

The Relevance Of The Principle Of *Maqashid Al-Syari'ah* In The Procedure For Settlement Of Sharia Pawn Disputes In Indonesia

Dr. M. Ihsan, S.Ag ., SH. , MH., M.Sc¹

¹Lecturer in Business Law, Muhammadiyah University Prof. Dr. HAMKA

Corresponding author : m_ihsan@uhamka.ac.id

Abstract

The sharia pawn (rahn) institution continues to show a positive growth trend in Indonesia, increasing access to financing while also increasing the potential for disputes between the rahin (pawn giver) and the murtahin (pawn recipient). This research aims to analyze the forms of sharia pawn disputes in Indonesia, examine the rules and practices of dispute resolution efforts, and analyze the relevance of these resolution efforts from the perspective of Maqashid Al-Syari'ah . The research method used is qualitative with a case study approach at the Sharia Business Unit of PT. Pegadaian and the National Sharia Arbitration Board (Basyarnas) MUI. The results identify four main forms of dispute: differences in contract interpretation, issues of damage/loss of the pawned object, differences in the appraised value of the pawned object, and customer rejection of the auction. Dispute resolution is carried out hierarchically through deliberation to reach consensus (al-Sulh) , Basyarnas Arbitration (Tahkim) , and the Religious Court (al-Qadha) . When reviewed from the perspective of Maqashid Al-Syari'ah , dispute resolution must be based on the principle of good faith , which substantially aims to realize Hifdzu al-Maal (preservation of property) and produce maslahah (benefit) for all parties.

Keywords: Sharia Pawn, Dispute, Dispute Resolution, Maqashid Al-Syari'ah, Hifdzu al-Maal.

INTRODUCTION

574

IJEBIR, Volume 04 Issue 06, 2025



Copyright at authors some right reserved this work is licensed under a [Creative Commons Attribution-ShareAlike 4.0 International License](https://creativecommons.org/licenses/by-sa/4.0/).

Rapid development sharia economy in Indonesia has push improvement practice sharia pawn (*rahn*). *Rahn* is contract debt guarantee with guarantee property , where the principle helping each other (*ta'awun*) becomes runway philosophically (Ali & Nu'man, 2016). Although thus , in line with increase in transaction volume , potential emergence dispute between *rahin* (customer) and *murtahin* (institution) pawn) also increased (Alfisyahri & Siswanto , 2012). Disputes This can caused by various factors , such as *default* (*mumatalah*), ambiguity contract , or problem accountability risk on goods pawn (Atoriah , 2020).

Indonesian positive law regulates settlement dispute sharia economy through track litigation (Religious Court) and non- litigation (Sharia Consultation and Arbitration / Basyarnas) (Adi Saputera, 2019). Although Thus , the practice settlement dispute This must imbued with philosophy Islamic law , namely Maqashid Al-Shari'ah . Concept *Maqashid Al- Shari'ah* aim main For create *maslahah* and eliminate *mafsadah* (Alwi et al., 2022). In context sharia pawn , dimensions Hifdzu al-Maal (Maintenance) Assets) become objective essential things that must be done filled in every effort settlement dispute .

Study This aim For analyze practice settlement dispute sharia pawnshop in Indonesia and testing relevance as well as implementation draft Maqashid Al- Shari'ah in every procedures implemented , to ensure that justice substantive and *maslahah* achieved for the parties .

RESEARCH METHODS

Study This adopt method qualitative with approach studies case . Election method This aim For dig into data deep regarding process and substance dispute sharia pawn (Sugiyono , 2011).

Research location focuses on the Sharia Business Unit of PT. Pegadaian , as implementer contract *rahn* , and the National Sharia Arbitration Board (Basyarnas) MUI, as a forum for dispute resolution non- litigation disputes .

Primary data obtained through interview in - depth *interview* with manager Sharia Pawnshop , customers who have dispute , and Basyarnas arbitrator. Secondary data collected from studies literature that includes literature jurisprudence , regulations legislation and decisions arbitration .

Data analysis was performed in a way inductive through data reduction , data presentation , and data extraction conclusion . Withdrawal conclusion involving



interpretation findings practice settlement dispute with framework theoretical Maqashid Al-Syari'ah (Sugiyono , 2016).

RESULTS AND DISCUSSION

Four Form Dispute in Sharia Pawn Contract

The dispute that occurred in practice sharia pawnshops in Indonesia can classified become four form :

1. **Dispute Interpretation Clause Akad** : This happened when customers (*rahin*) and Islamic Pawnshops (*murtahin*) have understanding different on content contract , which is often culminating in *default* (*mumatalah*). Misunderstanding main centered on magnitude cost save (*ujrah*) and deadline time (Surepno , 2018).
2. **Compensation Dispute Pawn Object** : Dispute appear moment goods guarantee experience damage or lost . Although Sharia Pawnshop is responsible answer replace 125% of mark estimate goods (Suharto, Triyono, & Oktavianto , 2016), customers often feel mark the No fair Because No reflect true market value moment dispute happen .
3. **Dispute** : Dispute happen Because customers feel mark estimate goods guarantee too low , so that limit amount loan (*marhun bih*).
4. **Dispute Auction Rejection** : Dispute at the stage execution This happen when customers reject the goods auctioned although has due date. The auction was conducted as effort *Murtahin* For pay off the debt, but often opposed customers who feel harmed .

Procedures and Mechanisms Settlement Dispute

Procedure settlement dispute sharia pawnshops in Indonesia are carried out in a way structured through three stages main :

1. **Deliberation Consensus (Al-Sulh)** : Stage This is priority main and reflect Spirit family . In the stage this , the party Sharia Pawnshops are mandatory give chance to customers For negotiate to achieve agreement peace , including option extension time or debt restructuring (Azizah et al., 2020).
2. **Sharia Arbitration (Basyarnas) (Tahkim)** : If deliberation failed and there is clause arbitration in contract , Basyarnas become a forum for resolution dispute next . Advantages Basyarnas is relative settlement fast , simple , and based Sharia law (Alaqoh & Mujib, 2023).



3. **Court (Al- Qadha)** : Litigation path is choice lastly . The Religious Court has authority judicial full For cut off dispute Islamic economics .

Maqashid Al- Shari'ah in Settlement Dispute

Settlement fair and *beneficial* disputes must internalize principles *Maqashid Al- Shari'ah* (Adzkiya ', 2020). In the context of sharia pawn , two dimensions the most relevant *dharuriyyat* is :

1. **Hifdzu ad-din (Maintenance of Religion)** : Principles This ensure that all procedure settlement dispute , either *al-Sulh* , *Tahkim* , and *al- Qadha* , must appropriate and inappropriate contradictory with teachings *transactions* in Islam.
2. **Hifdzu al- maal (Maintenance Property)** : This is objective most important in dispute pawn . Principle This implemented through **principle good faith good (good faith)** . this principle sue the parties For negotiate and resolve dispute without intention cheating or arbitrary , purposeful protect treasure customer (*rahin*) from losses that are not proportional and protective receivables *murtahin* (Asmuni , 2006). Practice granting grace periods and obligations change the loss that has been regulated by Pegadaian Syariah is manifestation from effort For guard treasure second split party .

Therefore that , a tiered procedure in settlement dispute sharia pawn is relevant efforts with *Maqashid Al- Shari'ah* Because prioritize peace and giving choice sharia - based law , so that results Finally expected bring benefit (justice) for *rahin* and *murtahin* .

CONCLUSION AND SUGGESTIONS

Conclusion

1. Dispute Islamic pawnshops in Indonesia are dominated by issues interpretation contract , problem change make a loss object pawn , dispute mark estimate , and rejection execution auction .
2. Procedure settlement dispute done in a way hierarchical : deliberation Consensus (*Al-Sulh*) as effort preventive and primary , Arbitration Basyarnas as non- litigation options , and Religious Courts as track litigation final .
3. Procedure settlement dispute This own relevance tall with *Maqashid Al-Syari'ah* , in particular in frame *Hifdzu al-Maal* . Relevance This realized through prioritization principle good faith both ensuring the completion process transparent , fair , and oriented towards the interests of the parties , in line with demands sharia .



Suggestion

1. Sharia Pawnshop Institution must strengthen education and transparency contract *rahn* to customers For avoid dispute interpretation .
2. The parties to the dispute recommended For always put forward deliberation based on good faith good , appropriate with principle the recommended al -*Sulh* in Islamic law .
3. Required study more further by the regulator to determine standard change loss and value estimate object more pawn fair and dynamic , so that it is fully in accordance with principle *Hifdzu al-Maal* .

REFERENCES

- Adi Saputera, AR (2019). Completion Sharia Economic Disputes in Indonesia (A Study of Disputes Arising from Murabahah Agreements). Nizham , 7(1), 131–148.
- Adzkiya ', U. (2020). Analysis Maqashid Al-Syariah in Islamic Economic System and Pancasila. Indonesian Journal of Islamic Economics, 10(1), 23–35.
- Alaqoh , S., & Mujib, A. (2023). Application of the Principles of Simple , Fast , and Low Cost Light In Completion Dispute Sharia Pawnshops Through Basyarnas (National Sharia Arbitration Board). Pagaruyuang Law Journal, 6(2), 179-194.
- Alfisyahri, NN, & Siswanto , D. (2012). Practices and Characteristics of Sharia Pawning in Indonesia. SHARE, 1(2), 118–141.
- Ali, Z., & Nu'man, B. (2016). Sharia Pawn Law (1st ed.). Graphic Rays.
- Alwi, M., Kara, MH, Abdullah, MW, & Fachrurrazy , M. (2022). The concept of Maqashid As Syariah in Islamic Banking . Al- Amwal : Journal of Islamic Economic Law, 7(2), 56-80.
- Anhar, MZ, & Nurhayati. (2022). Theory of Maqashid Al- Shari'ah and its Application to Islamic Banking . JESYA: Journal of Economics and Islamic Economics, 5(1), 899-908.
- Arto. (1996). Legal Appeals for Cassation and Judicial Review : Case Civil Law , Religion, Sharia Economics, and Criminal Law. Padang: Prenada Media Group.
- Asmuni . (2006). Protection To Property . Millah Journal , V(2), 293-305.
- Atoriah , H. (2020). Settlement dispute Sharia economics at Pegadaian Syariah: Case study on negligence cashier in extending the rahn period at the Johar Karawang Sharia Pawnshop Unit (Thesis). UIN Sunan Gunung Djati.
- Azizah, S., Febriadi , SR, & Srisusilawati , P. (2020). Analysis of ... [Referring to to relevant sources in Thesis].



- Sugiyono . (2011). Research Quantitative Qualitative and R&D. Bandung: Alfabeta .
- Sugiyono . (2016). Research Methods Combination (Mix Methods). Bandung: Alfabeta .
- Suharto, R., Triyono, & Oktavianto , J. (2016). Responsibility of PT. Pegadaian (Persero) for Damage and Loss of Pawns Goods at PT. Pegadaian (Persero) Semarang City. Diponegoro Law Review, 5(3), 1-15.
- Surepno . (2018). Implementation Study Rahn Contract (Sharia Pawn) in Islamic Financial Institutions . Tawazun : Journal of Sharia Economic Law, 1(2), 174-186.

