



The Urgency Of Establishing Sharia Economic Law (Omnibus Law) In Increasing Sharia Economic Development In Indonesia

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Abstract: The non-maximum development of Indonesia's shari'ah economy has become a joint work for the Government, KNEKS, and Muslims in Indonesia. Based on data quoted from GIEI (Global Indicator Economic Islam), Indonesia is in sixth place in the finance sector under Kuwait and the United Arab Emirates, second in the halal food sector under Malaysia, not in the top 10 in the travel sector, third in the fashion sector, not in the top ten in the pharma & cosmetics sector, and not in the world's top 10 in the media and leisure sector. Even though Indonesia is a country that has the largest Muslim population in the world, it means that this country has great potential to develop more rapidly. In the opinion of researchers, the most fundamental problem is the not-yet optimal development of the shari'ah economy in Indonesia, namely because there are still many regulations that overlap with each other, and many sectors still need to be appropriately covered. The findings of the authors, currently Indonesia only has four rules at the level of laws governing the Islamic economic sector, namely the Islamic banking law, the Islamic capital market law, halal food and beverages, and ZISWAF (Zakat Infaq Shodaqoh Wakaf). Many sectors have yet to be well covered, such as Sharia financing, export financing, and pensions. Accordingly, the function of the CIPTAKER law is to harmonize one regulation with another and cover sectors that need to be appropriately regulated. The formation of the Sharia Economic Law using the omnibus law concept is believed to enhance the development of the Sharia economy in Indonesia. The results of this study indicate that the presence of a shari'ah economic law using the omnibus law concept has a critical urgency in increasing the shari'ah economy in Indonesia, particularly in aligning the shari'ah economic sector, which has not been integrated and comprehensively regulating the shari'ah economic sector which has not been completely held.; Omnibus Law.

Keywords: Urgency, Sharia, Economic, Omnibus Law

1. Introduction

According to Umar Chapra, Islamic economics is the mainstay of Islamic finance, known as monotheistic or divine economics. The reflection of the "Divine" character of Islamic economics is not on the aspects of the economic actors because the perpetrators are human beings but on the elements of the rules or systems that economic actors must guide. This is based on the belief that all economic factors, including human beings, belong to Allah and Him (to His rules), and all matters are returned. By accessing Divine

laws, every human action has moral and worship values. Every human effort cannot be separated from value, which vertically reflects good morals and benefits humans and other creatures horizontally. In that context, Islamic finance also relies on these imperative normative values.¹

The Prophet and his Companions have introduced a law-based economy in Islam. Prohibition of the imposition of usury, maysir, gharar, dzolim, and haram are the primary conditions for implementing Islamic economics. This is because the Islamic Law-based economy already is an obligation for Muslims anywhere to study, understand, and apply it. Law from law-based economics Islam is obligatory for Muslims as a form of human obedience kaffah to Allah SWT. Based on That basis is then Islamic economics present in society.²

The non-maximum development of Indonesia's shari'ah economy has become a joint work for the Government, KNEKS, and Muslims in Indonesia. Based on data quoted from GIEI (Global Indicator Economic Islam)³, Indonesia is in sixth place in the finance sector under Kuwait and the United Arab Emirates, second in the halal food sector under Malaysia, not in the top 10 in the travel sector, third in the fashion sector, not in the top ten in the pharma & cosmetics sector, and not in the world's top 10 in the media and leisure sector. Even though Indonesia is a country that has the largest Muslim population in the world, it means that this country has great potential to develop more rapidly. In the opinion of researchers, the most fundamental problem is the not-yet optimal development of the shari'ah economy in Indonesia, namely because there are still many regulations that overlap with each other, and many sectors still need to be appropriately covered. The findings of the authors, currently Indonesia only has four rules at the level of laws governing the Islamic economic sector, namely the Islamic banking law, the Islamic capital market law, halal food and beverages, and ZISWAF (Zakat Infaq Shodaqoh Wakaf). Many sectors have yet to be well covered, such as Sharia financing, export financing, and pensions.

Omnibus law is a method or concept of making rules that combine several rules with different regulatory substances to become a practical regulation that functions as a legal umbrella⁴. The authorities in question are law number 21 of 2008 concerning Sharia banking, law number 19 of 2008 concerning state Sharia securities, law number 34 of 2014 concerning the management of the pilgrimage, law number 23 of 2011 concerning

¹ Nur Kholis, "Potret Perkembangan Dan Praktik Keuangan Islam Di Dunia," *Millah: Jurnal Studi Agama* XVII, no. 1 (2017): 1–30, <https://doi.org/10.20885/millah.vol17.iss1.art1>.

² Aisyah Ayu Musyafah, "Perkembangan Perekonomian Islam Di Beberapa Negara Di Dunia," *Diponegoro Private Law Review* 4, no. 1 (2019): 419–27.

³ State of the Global Islamic Economy Report, "State of the Global Islamic Economy Report," *DinarStandard*, 2022, 1–40, <https://haladinar.io/hdn/doc/report2018.pdf>.

⁴ Wicipto Setiadji, "Simplifikasi Regulasi Dengan Menggunakan Metode Pendekatan," *Recthsvinding* 2020, no. 01 (9AD): 39–52.

the management of zakat, and several regulations that have a level below the law such as government regulations number 31 of 2019 concerning guarantees for halal products, and POJK number 35 of 2017 concerning criteria and issuance of sharia securities. In addition to harmonizing, forming laws that use the omnibus law concept can add new provisions that have not been appropriately covered in existing laws and maintain old requirements that are still relevant.

According to O'Brien and Marc Bosc, defining the omnibus law is the concept of forming laws and regulations that aim to change, repeal and enforce several laws into one law that has the same goal. In line with this, Herb Gray emphasizes that the omnibus law is a method of forming laws that aims to change many different laws with the same goal⁵.

The course on omnibus law in Indonesia at least started when President Joko Widodo called on the DPR to cooperate in drafting a single draft law to change many regulations at once under the name of the omnibus law⁶. Despite the various controversies, the decision to use the omnibus law method is understandable, considering that Indonesia is currently facing economic problems related to the lack of investment and the lack of jobs. This economic problem is also intertwined with the issue of difficult licensing and excessive regulations (over-regulation). The concept of an omnibus law that can simplify dozens of rules into one special law can be a shortcut for policy synchronization and streamlining regulations in Indonesia. This is done to realize the President's vision in his second term, namely to create a comfortable and conducive investment climate for creating jobs and simplify the convoluted licensing process, including eradicating illegal levies. The work copyright law can accommodate the necessary provisions, such as those in the law on limited liability companies⁷. The researcher believes that establishing a shari'ah economic law with the concept of an omnibus law can carry out the same function in this case to accommodate sectors that have yet to be expressly written in the law concerning the shari'ah economy.

⁵ Bayu Dwi Anggono, "Peluang Adopsi Dan Tantangannya Dalam Sistem Perundang-Undangan Indonesia," *RechtsVinding* 9, no. 1 (2020): 17–37.

⁶ Anggreany Arief and Rizki Ramadani, "Omnibus Law Cipta Kerja Dan Implikasinya Terhadap Konsep Dasar Perseroan Terbatas," *Al-Adalah: Jurnal Hukum Dan Politik Islam* 6, no. 2 (2021): 106–20, <https://doi.org/10.35673/ajmpi.v6i2.1550>.

⁷ Muhammad Nurul Huda et al., "Muhammadiyah Constitution Jihad Movement: A Case Study of the Omnibus Law on Job Creation," *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 21, no. 2 (2021): 177–96, <https://doi.org/10.18326/ijtihad.v21i2.177-196>.

In contrast to previous studies that discussed the development of the Islamic economy from time to time, obstacles to the development of Islamic economics in terms of field practice were not maximized, and so on. The research focuses on forming sharia economic laws with the omnibus law concept to harmonize overlapping regulations, add the necessary provisions, and reinforce existing requirements if necessary to increase sharia economic growth in Indonesia.

2. Method

This research is normative research with a normative approach to the urgency of establishing a shari'ah economic law with the omnibus law concept in increasing shari'ah economic growth in Indonesia with a conceptual approach and statutory regulations. The conceptual approach aims to find solutions to Indonesian economic sharia problems that have been unable to develop optimally. Meanwhile, laws and regulations aim to analyze rules relating to the topic under study, in this case, law number 21 of 2008, law number 19 of 2008, law number 24 of 2004, law number 23 of 2011, law number 2 of 2022, and several regulations derived from it. The analysis was carried out using the grammatical analysis method, namely analyzing the words in the laws, and the comparative analysis method, namely comparing one law with other laws⁸. The legal materials used are secondary legal materials in the form of journals, books, and the results of previous studies related to this research. The data is presented in a qualitative descriptive form.

3. Discussion

Researchers believe the shari'ah economic law with the omnibus law concept to be a solution to the obstacles to shari'ah economic growth in Indonesia, which has yet to be maximized. According to law number 2 of 2022, which oversees ten strategic policy sectors, including:⁹

1. Improving the investment ecosystem and business activities,
2. Employment
3. Convenience, protection, and empowerment of MSMEs.
4. Ease of doing business,
5. Research and innovation environment,
6. Land procurement,
7. Economic area,

⁸ Afif Khalid, "Penafsiran Hukum Oleh Hakim Dalam Sistem Peradilan Di Indonesia," *Al-Adl : Jurnal Hukum* 6, no. 11 (2014), <https://doi.org/10.31602/al-adl.v6i11.196>.

⁹ Pemerintah RI, "Undag-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja" (n.d.).

- 8. Central government investment and acceleration of national strategic projects,
- 9. Implementation of government administration,
- 10. Imposition of sanctions

Even though it was controversial in its formation, principle, and concept, the co-creation of the CIPTAKER law aims to harmonize one overlapping legislation into one legislation and create new provisions that still need to be well protected.

The CIPTAKER law can comprehensively regulate ten sectors. The Shari'ah Economic Law using the omnibus law method is believed to be able to handle the Shari'ah economic sector, which has not been held, including Islamic pensions, Islamic insurance, Islamic financing, Islamic export financing, Islamic guarantees, Islamic pawnshops, Islamic capital clashes, Islamic microfinance, Technology (fintech), halal industry, modest fashion, halal recreational media, halal pharmaceuticals and cosmetics, halal logistics, and other sectors.

3.1 The urgency of establishing a sharia economic law in aligning one sector with another

Currently, there are laws that specifically regulate the Islamic economic sector as follows:

Table 1.1 Collection of Sharia Economic Laws in Indonesia

Sector	Law	PP	POJK,PBI,dan PMK
Syari'ah Banking	Undang-undang no. 21 tahun 2008.	-	Banyak diperkirakan mencapai 45 buah.
Sharia Capital Market	Undang-undnag no 19 tahun 2008	-	Diperkirakan mencapai 11 buah
Halal Food and Beverages	Undang-undang no. 34 tahun 2014	Peraturan pemerintah no 31 tahun 2019	POJK Nomor 35 tahun 2017
ZISWAF	Undang-undang no. 23 tahun 2011	3	5

Many sectors still need to be well covered, such as Islamic pensions, Islamic insurance, Islamic financing, Islamic export financing, Islamic guarantees, Islamic

pawnshops, Islamic capital clashes, Islamic microfinance, Technology (fintech), halal industry, modest fashion, halal recreational media, halal pharmaceuticals and cosmetics, halal logistics, and other sectors.

In addition, the presence of this law can align one existing law with another to strengthen shari'ah values. For example, in the halal product guarantee sector, law number 31 of 2019 already covers halal product guarantees. This regulation needs to be more comprehensive and has the potential to cause new problems. For example, in issuing halal certification, tests on hygiene, sanitation, and safety are carried out by LPPOM MUI, and the duties and functions of BPJH regarding issuing halal certificates, halal labels, and so on. However, in the eighth part of article 44, paragraphs 1 to 3, or the regulations, it is not explicitly regulated regarding the financing process that must be carried out using a Sharia bank, so this has the potential to harm the principles of shari'ah¹⁰.

In the zakat management sector, Firdaus Beik said that the potential for zakat management in Indonesia reaches Two hundred seventeen trillion per year but only Rp. 6.22 trillion figures¹¹. BAZNAS noted that one of the problems lies in inadequate regulations. Law number 23 of 2011 concerning the management of zakat only regulates BAZNAS, LAZ collection, management, and distribution of zakat. However, as a whole, the payment of zakat is still facultative or voluntary; there is not a single phrase that is imperative or coercive accompanied by sanctions. Because of this, zakat regulation in Indonesia is still weak, and there is a need for affirmative provisions that can make zakat not only voluntary donors but imperative rules for muzakki who are negligent¹².

In the sector of Islamic pension funds, Islamic insurance, Islamic financing, Islamic export financing, Islamic guarantees, Islamic pawnshops, Islamic financial institutions, Islamic microfinance, technology (fintech), halal industry, modest fashion, halal recreational media, halal pharmaceuticals and cosmetics, halal logistics, and other sectors that do not yet have regulations at the level of laws that specifically regulate them. The lousy impact, these sectors have yet to be able to develop optimally.

¹⁰ Pemerintah RI, "Undang-Undang Nomor 31 Tahun 2019 Tentang Jaminan Produk Halal" (n.d.).

¹¹ Komite Nasional Keuangan Syari'ah, *Kajian Konversi, Merger, Holding, Dan Pembentukan Bank BUMN Syari'ah* (Jakarta: KNKS, 2009).

¹² Pemerintah RI, "Undang-Undang Nomor 23 Tahun 2011 Tentang Pengelolaan Zakat" (2011).

Figure 1.1 GIEI Survey 2022 Top 10 World 6 Leading Sectors



Based on data quoted from GIEI (Global Indicator Economic Islam), Indonesia is in sixth place in the finance sector under Kuwait and the United Arab Emirates, second in the halal food sector under Malaysia, not in the top 10 in the travel sector, third in the fashion sector, not in the top ten in the pharma & cosmetics sector, and not in the world's top 10 in the media and leisure sector. Even though Indonesia is a country that has the largest Muslim population in the world, it means that this country has great potential to develop more rapidly.

Based on this, laws are needed that can harmonize one sector to another with the aim of:

1. The principle of shari'ah is maintained / not tarnished,
2. There is no overlap between one sector and another,
3. Because it is more systematic and well-integrated, Sharia economic development can progress rapidly.

The provisions above are in line with the theory of Herb Bray, Audrey O, Brien, and Marc Bosc, who said that the Omnibus Law was formed to amend several laws into one law by adding new provisions and harmonizing old requirements that have the same goal and vision¹³. Thus the shari'ah economic law with the concept of the omnibus law has the same goal as the copyright law and the objective of the omnibus law itself, according to Herb Bray, Audrey O Brien, and Marc Bosc.

3.2. The Urgency of Establishing a Sharia Economic Law in Improving the Sharia Economy in Indonesia

In addition to aligning one statutory regulation with another, a Sharia economic law can increase Sharia economic growth in Indonesia. If later the sector concerns halal tourism, Islamic pension funds, Islamic insurance, Islamic financing, Islamic export financing, Islamic guarantees, Islamic pawnshops, Islamic capital, Islamic microfinance, technology (fintech), halal industry, modest fashion, halal recreational media, halal pharmaceuticals and cosmetics, halal logistics, and other sectors have been regulated comprehensively and harmoniously. Indirectly, derivative regulations at the central level in the form of government regulations, ministerial regulations, POJK, bank regulations, Indonesia at the main level, and regional head regulations (PERGUB, PERBUP, and PERWALi) and regional regulations at the regional level will also emerge.

These regulations will bring fresh air to developing the shari'ah economy in Indonesia. For the province of Aceh with Qanun number 11 of 2018, which requires all financial institutions in Aceh to implement the principle of shari'ah with compensation for a maximum period of 3 years, effective January 4, 2019. The presence of the qanun is intended to:¹⁴

1. Creating an Islamic Aceh economy,
2. Become a driver and driver of shari'ah economic growth in Aceh,
3. Collect and provide funding support and carry out LKS functions based on.
4. Encouraging an increase in Aceh's original income,
5. Increasing access and funding for the community,
6. Help increase economic empowerment and community productivity,
7. Help increase the income and welfare of the community.

Because of this qanun, the KNKS noted that in the last three years, the growth of Islamic banking had rebounded significantly compared to 2015, namely from 8.78% to

¹³ Anggono, "Peluang Adopsi Dan Tantangannya Dalam Sistem Perundang-Undangan Indonesia."

¹⁴ Pemerintah Daerah Aceh, "Qanun Aceh Nomor 11 Tahun 2018" (Aceh, 2019).

12.00%. Still, this development resulted from the conversion of Bank Aceh and Bank NTB¹⁵.

If we compare it with Malaysia, Malaysia already has a regulation that regulates several sectors of the shari'ah economy, namely the Islamic Finance Service Act, which governs shari'ah banks, takaful (insurance), financial markets, and payment systems. Because of this law, Malaysia can rank first in developing the Islamic economy. Hopefully, Indonesia can catch up with Malaysia or be above it because Indonesia's potential is more significant than Malaysia's¹⁶.

Malaysia also has Sharia governance regulations which are fully regulated in the Shariah governance framework for institutions. Malaysia has more comprehensive, responsive, and strict rules for managing every sector. It is not surprising that Malaysia's economic growth in the finance, halal food, pharma, cosmetic sectors, media, and recreation can be in the first place, beating the Middle East countries and the largest Muslim countries in the world.

In line with this, the formation of Sharia economic laws using the omnibus law method can regulate several sectors that have not been handled, as mentioned by Herb Bray, Audrey O'Brien, and Marc Bosc, who stated that the purpose of forming laws using the concept omnibus law to harmonize, revoke, amend, and make/enact old rules from various laws with the same direction¹⁷. Sectors that have not been regulated include Islamic pensions, Islamic insurance, Islamic financing, Islamic export financing, Islamic guarantees, Islamic pawnshops, Islamic capital clashes, Islamic microfinance, Technology (fintech), halal industry, modest fashion, halal recreational media, halal pharmaceuticals and cosmetics, halal logistics, and other sectors. Furthermore, the sectors that need to be aligned are halal food with Sharia financing, halal tourism with Sharia financing, and so on, which must use Sharia-based transactions. The sector that needs to be emphasized is sanctioned Muzakki, who failed to change from facultative to imperative rules.

In addition, the presence of the shari'ah economic law with the omnibus law model can be an entry point for the existence of statutory regulations under laws such as government regulations, ministerial regulations, BI regulations, OJK regulations, and others at the central level. and PERDA, PERKADA, at regional level.

¹⁵ Syari'ah, *Kajian Konversi, Merger, Holding, Dan Pembentukan Bank BUMN Syari'ah*.

¹⁶ Mohamad Akram Laldin and Hafas Furqani, "Islamic Financial Services Act (IFSA) 2013 and the Shari'ah-Compliance Requirement of the Islamic Finance Industry in Malaysia," *ISRA International Journal of Islamic Finance* 10, no. 1 (2018): 94–101, <https://doi.org/10.1108/IJIF-12-2017-0052>.

¹⁷ Anggono, "Peluang Adopsi Dan Tantangannya Dalam Sistem Perundang-Undangan Indonesia."

4. Conclusion

Based on the explanation above, the researcher believes with absolute certainty that the presence of a shari'ah economic law that uses the omnibus law concept is essential/urgent in increasing shari'ah economic growth in Indonesia with the following functions:

1. Align overlapping regulations,
2. Addressing the Sharia economic sectors that have not been adequately covered,
3. Become an entry point for derivative regulations at the central level in the form of government regulations, ministerial regulations, POJK, BI regulations, and so on. As well as regulations at the regional level in the form of PERDA shari'ah and PERKADA (Regulation H s of Governors, Regents, and Mayors).

Researchers hope this research can be further developed by adding more legal sources, in-depth and comprehensive studies, varied country comparisons, and excellent and sharp analytical methods.

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