian and Malaysian Islamic Reform Movements.” *Journal of Al-Tamaddun* 20, no. 2 (2025): 361–74. https://doi.org/10.22452/JAT.vol20no2.25.

Wulandari, Putri. “Normative Legal Research Methodology from the Experts’ Perspective: A Comparative Analysis of Concepts and Approaches.” *Archipel: Journal of Indonesian Interdisciplinary Studies* 1, no. 6 (2026): 12–25. https://doi.org/10.65739/archipel.v1i6.34.

Yasardin, Yasardin, and Syuhood B. Kooria. “Revisiting the Compilation of Islamic Economic Law in Indonesia: Legal Challenges and Pathways to Harmonization.” *JURIS (Jurnal Ilmiah Syariah)* 24, no. 1 (2025): 127. https://doi.org/10.31958/juris.v24i1.13736.