Legal Governance of Sharia Banking in Indonesia: Examining the Implementation of Law No. 21 of 2008 concerning Sharia Banking

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Abstract
This study investigates the legal and institutional dimensions of Islamic banking regulation in Indonesia by analyzing the implementation of Law No. 21 of 2008 concerning Sharia Banking. It aims to understand how the law constructs the legal identity of Sharia banks, how regulatory bodies enforce compliance, and what challenges arise in aligning Islamic principles with the national legal system. Using doctrinal legal analysis supported by institutional and Islamic jurisprudence theories, the study draws upon statutory sources, regulatory documents, and scholarly literature published before 2009. The findings show that although the law formally legitimizes Sharia banking, its practical implementation is hindered by regulatory fragmentation, overlapping institutional jurisdictions, and the absence of codified Sharia governance mechanisms. The study also highlights the difficulty of harmonizing Islamic financial norms with secular legal principles in contract enforcement and regulatory interpretation. These issues limit the effectiveness and doctrinal integrity of Indonesia's dual banking system. The research contributes to scholarly debates on legal pluralism and regulatory design, offering recommendations for institutional reform, Sharia standardization, and enhanced judicial capacity in Islamic finance. The findings are relevant for policymakers, legal scholars, and financial institutions aiming to build Indonesia's coherent, enforceable, and ethically grounded Islamic banking sector.

Keywords
Sharia banking law; Islamic finance regulation; Law No. 21/2008; legal harmonization

Introduction

The rapid growth of Islamic finance over the last three decades has prompted numerous jurisdictions to formulate regulatory frameworks that ensure both legal clarity and Sharia compliance. Indonesia, home to the world's largest Muslim population, has attempted to solidify its commitment to Islamic banking through Law No. 21 of 2008 concerning Sharia Banking. This legislation was a critical response to the rising demand for *muʿāmalah* that aligns with Islamic legal principles and aims to establish an independent legal identity for Sharia financial institutions.

Globally, Islamic banking has evolved from a marginal sector to a significant player in the financial industry, with assets exceeding USD 2 trillion as of 2009 (Warde, 2000; Archer & Karim, 2007). Against this backdrop, Indonesia's move to codify Islamic banking practices signifies not only legal advancement but also an effort to restructure financial governance to reflect ethical and religious values.

From a jurisprudential standpoint, the integration of Sharia principles into national financial regulation raises critical questions about legal pluralism, institutional coherence, and market integration. Law No. 21 of 2008 introduces distinct features for Islamic banks, including profit-and-loss sharing, the establishment of Sharia Supervisory Boards (SSBs), and requirements for compliance with *fiqh al-muʿāmalāt* (El-Gamal, 2006; Usmani, 2002, pp. 45–48).

However, the implementation of these provisions has exposed challenges in harmonizing Islamic legal doctrines with Indonesia's civil and commercial law systems. The theoretical significance of this legal shift lies in its potential to create a parallel yet integrated legal framework, whereby Islamic banking can operate within a dual financial system while maintaining its doctrinal purity (Kahf, 2003; Chapra, 2000, pp. 112–115).

Empirically, the performance and institutional stability of Islamic banks in Indonesia remain under scrutiny. While the number of Islamic financial institutions has grown, inconsistencies in legal interpretation, regulatory overlap, and weak enforcement mechanisms have hindered the full realization of the law's objectives (Saeed, 1999; Vogel & Hayes, 1998).

For instance, coordination issues between Bank Indonesia, the Financial Services Authority (OJK), and the National Sharia Council have led to legal ambiguities and procedural delays (Iqbal & Llewellyn, 2002). These limitations not only affect investor confidence but also impede the development of standardized Islamic financial products. Comparative studies suggest that other jurisdictions, such as Malaysia and Bahrain, have succeeded due to more unified regulatory structures and robust legal enforcement (El-Hawary, Grais, & Iqbal, 2007).

Despite a decade since its enactment, Law No. 21 of 2008 continues to raise important legal debates. Many studies have examined the financial performance of Islamic banks, but fewer have focused on the legal implementation and practical regulatory challenges specific to Indonesia (Sundararajan & Errico, 2002). The limited exploration of how legal norms are applied and enforced within the Islamic banking context presents a critical research gap. Moreover, there remains a lack of clarity on whether the current legal framework supports the goals of economic justice, *mashlahah*, and financial inclusion as envisioned in Islamic economics (Kuran, 2004; Siddiqi, 1983, pp. 77–79).

Given these gaps, this study seeks to provide a detailed legal analysis of the implementation of Law No. 21 of 2008 concerning Sharia Banking in Indonesia. The research specifically addresses three main questions: (1) How does Law No. 21 of 2008 define and regulate the legal identity and structure of Sharia banks? (2) To what extent has the law been effectively implemented by regulatory institutions and Sharia supervisory bodies? (3) What are the legal challenges in harmonizing Sharia banking principles with Indonesia's national financial system? By answering these questions, the study aims to contribute to the theoretical development of Islamic financial law and to inform future legal reforms that ensure coherence, enforceability, and doctrinal integrity within Indonesia's dual banking system.

Literature Review

The legal foundations and regulatory frameworks of Islamic banking have been widely examined in the academic discourse, particularly in the context of integrating Sharia principles into modern financial systems. Scholars such as El-Gamal (2006) and Usmani (2002, pp. 31–39) have explored the jurisprudential underpinnings of Islamic finance, emphasizing the need for compliance with *fiqh al-muʿāmalāt* while adapting to contemporary financial realities.

These works underline the necessity of institutionalizing Sharia compliance through formal legal mechanisms, such as the establishment of Sharia Supervisory Boards and codified regulatory statutes. Similarly, Chapra (2000, pp. 90–94) argues that Islamic banking is not merely a religious alternative but a complete financial paradigm rooted in equity, social justice, and risk-sharing principles. This perspective supports the notion that legal regulations must not only ensure operational clarity but also align with the philosophical goals of Islamic economics.

In the Indonesian context, the enactment of Law No. 21 of 2008 reflects an attempt to formalize Sharia banking through legislative authority. Prior to this law, the dual banking system lacked clear demarcations between conventional and Islamic banking, resulting in regulatory overlap and ambiguity.

Warde (2000) and Kahf (2003) have noted that for Islamic finance to thrive within a secular legal system, laws must establish coherent definitions, institutional responsibilities, and dispute resolution mechanisms tailored to the unique characteristics of Islamic transactions. Furthermore, studies by Iqbal and Llewellyn (2002) highlight that regulatory success in Islamic banking depends on harmonizing national legal codes with Sharia norms, ensuring both enforceability and theological integrity. While these contributions provide a solid foundation, they also expose a critical gap: the lack of empirical and legal scrutiny on how such laws are implemented and interpreted in specific national contexts like Indonesia.

Theoretical Framework

The theoretical foundation of this study rests on three interrelated legal and regulatory theories: legal pluralism, institutional legal theory, and Islamic jurisprudence (*uṣūl al-fiqh*) in financial matters. These frameworks collectively offer a comprehensive lens for analyzing the implementation of Law No. 21 of 2008 in Indonesia's complex legal environment.

Legal pluralism provides a key theoretical entry point, acknowledging the coexistence of multiple legal systems within a single jurisdiction. In the case of Indonesia, Sharia banking operates within the broader secular legal framework governed by the Financial Services Authority (OJK) and Bank Indonesia. Merry (1988) and Griffiths (1986) suggest that in pluralistic legal environments, effective regulation requires mechanisms that allow normative integration without causing doctrinal conflict.

This is particularly relevant in Indonesia, where Islamic legal norms must be interpreted in parallel with national financial statutes. Legal pluralism also highlights the importance of judicial interpretation and regulatory accommodation in ensuring that laws such as No. 21 of 2008 function coherently with existing legal codes (Hooker, 1975, pp. 110–113).

Institutional legal theory complements this by emphasizing the role of legal institutions in shaping and enforcing norms. According to Selznick (1969) and Fuller (1969), institutions are not merely implementers of law but also interpreters and mediators of legal meaning. In Islamic banking, regulatory bodies such as Bank Indonesia and the National Sharia Council are central to the law's implementation.

Their role in interpreting *sharīʿah*-compliant financial contracts, licensing Islamic banks, and overseeing Sharia compliance determines the practical success of Law No. 21 of 2008. This theory provides an analytical lens to evaluate how these institutions function, interact, and enforce the regulatory intent of the legislation (March & Olsen, 1989).

The third pillar is Islamic legal theory, particularly *uṣūl al-fiqh* and its application to economic transactions (*fiqh al-muʿāmalāt*). Usmani (2002, pp. 17–22) and Kamali (2003, pp. 144–147) outline that Islamic finance must adhere to core principles such as the prohibition of *ribā* (interest), the avoidance of *gharar* (excessive uncertainty), and the implementation of profit-and-loss sharing contracts like *muḍārabah* and *mushārakah*. These principles guide the structuring of financial instruments and the operations of Sharia-compliant banks. In regulatory terms, these doctrines must be encoded within legal texts and operationalized by regulatory bodies without diluting their religious meaning. Therefore, this theory enables an evaluative framework that questions not only how well the law complies with Sharia but also how authentically it reflects Islamic legal intent.

Collectively, these theories support a multi-dimensional analysis of the implementation of Law No. 21 of 2008. Legal pluralism explains the interaction between Islamic and civil laws; institutional legal theory focuses on the agencies responsible for implementation; and Islamic legal theory ensures that the principles governing Sharia banking are doctrinally sound. This integrated framework enables a holistic legal examination, identifying both normative alignment and institutional performance in the regulation of Islamic banking in Indonesia.

Previous Research

Several studies have investigated various aspects of Islamic banking regulation, offering insights into the evolution of Sharia-compliant financial systems. Warde (2000) provided an early comparative analysis of Islamic banking structures, showing how different legal systems have integrated Sharia principles into national banking laws. His findings revealed a significant variance in legal infrastructure, noting that Indonesia lagged behind in institutional support and legal specificity compared to Malaysia and the Gulf states.

Similarly, El-Gamal (2001) examined the economic logic underpinning Islamic finance, arguing that codified regulations are essential to operationalize religious doctrines in a market-oriented framework. These early studies framed Islamic finance as both a legal and economic phenomenon requiring interdisciplinary regulatory approaches.

Building on this, Archer and Karim (2002) analyzed the role of corporate governance in Islamic banks. Their work emphasized the importance of Sharia Supervisory Boards (SSBs) and identified weaknesses in accountability and transparency that persisted across jurisdictions, including Indonesia. They argued that despite regulatory mandates, SSBs often lacked legal authority and operational independence. In the context of Law No. 21 of 2008, these findings are relevant as they highlight systemic challenges in enforcing Sharia compliance at the institutional level.

Sundararajan and Errico (2002) contributed to the literature by assessing risk management practices in Islamic banks, suggesting that traditional financial laws were often illequipped to handle the unique risk profiles of Sharia-compliant contracts. This study underscores the necessity of tailored legal frameworks, such as Law No. 21 of 2008, to accommodate the specificities of Islamic finance. In the Indonesian case, their recommendations regarding legal reform and prudential regulation remain highly applicable.

Saeed (2003) investigated the theological and ethical dimensions of Islamic finance, noting that legal reforms often lacked doctrinal authenticity. His critique centered on the over-reliance on Western regulatory models and the inadequate incorporation of Islamic jurisprudential methods. This critique resonates with challenges observed in the implementation of Law No. 21 of 2008, where regulatory mechanisms sometimes conflict with foundational Sharia principles.

Iqbal and Mirakhor (2007) offered a more policy-oriented perspective, focusing on the integration of Islamic banking within national development strategies. They highlighted Indonesia's potential due to its demographic and cultural context but warned that without robust legal infrastructure, growth would be unsustainable. Their findings support the need for a comprehensive evaluation of the legal mechanisms governing Sharia banks, including their alignment with macroeconomic goals.

Lastly, Kamali (2008) addressed the jurisprudential basis for Islamic economic principles and explored how legal texts should reflect higher objectives (*maqāṣid al-sharīʿah*). His work stressed the importance of legal clarity and the risks of ambiguity in statutory language, which directly applies to critiques of Law No. 21 of 2008's implementation gaps. He called for legislative instruments that not only meet procedural standards but also achieve substantive justice as envisioned by Islamic law.

Collectively, these studies contribute to the academic discourse by providing foundational perspectives on regulatory design, governance, risk management, and doctrinal fidelity in Islamic banking. However, a clear research gap remains in examining how a specific national law—like Indonesia's Law No. 21 of 2008—is implemented in practice. Most prior studies are either theoretical or comparative, lacking an in-depth, country-specific legal analysis. This study seeks to bridge that gap by focusing on Indonesia's regulatory performance, institutional coordination, and doctrinal alignment in the wake of this landmark legislation.

Research Methods

This study adopts a qualitative legal research methodology, focusing on textual and doctrinal sources to examine the implementation of Law No. 21 of 2008 concerning Sharia Banking in Indonesia. The nature of the data used is primarily textual, comprising statutory laws, government regulations, fatwas from the National Sharia Council, and academic literature. This approach allows for a detailed and interpretative analysis of the normative content of the law and its alignment with both civil and Islamic legal traditions (Zweigert & Kötz, 1998, pp. 34–37). By emphasizing textual interpretation, the study delves into the legal reasoning, statutory structures, and operational directives embedded within the legislation.

The data sources are drawn from a combination of primary and secondary legal materials. Primary sources include Law No. 21 of 2008 itself, relevant Bank Indonesia and Financial Services Authority (OJK) regulations, and official fatwas related to Islamic finance. Secondary sources encompass scholarly publications from international journals and books discussing Islamic finance, legal theory, and Indonesian regulatory policy. Works such as those by Usmani (2002, pp. 28–31), El-Gamal (2006), and Kamali (2003, pp. 140–145) provide the jurisprudential and theoretical frameworks necessary to contextualize the data within both Islamic and Western legal paradigms.

Data collection was conducted through document analysis. Legal texts were systematically reviewed to extract doctrinal positions, legal norms, and procedural mandates related to the governance and supervision of Sharia-compliant financial institutions. Literature reviews of prior academic work also supplemented this analysis, allowing for triangulation between statutory content and scholarly interpretation (Creswell, 1994, pp. 151–153). This method ensures that the study remains grounded in both normative legal theory and empirical legal development.

For data analysis, the study employed interpretive analysis, focusing on thematic coding of legal concepts, statutory provisions, and institutional mandates. This approach allowed for the classification of legal themes such as institutional coordination, doctrinal alignment, and regulatory efficacy. The coding framework was informed by the theoretical concepts introduced earlier—legal pluralism, institutional theory, and Islamic legal theory. By analyzing how these themes recur and interact within the legal texts, the study was able to evaluate the implementation and effectiveness of the law (Patton, 1990, pp. 376–378).

The final stage involved drawing conclusions from the coded data and interpretive findings. Themes were synthesized to answer the three central research questions, assessing the degree to which Law No. 21 of 2008 fulfills its legal, institutional, and doctrinal objectives. The findings were contextualized within the broader literature on Islamic banking regulation and grounded in the theoretical framework established earlier. This method enables a normative assessment that is both analytically rigorous and contextually relevant, providing actionable insights for legal scholars and policymakers.

Results and Discussion

The implementation of Law No. 21 of 2008 concerning Sharia Banking in Indonesia represents a complex interaction between legislative intent, institutional coordination, and jurisprudential integrity. The theoretical framework developed in this study—combining legal pluralism, institutional theory, and Islamic jurisprudence—offers a multidimensional lens through which to examine this process.

One of the most critical observations is the dynamic tension between Sharia norms and the secular structure of Indonesia's financial legal system. As Griffiths (1986) and Hooker (1975, pp. 117–120) explain, legal pluralism often results in fragmented enforcement, where different legal logics compete or fail to harmonize. This is evident in Indonesia's attempt to create a distinct legal identity for Sharia banking without fully integrating it into a unified regulatory schema.

Previous research has acknowledged the potential of Islamic banking to advance ethical finance and social justice (Chapra, 2000, pp. 115–118; Kamali, 2003, pp. 142–144), but these ideals remain difficult to enforce through statutory mechanisms alone. For example, while the law mandates the establishment of Sharia Supervisory Boards, it does not specify standards for board independence or consistency in fatwa application across institutions (Archer & Karim, 2002). This institutional gap leads to diverse interpretations of Sharia compliance, creating regulatory inconsistency and undermining legal predictability—an outcome noted by Iqbal and Mirakhor (2007) as a significant risk to Islamic banking's credibility.

The research also reveals that regulatory bodies, although empowered by Law No. 21 of 2008, often face operational challenges that affect enforcement. Bank Indonesia and the OJK possess the authority to supervise Islamic banks, yet their decisions frequently depend on interpretations by the National Sharia Council.

This dependence highlights the institutional dualism embedded in the system, where financial regulation must align with non-state religious authorities (El-Gamal, 2006; Kahf, 2003). Such dualism complicates accountability and dilutes regulatory efficiency. This legal fragmentation is particularly problematic when new Islamic financial products are introduced, as there is no streamlined process for approval and oversight.

These challenges also reflect a broader research gap identified in earlier sections: the absence of detailed legal evaluations that focus not only on economic outcomes but on normative and procedural coherence. By concentrating on the statutory, institutional, and doctrinal dimensions of Law No. 21 of 2008, this study aims to fill that gap. It offers a thematic analysis that directly engages with the research questions by assessing legal identity, regulatory efficacy, and harmonization efforts within the existing legal order.

1. Legal Identity and Institutional Structure in Sharia Banking

The definition and structure of Sharia banks as established in Law No. 21 of 2008 form the legal cornerstone for Islamic banking operations in Indonesia. According to the law, a Sharia bank is a financial institution that conducts business activities in accordance with Islamic principles, particularly avoiding *ribā*, *gharar*, and *maysir*.

These prohibitions are grounded in *fiqh al-muʿāmalāt* and represent essential tenets of Islamic financial ethics (Usmani, 2002, pp. 42–46; Kamali, 2003, pp. 133–135). However, translating these principles into enforceable statutory provisions has proven complex, especially in a pluralistic legal system like Indonesia's. The law recognizes the dualistic nature of the financial system but does not fully integrate mechanisms for normative adjudication between Sharia and civil law interpretations.

The institutional framework outlined by the law includes key regulatory actors: Bank Indonesia (later replaced by the OJK), the National Sharia Council, and internal Sharia Supervisory Boards (SSBs). The law assigns supervisory responsibilities to these entities but fails to resolve issues of jurisdictional overlap. For instance, while the SSBs are expected to provide Sharia compliance guidance, their fatwas are only binding within their institutions and require approval by the National Sharia Council to gain regulatory authority. This multi-layered structure has led to delays and inconsistencies in policy enforcement (Archer & Karim, 2002; El-Hawary et al., 2007).

The regulatory ambiguity is further complicated by the dual licensing system for conventional and Islamic banking, which allows banks to operate under both systems through separate business units. While this structure promotes market inclusivity, it risks blurring the lines between conventional and Sharia-compliant operations.

Warde (2000) and Kahf (2003) argue that such arrangements can compromise the doctrinal integrity of Islamic finance if clear operational boundaries are not maintained. In practice, the lack of standardized regulatory procedures and definitions for hybrid products has resulted in uncertainty, especially in judicial disputes over contract enforcement.

Furthermore, the law's language lacks detailed procedural provisions for the establishment and governance of Islamic financial instruments. While the law emphasizes compliance with Sharia principles, it does not offer a codified framework for contract types, dispute resolution methods, or product approval standards. This deficiency necessitates reliance on external fatwas, leading to varied interpretations across institutions (Saeed, 2003; Usmani, 2002, pp. 38–41). The absence of a centralized legal code for Sharia financial contracts contrasts with Malaysia's structured approach, where standardized contracts are part of the central bank's regulatory mandate.

Overall, while Law No. 21 of 2008 provides the formal legal identity for Sharia banks, its institutional and structural limitations hinder its full implementation. The reliance on multiple oversight bodies, the lack of regulatory harmonization, and the ambiguous legal language contribute to a fragmented legal environment. Addressing these issues requires not only legislative reform but also a rethinking of institutional roles to ensure doctrinal consistency and legal coherence within Indonesia's dual banking system.

2. Regulatory Implementation and Supervisory Effectiveness

The second central issue addressed in this study is the extent to which Law No. 21 of 2008 has been effectively implemented by regulatory institutions and Sharia supervisory bodies. Implementation, in this context, encompasses the operationalization of legal provisions through administrative processes, institutional coordination, and jurisprudential oversight. A critical analysis reveals that despite formal legal endorsement, the regulatory environment for Sharia banking in Indonesia continues to face significant procedural and operational challenges.

One of the most pressing issues is the fragmented supervisory architecture. Bank Indonesia initially held the mandate to supervise Sharia banking institutions; however, following the establishment of the Financial Services Authority (OJK), supervisory responsibilities became split between regulatory bodies, with limited functional clarity. This duplication has led to overlapping functions, gaps in enforcement, and inconsistent interpretations of regulatory directives (Iqbal & Llewellyn, 2002; Archer & Karim, 2002). From an institutional legal theory perspective, such ambiguity erodes the rule of law and undermines regulatory predictability (Fuller, 1969; March & Olsen, 1989). As a result, compliance standards vary across institutions, impeding effective market regulation.

The Sharia Supervisory Boards (SSBs), mandated by Law No. 21 of 2008, are intended to provide internal Sharia oversight within each Islamic bank. However, the absence of a unified certification system or standardized qualifications for SSB members has resulted in uneven competence and fragmented jurisprudential approaches. Archer and Karim (2002) have noted that many SSBs lack independence and are influenced by bank management, which can compromise their objectivity. Moreover, SSB decisions must align with fatwas issued by the National Sharia Council, yet there is no clear enforcement mechanism to ensure compliance, creating further dissonance within the regulatory hierarchy (El-Gamal, 2006; Kamali, 2003, pp. 148–150).

Another limitation in regulatory implementation concerns the legal enforceability of Sharia contracts. Indonesian civil courts, which have jurisdiction over financial disputes, often lack specialized knowledge in Islamic finance and may default to conventional interpretations of contract law. This problem is particularly acute in cases involving profit-sharing schemes like *muḍārabah* and *mushārakah*, where risk-sharing and asset-based structures challenge conventional legal principles (Usmani, 2002, pp. 53–55; Saeed, 2003). The result is legal uncertainty and unpredictability in dispute resolution, which undermines the confidence of market participants.

The integration between Sharia principles and national economic regulations also remains weak. Although the law mandates alignment with *sharīʿah*, many implementing regulations fail to translate Islamic economic values such as justice (*ʿadl*) and mutual benefit (*maṣlaḥah*) into enforceable rules. Kamali (2003, pp. 139–143) argues that without a normative bridge between ethical objectives and regulatory enforcement, Islamic banking risks devolving into form without substance. In practice, regulators have prioritized compliance with procedural requirements over substantive Sharia values, resulting in a mechanistic implementation of Islamic finance.

Comparatively, jurisdictions like Malaysia and Bahrain have shown greater success in regulatory implementation due to the presence of centralized Sharia governance frameworks and legal harmonization mechanisms. Malaysia's Central Bank, for example, provides standardized templates for Sharia-compliant contracts and maintains a centralized Sharia board whose decisions are binding across the industry (Warde, 2000; El-Hawary et al., 2007). Indonesia's decentralized approach, in contrast, lacks such cohesion, making the regulatory environment fragmented and less efficient.

In summary, while Law No. 21 of 2008 establishes a formal supervisory infrastructure for Islamic banking, its practical implementation is hindered by regulatory fragmentation, inadequate enforcement mechanisms, and weak jurisprudential integration. These findings suggest that for the law to be effective, institutional reform is needed, including enhanced regulatory coordination, judicial training in Islamic finance, and the creation of binding and standardized Sharia governance protocols. Only then can the law fulfill its mandate of establishing a robust, ethical, and functionally coherent Islamic banking system.

3. Harmonization Challenges Between Sharia Principles and National Law

The third research question investigates the legal challenges in harmonizing Sharia banking principles with Indonesia's national financial legal system. This inquiry is vital in understanding the regulatory coherence and normative integration necessary for the development of a stable dual banking framework. While Law No. 21 of 2008 provides the foundational legal basis for Sharia banking, its implementation within the broader civil legal system of Indonesia presents complex doctrinal and procedural difficulties.

At the doctrinal level, Islamic finance operates under the principles of *uṣūl al-fiqh*, emphasizing concepts such as *ʿadl* (justice), *maṣlaḥah* (public interest), and the prohibition of *ribā*. These principles often contrast sharply with the interest-based and risk-neutral frameworks underpinning conventional finance. Usmani (2002, pp. 60–63) and

Kamali (2003, pp. 154–156) have emphasized the non-negotiable nature of these tenets in Islamic jurisprudence. However, integrating these principles into a secular legal order requires a degree of legal transformation that Indonesia has struggled to fully realize. For instance, while Law No. 21 of 2008 references Sharia principles, it lacks clear mechanisms for resolving conflicts between civil and religious legal norms, particularly in contractual interpretation and enforcement.

The institutional manifestations of this conflict are evident in regulatory overlaps and ambiguous legal mandates. Civil courts often adjudicate disputes involving Islamic financial contracts without adequate understanding of Sharia doctrines, leading to outcomes that may contravene Islamic principles. As noted by El-Gamal (2006), this problem stems from a disconnect between the legislative text and the judiciary's interpretive capacity. While the Religious Courts in Indonesia have limited jurisdiction over Islamic family law, they do not oversee financial matters, creating a jurisdictional vacuum in Islamic commercial law enforcement.

In terms of operational law, harmonization issues also arise in the licensing and product approval processes. For example, hybrid financial products—those that mix conventional and Islamic elements—are often regulated under general banking law rather than under the specific mandates of Sharia banking regulations. This can result in inconsistencies in product classification, taxation, and reporting requirements. Iqbal and Llewellyn (2002) caution that without harmonized legal definitions and operational standards, Islamic banks may face legal exposure or lose their distinctiveness, undermining the objectives of Islamic economic reform.

Furthermore, the role of the National Sharia Council (DSN) as the main source of regulatory fatwas introduces another challenge. Although DSN fatwas are intended to guide and standardize Islamic financial practices, their legal status remains ambiguous. They are not legislated or codified in the same manner as government-issued regulations, making their enforceability problematic. Archer and Karim (2002) point out that unless fatwas are integrated into national banking law through official codification, they may be viewed as advisory rather than binding, further complicating harmonization efforts.

From a comparative legal perspective, other jurisdictions offer useful models. Malaysia's Sharia Governance Framework (2009) integrates Sharia decision-making directly into the central bank's regulatory authority, thus avoiding interpretive fragmentation (Warde, 2000; El-Hawary et al., 2007). Bahrain, similarly, ensures that Islamic finance laws are not only consistent with civil law but also judicially recognized. In contrast, Indonesia's reliance on multiple, often disconnected, regulatory sources has led to inconsistent legal interpretations and hindered comprehensive harmonization.

A final harmonization challenge lies in legislative drafting. Many of the provisions in Law No. 21 of 2008 are broad and lack specific definitions or operational clauses. This ambiguity gives rise to regulatory discretion, which, while sometimes necessary, also increases the risk of legal inconsistency. Kamali (2003, pp. 146–149) argues that precise legal drafting is essential for achieving *maqāṣid al-sharīʿah* (the higher objectives of Islamic law), especially in areas like finance where compliance is both ethical and transactional.

In conclusion, while Law No. 21 of 2008 represents a bold legal initiative to institutionalize Islamic banking in Indonesia, significant harmonization challenges persist. These include doctrinal misalignment, institutional disjunction, and legislative ambiguity. To resolve these issues, the legal system must develop integrative mechanisms such as judicial training in Islamic finance, codification of fatwas, and alignment of regulatory procedures across conventional and Islamic sectors. Only through such harmonization can Indonesia's dual banking system operate with both legal certainty and religious integrity.

Core Findings and Pathways Forward

This study has examined the implementation of Law No. 21 of 2008 concerning Sharia Banking in Indonesia through the lens of three interrelated research questions, each addressed in depth in the preceding sections. The findings clearly indicate that while the law provides a strong formal foundation for the development of Islamic banking, it faces substantive challenges in practical implementation, institutional coordination, and doctrinal harmonization.

These findings contribute to closing the research gap identified in the introduction, where prior studies had not fully explored the legal efficacy and operational coherence of Indonesia's Islamic banking regulations.

The first research question, concerning the legal identity and institutional structure of Sharia banks, was addressed by demonstrating that Law No. 21 of 2008 successfully defines and legitimizes Islamic banking as a distinct legal entity. However, its fragmented institutional framework and lack of standardized regulatory mechanisms hinder effective enforcement. This finding supports and extends earlier critiques by Archer and Karim (2002) regarding institutional deficiencies in Sharia banking governance.

The second research question, dealing with the implementation of the law, revealed that while regulatory institutions such as Bank Indonesia and the OJK are formally mandated to oversee Islamic finance, their operational effectiveness is diluted by jurisdictional overlaps, insufficient jurisprudential training, and the non-binding nature of fatwas. These institutional inefficiencies were not only supported by the literature (Iqbal & Llewellyn, 2002; El-Gamal, 2006) but also demonstrated how legal fragmentation undermines regulatory integrity and confidence.

In addressing the third research question, the study found that harmonizing Islamic legal principles with national financial laws remains a major challenge. The secular nature of Indonesian civil law, combined with the lack of a unified codification of Sharia financial norms, leads to inconsistencies in product regulation, contract enforcement, and judicial outcomes. Kamali’s (2003, pp. 144–149) insistence on bridging Islamic ethics with legislative clarity underscores the need for integrative reform in this area.

Collectively, these findings offer significant theoretical and practical implications. Theoretically, the study demonstrates how legal pluralism and institutional theory intersect with Islamic legal norms in shaping the success or failure of regulatory frameworks. It highlights that Sharia compliance is not solely a religious concern but a structural legal issue that must be addressed through coherent and enforceable legislative design. This contributes to the literature by offering a context-specific, doctrinally informed evaluation of regulatory effectiveness.

Practically, the findings suggest clear strategies for reform. These include standardizing Sharia Supervisory Board qualifications and mandates, codifying key fatwas into national regulatory instruments, and developing specialized judicial training in Islamic finance. For practitioners and policymakers, the implications are direct: institutional redesign, legal harmonization, and jurisprudential integration are essential for transforming formal legal frameworks into effective and ethical financial systems. Furthermore, this research offers a model for other jurisdictions attempting to balance religious legal norms with modern state regulatory systems.

Conclusion

This study has provided a comprehensive legal analysis of the implementation of Law No. 21 of 2008 concerning Sharia Banking in Indonesia, focusing on legal identity, regulatory implementation, and the harmonization of Sharia principles with national financial law. The findings confirm that while the law has established a foundational framework for the institutionalization of Islamic banking, significant gaps remain in regulatory enforcement, institutional coherence, and jurisprudential integration.

Theoretically, the study contributes to the understanding of legal pluralism and institutional governance within a dual banking system. It illustrates how the success of Islamic banking regulation depends not only on the content of legal statutes but also on the operational effectiveness of institutions tasked with enforcement and interpretation. The interplay between secular financial laws and Sharia doctrines further complicates this process, requiring a nuanced approach to legislative drafting and regulatory design.

Practically, the study recommends several reform initiatives to improve the effectiveness of Law No. 21 of 2008. These include strengthening the authority and standardization of

Sharia Supervisory Boards, ensuring that fatwas are codified and binding across financial institutions, and enhancing judicial and regulatory understanding of Islamic finance principles. Policymakers must prioritize regulatory integration and doctrinal alignment to ensure that the goals of ethical finance, risk-sharing, and financial inclusion are effectively realized.

Future research should explore comparative regulatory systems, empirical assessments of Sharia bank performance post-2008, and evolving jurisprudential debates in Islamic finance. Such efforts will enhance the ongoing development of an Islamic banking system that is legally sound and economically viable within Indonesia's broader financial landscape.

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