

RECHTSVINDING METHOD OF MATARAM RELIGIOUS COURT JUDGES IN DECIDING SHARIA ECONOMIC LAW DISPUTE CASES

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Abstract

The rapid development of Islamic economics in Indonesia has created a complexity of disputes that often have not been adequately accommodated in the legislation. This study examines in depth the method of law discovery (rechtsvinding) applied by judges of the Mataram Class IA Religious Court in resolving sharia economic disputes.

Through a qualitative approach with a case study method and data collection conducted by indepth interviews with judges at the Class IA Mataram Religious Court, this research reveals how legal hermeneutics becomes the main analysis knife in the decision-making process.

The research findings show that judges not only conduct textual interpretation of Islamic law and legislation, but also apply a hermeneutical approach that considers historical, sociological, and philosophical aspects. This method enables the creation of a dynamic balance between the legal text and the values of justice, benefit, and the development of contemporary society. The research also identifies practical challenges in applying the hermeneutic method, including the limited understanding of classical fiqh to modern transactions and procedural constraints in the trial process. The results of the research make a significant contribution to the development of legal discovery theory in the context of Islamic law as well as offering a dispute resolution model that is adaptive to the dynamics of modern Islamic economics.

Keywords: *Legal Hermeneutics, Legal Discovery, Sharia Economics, Religious Courts.*

1. INTRODUCTION

Along with the increase in business activities in the era of globalization and modernization, and with the large number of Indonesians who are active in the Islamic economy marked by the development of Islamic financial institutions in the form of both bank and non-bank institutions, it is very possible for legal disputes to occur in the field of Islamic economics. Disputes (*dispute/difference*) that cannot be avoided will definitely occur between the parties. Every type of dispute that occurs must demand a quick and precise solution.¹

In the territory of Indonesia, alternative dispute resolution or what is called ADR (*Alternative Dispute Resolution*) in sharia economics can be done through two channels, namely through non-litigation channels, namely dispute resolution outside the court and through litigation or settlement through the court. Efforts to resolve sharia economic disputes taken through non-litigation channels are carried out by means of

¹ Abdur Rahman Adi Saputera, "Settlement of Sharia Economic Disputes in Indonesia", *Nizham*, Vol.7, Number 1, January-June 2019, p. 131.

consultation, negotiation, mediation, conciliation, expert judgment, and arbitration mechanisms.²

Meanwhile, litigation settlement in sharia economy is carried out through the Religious Court. This is regulated in Law Number 50 of 2009 concerning Religious Courts, namely in Article 49 letter (i) which expressly states that the Religious Courts have the duty and authority to examine, decide and resolve cases at the first level for people who are Muslims in the field of sharia economics.³

The law has explained that Indonesia is a state of law and one of the signs of a state of law is the existence of a judicial power that is independent and independent and free from all influence of other powers in order to realize legal certainty and justice for the community.⁴ Law Number 48 of 2009 concerning Judicial Power explains the role of judicial power and how judges produce decisions that can provide legal values and justice that exist in society in order to fulfill legal objectives that must always be considered, namely justice, legal certainty, and expediency.⁵

In carrying out their duties, judges are required to work professionally, cleanly, wisely, and wisely, as well as have a high sense of humanity, and also master well the theories of legal science. The judge's decision will be morally accountable to God Almighty, and legally to the constitution, laws and regulations, and human rights values. In fact, the implementation of the duties and authority of a judge is carried out in order to uphold truth and justice, as aspired to so far, guided by the law, the law, and the values of justice that live in society.⁶

With the enactment of Law Number 3 of 2006 concerning Religious Courts (amended by Law Number 50 of 2009 concerning Religious Courts) which adds authority to decide sharia economic cases, the role of the Religious Courts will expand because sharia economics is related to economic disciplines, so that judges in the Religious Courts must master the science of sharia economics in addition to the formal legal knowledge they have so far. The existence of limitations of formal and material law relating to sharia economic dispute cases causes Religious Court Judges to be required to create progressive law as an effort to decide a case at hand.⁷

Mataram Class 1A Religious Court is one of the Religious Courts located in West Nusa Tenggara Province. Mataram City is the Provincial Capital which is one of the centers of community economic activity which is quite rapid so that the Mataram Class 1A Religious Court is one of the places to resolve cases of Sharia Economic disputes in West Nusa Tenggara

² Baiq Inti Dena Sinayang, "Alternative Settlement of Sharia Economic Disputes Through the National Sharia Arbitration Board and Alternative Dispute Resolution Institutions in the Prospect of Sharia Economic Development in Indonesia", *Dharmasisya*, Vol.2, Number 3, September 2022, p. 1106. 1106.

³ *Ibid...*, pp. 1106.

⁴ Abdul Manan, *Religious Courts (Heritage of the Archipelago Strengthening the Republic of Indonesia)*, (Jakarta: Prenadamedia Group, 2019), pp. 10.

⁵ Law Number 48 of 2009 concerning Judicial Power.

⁶ Achmad Rifai, *Legal Discovery by Judges in the Perspective of Progressive Law*, (Jakarta: Sinar Grafika, 2011), p. 3. 3.

⁷ Khoerul Umam and Syufa'at, "Legal Reasoning of Judges in Deciding Murabahah Disputes at the Cilacap Religious Court", *Menara Ilmu: Journal of Research and Scientific Studies*, Vol.18, No.1, January 2024, pp. 56. 56.

Province. Referring to preliminary data from the website of the Class 1A Mataram Religious Court, it is stated that there are 10 officials and judges in the Class 1A Mataram Religious Court.⁸ Meanwhile, from the results of interviews conducted by researchers at the Class 1A Mataram Religious Court, there are three judges who have a certificate in sharia economic law.

From 2015 to 2024, Judges of the Mataram Class 1A Religious Court have decided 13 cases of sharia economic disputes. This can be accessed through the website of the Mataram Religious Court decision directory.⁹ As many as 13 sharia economic cases that entered the Class 1A Mataram Religious Court, there were 4 (four) sharia economic lawsuits whose formalities were rejected by the judge so that they were not tried materially. Therefore, researchers feel the need to explore and analyze more deeply the sharia economic decisions to find out the method of legal discovery used by judges.

Based on the above background, the author is interested in further reviewing the method of discovery used by judges in decisions that have permanent legal force. This study is then compiled in a study entitled "Method of *Rechtsvinding* Judges of the Mataram Class 1A Religious Court in Deciding Cases of Sharia Economic Law Disputes". The problems in this study are: How is the method of legal discovery used by Judges of the Mataram Class 1A Religious Court in deciding Sharia Economic dispute cases? And how are the challenges faced by the judges of the 1A class Mataram Religious Court in considering the decision on the Sharia Economic dispute case?

2. RESEARCH METHOD

This research uses *field research* with a qualitative approach. The focus of the research is on describing the data found in the field by analyzing using the concept of sharia economic disputes and the theory of *Rechtsvinding*. The approach in this research is a *case* approach, by conducting a review of cases with permanent legal force, which aims to harmonize the provisions relating to the settlement of sharia economic disputes, and provide a representation of the methods used by Judges at the Mataram Class 1A Religious Court in resolving sharia economic disputes, as well as the challenges faced in their resolution. The data sources used in the research are primary data sources and secondary data sources, with primary materials through interviews with respondents, as well as court decisions contained in the website Directory of Decisions of the Mataram Class 1A Religious Court.

3. DISCUSSION

a. Analysis of legal discovery methods used by Judges of the Mataram Class 1A Religious Court in resolving Sharia Economic Cases

⁸ "Profile of Officials and Employees", in <https://www.pa-mataram.go.id/sistem-pengelolaan-pengadilan/profil-pegawai> accessed on December 18, 2024, at 23.11.

⁹ "Directory of PA Mataram Decisions on Sharia Economics", in <https://putusan3.mahkamahagung.go.id/direktori/index/pengadilan/pa-mataram/kategori/ekonomi-syari-ah-1.html> accessed on January 9, 2025, at 21.27.

In maintaining justice for sharia economic cases, judges at the Class 1A Mataram Religious Court face the fact that positive law often does not clearly regulate all existing sharia economic practices. This requires judges to not only act as law enforcers, but also as interpreters of the law who actively investigate, interpret and modify legal standards in accordance with legal norms with the values of justice for the community.

Analysis of these sharia economic decisions shows that the method of legal discovery used by the judges of the Mataram Class 1A Religious Court is not always the same. Each case shows different methods depending on the legal facts, the strength of the evidence, the position of the parties, and the existence of written legal norms that can serve as a basis for consideration for each judge.

The decisions of several judges of the Class 1A Mataram Religious Court in resolving sharia economic cases that have been analyzed in tabular form are as follows:

No	Year	Case Number	Type of Akad	type of case	Verdict
1	2015	560/Pdt.G/2015/PA.Mtr	Murabahah Financing Agreement	Default of Sharia Accord	Rejected
2	2017	234/Pdt.G/2017/PA.Mtr	Murabahah Financing Agreement	Wrongful Acts of Law	Granted (Minutiation)
3	2019	41/Pdt.G/2019/PA.Mtr	-	-	Peace
4	2021	392/Pdt.G/2021/PA.Mtr	-	-	Rejected
5	2022	352/Pdt.G/2022/PA.Mtr	-	-	Not acceptable
6		545/Pdt.G/2022/PA.Mtr	-	-	Rejected
7	2023	36/Pdt.G/2023/PA.Mtr	Kafalah Financing Guarantee	-	Peace
8		75/Pdt.G/2023/PA.Mtr	Murabahah Financing Agreement	Unlawful Act	Revoked
9		74/Pdt.G/2023/PA.Mtr	-	-	Rejected
10	2024	29/Pdt.G/2024/PA.Mtr	Murabahah Financing Agreement	-	Peace
11		169/Pdt.G/2024/PA.Mtr	Al-Qardh, Murabahah, and Musyaraka	<i>Force majeure</i>	Partially granted

			h Financing		
12		449/Pdt.G/2024/ PA.Mtr	Musyaraka h Financing	Default	Partially granted
13		579/Pdt.G/2024/ PA.Mtr	Musyaraka h Financing	<i>Force mejeure</i>	Revoked

Based on the results of the analysis that the researchers conducted on the decision of the sharia economic dispute case above, the researchers found that the judges of the Class 1A Mataram Religious Court in finding the law still predominantly used the interpretation method as a method of legal discovery. However, the results of interviews with judges stated that the judges of the Class 1A Mataram Religious Court also used the hermeneutic method as a method of legal discovery in resolving a sharia economic law dispute case with the considerations that the hermeneutic method is quite relevant to be used as a method of legal discovery because it is more philosophical and contextual.

b. Analysis of the obstacles faced by Judges of the Mataram Class 1A Religious Court in resolving sharia economic cases

Judges at the Class 1A Mataram Religious Court in carrying out their duties not only carry out technical legal functions, but also face various structural and substantial challenges. These obstacles also affect the effectiveness of the legal discovery process, especially in the context of resolving sharia economic cases that are developing very quickly. Although juridically formal regulations governing sharia economic cases are considered sufficient, including the Sharia Banking Law, regulations from the Financial Services Authority (OJK), to the Fatwa DSN-MUI, in the practice of trials at the Class 1A Mataram Religious Court, judges still face various forms of obstacles that have an impact on the effectiveness of case settlement.

The obstacles faced by judges are administrative, technical, and directly related to the implementation of the trial process. This is in line with what was conveyed by Mr. Ijmak and Mrs. Kartini in their interviews, which essentially conveyed that in *e-court* cases the parties rarely include evidence of letters related to the contracts used, because the agreement letter has stated the place of settlement in the event of a dispute. In addition, there are several practical obstacles in resolving sharia economic cases, namely *First*, the trial was not held according to the predetermined schedule. This is because one of the litigants' attorneys lives far from the Mataram Religious Court. *Second*, the settlement of the case took longer, because one of the litigants and his attorney could not attend the trial. *Third*, the problem of the number of witnesses, that only 1 (one) witness was present. Practical obstacles that caused a mismatch with the set target, despite the existence of *e-court*, the Legal Counsel requested a delay in the making of the lawsuit, or in the event of the answer to the lawsuit, replication, and duplicates. *Fourth*, the incompatibility of Islamic law or fiqh studies.

Based on the results of the interview above, the author calculates these constraints into 2 (two) factors, namely as follows:

1. Technical constraints, in the trial, technical constraints are defined as obstacles or disturbances concerning the practical implementation of the trial. This obstacle can interfere with the smooth running of the trial and can come from system problems, facilities, devices, to the technical skills of the parties. The technical obstacles encountered, namely the irregularity of the schedule and the absence of related parties, the limited presence of institutions and witnesses, the request for postponement by the Legal Counsel despite the *e-court* facility, as well as obstacles to the optimization of the *court calender* concept.
2. Substantive Constraints, in trials this obstacle is directly related to the content of legal material, such as legal rules, evidence, arguments, and legal norms used to decide cases. This obstacle can affect the judges' legal judgment process and decision-making substantively or fundamentally. The substantive obstacle faced is the incompatibility of some fiqh rules with the contemporary context. This occurs, because in terms of positive law the constraints are not too significant, judges also note that some classical fiqh rules are sometimes less relevant to be applied in the modern context, especially in complex and rapidly changing financial transactions. Therefore, judges are required to always *upgrade* their understanding, so as not to be trapped in "outdated" Islamic legal texts if applied literally. This is one of the important reasons for using the hermeneutic approach in *rechtsvinding* so that the values of Islamic law remain alive and contextual.

The obstacles above are related to each other, because they have technical obstacles and substantive obstacles. One example of a technical obstacle is the irregularity of the trial process while one example of a substantive obstacle is related to differences in understanding of fiqh regulations and rules because judges have their own interpretations. When a judge has a *dissenting opinion* in deciding a court decision, the judge must present arguments that strengthen his or her opinion (having a different opinion). Resolving substantive obstacles requires strengthening intellectual capacity and legal policy, while technical obstacles can be overcome by improving the system, education, and infrastructure of the parties and their lawyers. Both need to be addressed simultaneously to support an efficient and responsive sharia economic court.

4. CONCLUSION

- a. In addition to adhering to the interpretation method and construction method, the Judges of the Class 1A Mataram Religious Court in resolving sharia economic dispute cases also use another method of legal discovery, namely the hermeneutic method. This method successfully connects the rigid text of Islamic law with the demands of the modern social context. Through this dynamic approach, judges do not only act as passive interpreters, but actively create just legal solutions by considering aspects of benefit, community development, and sharia principles.

- b. In deciding a sharia economic dispute case, the judge of the Class 1A Mataram Religious Court uses more types of interpretative legal discovery methods, one of which is most often used is the sociological legal discovery method. In addition, in carrying out their duties, judges of the Mataram Class 1A Religious Court are often faced with various kinds of obstacles such as technical and substantive obstacles.

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