

The Legislation of Islamic Economic Law in Indonesia: Meaning, Principles, and Its Developmental Trajectory

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Received: 03-03-2026
Revised: 06-05-2026
Accepted: 20-06-2026

Abstract

Islamic Economic Law reflects the process of transforming Islamic economic norms into positive law through the gradual development of statutory regulations. This study employs a normative legal method using statutory and historical approaches to examine the dynamics of Islamic Economic Law legislation, particularly in the field of Islamic banking. The findings indicate that the transformation of Islamic banking law began with the dominance of the conventional banking system under Law Number 14 of 1967, followed by the introduction of the profit-sharing principle in Law Number 7 of 1992, the stronger recognition of Sharia principles through Law Number 10 of 1998, and the enactment of Law Number 21 of 2008 concerning Islamic Banking, which established a specific legal framework for Islamic banking operations. This development was further strengthened by Law Number 4 of 2023 concerning Financial Sector Development and Strengthening (P2SK), which supports the enhancement of the Islamic financial industry. These legislative developments demonstrate that Islamic Economic Law has undergone an increasingly robust process of institutionalization within the national legal system and has become an integral part of developing a just, inclusive, and sustainable financial system.

Keywords:

Legislative History, Islamic Economic Law, Islamic Banking, Legal Transformation, National Legal System

Diterima: 03-03-2026
Direvisi: 06-05-2026
Diterima: 20-06-2026

Abstrak

Perkembangan ekonomi syariah di Indonesia telah mendorong lahirnya berbagai regulasi yang memberikan landasan hukum bagi pelaksanaan prinsip-prinsip syariah dalam sistem ekonomi nasional. Sejarah legislasi Hukum Ekonomi Syariah menunjukkan proses transformasi norma-norma ekonomi Islam ke dalam hukum positif melalui perkembangan peraturan perundang-undangan yang berlangsung secara bertahap. Kajian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan historis untuk menelaah dinamika perkembangan legislasi Hukum Ekonomi Syariah, khususnya dalam bidang perbankan syariah. Hasil kajian menunjukkan bahwa transformasi hukum perbankan syariah diawali dengan dominasi sistem perbankan konvensional berdasarkan Undang-Undang Nomor 14 Tahun 1967, kemudian berkembang melalui pengakuan prinsip bagi hasil dalam Undang-Undang Nomor 7 Tahun 1992, penguatan prinsip syariah dalam Undang-Undang Nomor 10 Tahun 1998, hingga lahirnya Undang-Undang Nomor 21 Tahun 2008 tentang Perbankan Syariah yang memberikan landasan hukum khusus bagi operasional perbankan syariah. Perkembangan tersebut selanjutnya diperkuat melalui Undang-Undang Nomor 4 Tahun 2023 tentang Pengembangan dan Penguatan Sektor Keuangan yang mendukung penguatan industri keuangan syariah. Dinamika legislasi tersebut menunjukkan bahwa Hukum Ekonomi Syariah telah mengalami proses institusionalisasi yang semakin kuat dalam sistem hukum nasional dan menjadi bagian penting dalam pengembangan sistem keuangan yang berkeadilan, inklusif, dan berkelanjutan. Sejarah Legislasi, Hukum Ekonomi Syariah, Perbankan Syariah, Transformasi Hukum, Sistem Hukum Nasional

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INTRODUCTION

Financial transactions based on Sharia-compliant contracts in the implementation of the Islamic economic system have spread across various countries, not only in Muslim countries but also in many non-Muslim-majority countries. Islamic economics has become a vital part of the global economy. The current development of the Islamic economy is inseparable from the role and struggle of Muslims who seek to implement a Sharia-compliant economic system (Komarudin & Hidayatullah, 2021).

In short, the goal of Islamic economics is prosperity and well-being, justice and equality, stability and progress, harmony and peace, freedom, environmental sustainability, and self-sufficiency. The ultimate goal and ideal goal of Islamic economics is to unshackle the shackles of poverty that have long plagued the majority of Muslims, so that they are no longer merely market objects and consumers. In other words, the goal of Islamic economics is to create a safe and prosperous human life, with all physical and spiritual needs met, in order to achieve goodness and happiness in this world and the hereafter (Yusuf, 2006).

It is noteworthy that the Islamic economy has experienced rapid progress. The most visible indicator of this progress is the establishment of Islamic banks around the world, including in Indonesia. Simultaneously, the growth of Sharia-compliant banks in several Islamic countries motivated Islamic scholars' forums in Indonesia to establish Sharia-compliant banks. Within a relatively short period, these Sharia-compliant banks were established, paralleling efforts to legislate banking laws (Khair, 2022).

In Indonesia, Islamic banks first began operating in 1992 with the enactment of Law No. 21 of 2008 concerning Islamic Banking. Although its development was somewhat delayed compared to other Muslim countries, Islamic banking in Indonesia continued to grow, from the initial decade of 1992-1998, when it only had one Islamic bank unit, to three in 1999. This development continues to the present day. According to data from the Financial Services Authority (OJK) in the Islamic Banking Statistics (SPS), as of June 2019, the number of Islamic banks in Indonesia currently stands at around 198, consisting of 14 Islamic Commercial Banks (BUS), 20 Islamic Business Units (UUS), and 164 Islamic Rural Financing Banks (BPRS) (Gustani, 2020).

The development of Islamic banking regulations in Indonesia demonstrates a continuous transformation from a banking system that initially relied solely on interest to recognizing and strengthening Islamic principles within the national financial system. This change is reflected in various laws and regulations that gradually provide a legal basis for Islamic banking operations, from the introduction of the profit-sharing principle to the establishment of specific regulations governing business activities based on Islamic principles.

Thus, understanding the legislative history of Sharia Economic Law is crucial to understanding how Sharia norms transformed into positive law, providing certainty and direction for the development of the Sharia economy in Indonesia. This study helps explain the dynamics of regulatory formation and provides a basis for evaluating and strengthening the Sharia economic system going forward.

LITERATURE REVIEW

The history of Islamic economic law legislation is a multidisciplinary and multidimensional study of the process of formation, development, and positivization of Islamic economic norms into binding positive law over time (Manan, 2012; Nikmah, Aibak, & Noerdiana, 2024). In Indonesia, the formation of this legal framework is carried out systematically through the role of legislative and executive institutions to ensure that all economic activities—such as production, distribution, and financing—are in line with Islamic principles and free from usury (*gharar*, And *maysir*(KBBI, 2026; Permana, 2023).

The integration of sharia values into the national legal system is built on a foundation of basic principles derived from the Qur'an and Hadith, which include the dimensions of faith, public benefit, human resource empowerment, wise management of assets, justice, brotherhood, and upholding ethical morality (Yusuf, 2023).

Historically, the dynamics of Islamic economic law in Indonesia began in the pre-independence era through the transformation of da'wah in trade channels, before finally developing into a conceptual discourse during the Old and New Order eras (Ridwan, 2016). The transformation of Islamic banking law in the national legal system then evolved through four significant regulatory phases. This phase began with systemic rejection in Law No. 14 of 1967 (Januari, 2012), followed by the introduction stage through Law No. 7 of 1992 which began to accommodate the profit-sharing system (Ramadhan, 2016), continued to the recognition stage through Law No. 10 of 1998 which emphasized the term sharia principles (Susanto, 2008). This process reached the purification stage with the enactment of Law No. 21 of 2008 which provided specific legal certainty for Islamic banking (Syukron, 2013), and is now entering the strengthening stage through Law No. 4 of 2023 (P2SK) in order to create a more adaptive, competitive, and sustainable Islamic financial industry in the modern era (Nofinawati, 2015).

METHOD

This research employs a statutory and historical approach. The statutory approach is used to analyze regulations related to Islamic Economic Law, specifically Law Number 14 of 1967, Law Number 7 of 1992, Law Number 10 of 1998, and Law Number 21 of 2008 concerning Islamic Banking. Meanwhile, the historical approach is used to trace the dynamics of the development of Islamic Economic Law legislation in Indonesia from the pre-independence period to the reform era. The data sources used include primary legal materials (statutory regulations), secondary legal materials (scientific books and journals), and relevant tertiary legal materials. The analysis is conducted descriptively and analytically to describe and examine the transformation process of Islamic economic law within the national legal system.

RESULTS AND DISCUSSION

1. Understanding the History of Sharia Economic Law Legislation

The legal term History of Sharia Economic Law Legislation consists of three main concepts, namely the concept *history*, *legislation*, and *sharia economic law*. Say *history* means an event or incident that actually happened in the past and knowledge about the event (KBBI, 2026); *legislation* means the creation of laws or the process of forming statutory regulations (KBBI, 2026); *law* are regulations or provisions that are officially considered binding and determined by the authorities (KBBI, 2026); *economy* is the science of the principles of production, distribution and use of goods and wealth (KBBI, 2026); whereas *sharia* Islamic law is Islamic religious law that regulates human life based on the Qur'an and Hadith (KBBI, 2026). Thus, linguistically, this phrase can be interpreted as a description of the process of establishing laws and regulations governing economic activities based on Islamic law, which has developed over time.

Sharia Economic Law Legislation is the process of drafting laws, regulations, and policies that regulate economic activities to align with Islamic principles. These regulations include prohibitions on usury (*riba*), *gharar* (uncertainty), *maysir* (speculation/gambling), and other prohibited practices. In this process, the legislative body plays a role in establishing a legal framework consistent with Sharia values, while

the executive branch is responsible for its implementation and enforcement. Enforcement of Sharia Economic Law also involves various government institutions, such as monetary authorities and financial institutions, with an emphasis on supervision, regulation, sanctioning, and dispute resolution related to Sharia economic activities (Permana, 2023).

According to Rachmad Soemitro, Sharia Economic Law is part of the overall norms established by the government or authorities as a personification of society that regulates the lives of conflicting economic interests. Therefore, economic law cannot be applied as part of a branch of law, but rather is a multidisciplinary and multidimensional study (Manan, 2012).

Islamic economics as a concept has its own conceptual boundaries as formulated by several Islamic economic experts, including:

First, Muhammad Abdul Manan, Islamic Economics is a social science that studies the economic problems of society inspired by Islamic values.

Second, M. Umer Chapra, Islamic Economics is a knowledge that helps efforts to realize human happiness through the allocation and distribution of limited resources within the corridor that refers to Islamic teachings.

Third, Khursyid Ahmad, Islamic Economics is a systematic effort to understand economic problems and human behavior relationally from an Islamic legal perspective (Nasution, 2006).

From the three definitions above, it provides an overview of the concept of Islamic economics where the function of Islam in this framework is positioned as a perspective, as a source of moral-spiritual inspiration with various existing ethical tools as a basis for formulating an operational framework for all business activities that are characterized by sharia (Nikmah, Aibak, Noerdiana, 2024).

Thus, the History of Sharia Economic Law Legislation is a study of the process of formation and development of laws and regulations that regulate economic activities based on sharia principles, as well as how Islamic economic norms are positivized into officially applicable laws over time.

2. Basic Principles of Sharia Economic Law

The basic principles of Islamic economic law are the broad principles that form the structure or framework of Islamic economics, derived from the Qur'an and Hadith. The basic principles of Islamic economic law are as follows:

1. Faith: Economic growth must be based on faith and devotion to Allah SWT. This means that all aspects of the economy, including banking, must take into account religious principles and Islamic values.

2. Providing Benefits: Economic activities must provide broad benefits to society at large. In Islam, the goal of economics is not merely to benefit individuals or specific groups, but also to achieve equitable prosperity for humanity as a whole.

3. Human Resources: In economic activities, attention must be paid to human resources. In Islam, the importance of empowering and developing human resource potential is emphasized so that society can achieve prosperity and optimal potential.

4. Wealth: Life in this world is not solely about wealth; rather, wealth is a means or instrument for worshipping Allah SWT. In an economic context, wealth management must be carried out wisely, fairly, and without causing harm to others.

5. Fairness: Economic activities must be conducted based on the principle of justice and must not cause harm to others. In Islam, the importance of justice is taught in all aspects of life, including the distribution and management of economic resources.

6. Brotherhood: Cooperation and brotherhood among Muslims should be the primary drivers of economic activity. Islam encourages collaboration and solidarity between individuals and groups in the pursuit of just and sustainable economic goals.

7. Ethics: Economic activities must be conducted with proper ethics and morality in mind. Islam teaches values such as honesty, integrity, social responsibility, and avoiding practices that are detrimental or violate religious law (Yusuf, 2023).

3. The Historical Dynamics of Sharia Economic Law Legislation in Indonesia

The development of Islamic economic law in Indonesia has a long history, from the pre-independence period to the independence era. In the course of Indonesian Islamic history, it is clearly illustrated that the embryo of Islamic economics was sown along with the arrival of trade flows brought by the spreaders of Islamic teachings to the Indonesian archipelago. Their trading activities indirectly represent a process of transforming religious teachings into economic activities. When the Dutch arrived in the Indonesian archipelago in the 14th century, Muslim traders waged economic resistance against the Dutch monopolistic trade policies, and this resistance was called the *jihad fi sabilillah* movement (Ridwan, 2016).

During the early period of independence and the Old Order (1945–1966), Islamic economic discourse was primarily conceptual and had not yet become a specifically institutionalized system. The thoughts of figures such as Muhammad Hatta demonstrated the existence of economic ideas influenced by Islamic values, particularly in the concepts of social justice, cooperatives, and critiques of capitalism. However, Islamic economics at this time remained at the level of ideas and had not yet become a stand-alone legal system or economic policy. Entering the New Order era (1967–1991), Islamic economic discourse developed more broadly through scientific forums and the thoughts of Muslim intellectuals. Studies on the Islamic economic system as an alternative to capitalism and socialism began to strengthen. Global developments, such as the establishment of the Islamic Development Bank (IDB) in 1975, also influenced the rise of Islamic economic thought and practice, including in Indonesia.

Significant developments occurred in 1992 with the establishment of Bank Muamalat Indonesia, the first Islamic bank supported by national banking regulations. Since then, the Islamic banking system has grown rapidly, including the implementation of a dual banking system that recognizes both conventional and Islamic banking simultaneously. Furthermore, Islamic microfinance institutions such as Baitul Maal wat Tamwil (BMT) have also grown widely in various regions. During the reform era, the strengthening of Islamic economic law has become increasingly evident with the enactment of various laws and the expansion of the authority of Religious Courts in resolving Islamic economic disputes. Fatwas from the National Sharia Council (DSN-MUI) serve as operational guidelines for Islamic financial institutions, and the presence of the Compilation of Islamic Economic Law (KHES) through PERMA No. 2 of 2008 is a crucial step in the positive integration of Islamic economic law into the national legal system, providing certainty and uniformity in resolving Islamic economic disputes.

4. The Flow of Legislation and Transformation of Islamic Banking Law in the National Legal System

a. Law No. 14 of 1967 concerning Banking Principles

The first law issued by the Indonesian government regarding banking was Law No. 14 of 1967 concerning the Principles of Banking (State Gazette of the Republic of Indonesia 1967 Number 34). This law made no mention whatsoever of banking operating

on sharia principles. Instead, it merely legitimized the existence of conventional banking, a banking system whose operations are based on the principle of interest-bearing on the products it offers (Janwari, 2012).

b. Law No. 7 of 1992 concerning Banking

Law Number 7 of 1992 concerning Banking (State Gazette of the Republic of Indonesia 1992 Number 31), Article 6 letter m and Article 13 letter c, recognize banking activities that use the profit-sharing principle, although it does not explicitly mention the term Islamic bank or explain the concept in detail. However, this law became the forerunner to the emergence of Islamic banks. This law began to show the opportunity for the establishment of Islamic banks. Accommodation for Islamic banking in this law is done by recognizing the existence of banks that operate on the profit-sharing principle, both commercial banks and Rural Banks (BPR). However, this law does not specify the definition of a bank operating on the profit-sharing principle (Ramadhan 2016).

c. Law No. 10 of 1998 concerning Amendments to Law No. 7 of 1992 concerning Banking.

Law No. 7 of 1992 concerning Banking is considered to have not provided a strong legal basis for the development of Islamic banking in Indonesia, considering the lack of clarity in the implementation of Islamic principles. The use of the term profit sharing in legislation at that time did not accurately cover the definition of Islamic banking which has a broader scope (Susanto, 2008). Law No. 10 of 1998 concerning Amendments to Law No. 7 of 1992 (State Gazette of the Republic of Indonesia 1998 Number 182), Article 1 number 13 provides a stronger legal basis for Islamic banking by introducing the term Islamic principles. This law emphasizes that banks can conduct business based on an interest system or Islamic principles, including through profit sharing mechanisms such as mudharabah and musyarakah.

d. Law No. 21 of 2008 concerning Shariah Banking

Law Number 21 of 2008 *about Islamic Banking* (State Gazette of the Republic of Indonesia 2008 Number 94, Supplement to the State Gazette of the Republic of Indonesia Number 4867), Article 1 number 12 is the specific legal basis for Islamic banking in Indonesia. This law emphasizes that all Islamic banking business activities must be carried out based on Islamic principles that are free from usury, and regulates various Islamic contracts such as mudharabah, musyarakah, murabahah, ijarah, and other contracts. Through this law, the existence of Islamic banking obtains stronger legal certainty and is separate from conventional banking regulations.

The development of Islamic banking in Indonesia, with the enactment of existing laws, can be described as having gone through three stages: introduction, recognition, and purification. The introduction stage began with the enactment of Law No. 7 of 1992 concerning Banking, followed by the enactment of Law No. 10 of 1998 concerning Amendments to Law No. 7 of 1992 concerning Banking, and the purification stage ended with the enactment of Law No. 21 of 2008 concerning Islamic Banking on July 16, 2008, consisting of 13 chapters and 70 articles (Syukron, 2013).

e. Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK)

Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK) (State Gazette of the Republic of Indonesia Number 4 of 2023, Supplement to the State Gazette of the Republic of Indonesia Number 6845) is a regulation aimed at strengthening the national financial system, including the Islamic banking sector. Through this law, the government harmonizes various provisions in the financial services sector, strengthens governance and supervision of financial institutions, and encourages innovation and the development of Islamic financial products. The P2SK

Law demonstrates the government's efforts to increase the competitiveness and resilience of the Islamic financial industry in the face of increasingly dynamic economic and technological developments.

Furthermore, the strengthening of regulations through the P2SK Law aligns with the need to develop a more adaptive and competitive Islamic banking industry. According to Nofinawati, the development of Islamic banking in Indonesia requires continuous regulatory support to address the challenges of the modern economy and expand its contribution to the national financial system. In this context, the P2SK Law can be viewed as a strengthening of the legal framework that continues the development of Islamic banking regulations following the enactment of Law Number 21 of 2008 concerning Islamic Banking (Nofinawati, 2015).

CONCLUSION

The History of Islamic Economic Law Legislation is a study of the process of establishing laws and regulations governing economic activities based on sharia principles. Conceptually, this term combines elements of history as a developmental process over time, legislation as the formation of regulations, and Islamic economic law as a system of economic norms derived from Islamic teachings. Thus, the history of Islamic Economic Law legislation not only discusses Islamic economic norms but also how these norms are positivized into the national legal system. The dynamics of the development of Islamic Economic Law legislation in Indonesia occurred gradually. In the pre-independence and early post-independence era, Islamic economics remained at the level of practice and conceptual ideas. Significant developments have only been seen in the modern era, particularly since the birth of banking regulations that opened up space for profit-sharing systems, to the strengthening of the legal basis through various laws and the expansion of the authority of judicial institutions in handling Islamic economic disputes.

The transformation of Islamic banking law within the national legal system demonstrates a systematic institutionalization process, from introduction, recognition, to refinement through Law Number 21 of 2008 concerning Islamic Banking. Based on regulatory developments, it can also be understood that Islamic banking in Indonesia has undergone a gradual process of legal evolution, from introduction, recognition, refinement, to regulatory strengthening. The presence of these various laws and regulations demonstrates the government's commitment to providing legal certainty for the Islamic banking industry and strengthening its role in supporting a more just, inclusive, and sharia-compliant national financial system. This confirms that Islamic economic law has become an integral part of the Indonesian legal system and has a strong position in supporting the sustainable development of the Islamic financial industry.

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