



# SHARIA CONSTITUTIONALISM: NEGOTIATING STATE INTERESTS AND ISLAMIC ASPIRATIONS IN LEGISLATING SHARIA ECONOMIC LAW

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**Abstrak:** Hukum ekonomi syariah di Indonesia telah mengalami peningkatan peran yang signifikan setelah diundangkan dan dilaksanakan sebagai bagian dari sistem hukum negara. Sebagai negara yang bukan sekuler maupun Islam, inkorporasi ekonomi syariah ke dalam sistem hukum nasional telah dikukuhkan secara konstitusional melalui berbagai putusan Mahkamah Konstitusi. Artikel ini mengkaji putusan Mahkamah Konstitusi tentang konstitusionalitas norma hukum sertifikat halal dan produk halal, pengelolaan zakat, dan sengketa perbankan syariah untuk menyelidiki implikasinya dalam memastikan penegakan hukum ekonomi syariah di Indonesia. Kajian ini menggunakan penelitian hukum normatif, yaitu pendekatan undang-undang dan kasus, dalam konteks wacana Indonesia tentang Islam, negara, dan konstitusi. Disimpulkan bahwa Mahkamah Konstitusi telah mengukuhkan keberadaan hukum ekonomi syariah sebagai bagian dari sistem hukum nasional yang mengikuti norma konstitusi alias konstitusionalisme syariah. Putusan MK menggambarkan hubungan timbal balik antara agama dan negara yang mendukung pengembangan hukum ekonomi syariah yang sejalan dengan aspirasi umat Islam.

**Kata kunci:** hukum ekonomi syariah, Mahkamah Konstitusi, Hak Asasi Manusia

**Abstract:** Sharia economic law in Indonesia has experienced a significant increase in its role after it was promulgated and implemented as part of the country's legal system. As a country that is neither secular nor Islamic, the incorporation of the Sharia economy into the national legal system has been constitutionally confirmed through various decisions of the Constitutional Court. Therefore, this article examines the decisions of the Constitutional Court regarding the constitutionality of legal norms for halal certificates and halal products, zakat management, and Islamic banking disputes to investigate their implications for ensuring the enforcement of Islamic economic law in Indonesia. This study uses normative legal research, namely the law and case approach, in light of Indonesian discourse on Islam, the state, and the Constitution. It concludes that the Constitutional Court has confirmed the existence of Sharia economic law as part of the national legal system that follows constitutional norms, aka Sharia constitutionalism. The Constitutional Court's decision illustrates a reciprocal relationship between religion and the state that supports the development of Sharia economic law that aligns with the aspirations of Muslims.

**Keywords:** sharia economic law, Constitutional Court, Human Rights

## Introduction

Sharia economics has experienced significant development and growth in Indonesia. It began with the establishment Bank Muamalat Indonesia in 1991, marking the initial step (Maza et al., 2022; Pratama et al., 2019; Rasidin et al., 2020). Since then, sharia economics has expanded into various sectors, including zakat, *infāq*, *waqf*, and *sadaqah* management (Emzaed et al., 2020). Furthermore, the absolute jurisdiction of religious courts in handling Sharia economic disputes and the transformation of conventional banks adopting Sharia systems have strengthened this development (Budiman, 2021; Hasan, 2019; Arifin, 2021). Based on these facts, sharia economics in Indonesia has gained serious attention from the government.

The tendency to incorporate Sharia economic law into the national legal system aims to ensure its binding norms. This can be observed through the commitment of legislative bodies—House of People's Representatif (the Parliament or DPR)—to enact policies that guarantee the implementation of an Islamic-based economic life. This step represents the facilitation and protection provided by the state to embody the religious teachings embraced by its people (Safa'at, 2022). Constitutionally, this commitment is based on Article 29, Paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that the state guarantees the freedom of every citizen to embrace their respective religions and to worship according to their religions and beliefs (Akmal, 2018; Saputri, 2020).

The legislative policy-making process is oriented towards recognizing the Muslim community's aspirations in Sharia economics, leading to the accommodation and transformation of Sharia economics into the national legal system. A set of policies has been formulated by the legislative bodies (DPR) to strengthen the recognition and legitimacy of the Sharia economic system by the state. These efforts can be seen through various legislative enactments such as the Banking Act No. 10 of 1998, the Waqf Act No. 41 of 2004, the Amendment of the Religious Court Act No. 3 of 2006, the State Sharia Securities Act No. 19 of 2008, the Sharia Banking Act No. 21 of 2008, the Zakat Management Act No. 23 of 2011, and the Halal Product Assurance Act No. 33 of 2014 (Iswanto, 2021). Further, referring to these legislative enactments, Sharia economics has been incorporated into the national legal system (Hoesein, 2017; Renie et al., 2020).

As a constitutional democratic country, the Indonesia Constitutional Court plays a strategic role in ensuring that every policy enacted by the government and the Parliament aligns with the 1945 Constitution. At the very least, this role is reflected in the Constitutional Court's authority to conduct judicial reviews of Laws created by the Parliament and the Government. This authority also influences the guarantee of protection and fulfillment of human rights (Palguna et al., 2021). Article 28E, Paragraph (1) of the 1945 Constitution serves as the constitutional basis for protecting the right to freedom of religion and worship. The constitutional oversight conducted by the Constitutional Court theoretically aims to provide protection and fulfillment of the fundamental rights granted by the Constitution. Conducting economic activities following the beliefs of Muslims is a constitutional right and freedom protected by the Constitution (Isra, 2014). Conducting economic activities following the beliefs of Muslims is a constitutional right and freedom protected by the Constitution. For Muslims, implementing Sharia economics is not only a religious obligation but also a form of worship to God, as Sharia economics is derived from divine revelation and interpreted by scholars as Islamic jurisprudence (Susanti, 2021).

Studies on the transformation of Sharia economic law into the national legal system in several Muslim countries, including Indonesia, have been extensively examined by researchers. For instance, (Berger & Sonneveld, 2010; Davis & Robinson, 2006) discuss the modern legal system in Egypt, including its economic and legal system that reflects various foreign influences, mainly from Europe, thereby legalizing the relationship between Sharia and Egyptian national law. Other studies conducted by (Luth et al., 2017; Suciyani & Amrin, 2022) (Ahyani & Slamet, n.d.; Dequen, 2021; Mukharom et al., 2020) analyze the development of Sharia economic law in Indonesia, focusing on the legislation. Alfitri argues that expanding Sharia economic law in the Indonesian legal system is essential for the effective functioning of the Islamic Court and financial institutions in Indonesia (Alfitri, 2007). Additionally, research conducted by (Adinugraha & Muhtarom, 2021; Sungkawaningrum & Mubarak, 2020) explores the distinctive value-based foundation of Sharia economic law compared to general economic law. These researchers have examined the integration of Sharia economic

law into national legal systems. Recent studies have also highlighted the contribution of Islamic economics to Indonesia's development and welfare (Arifin, 2021; Hoesein, 2017; Rusydiana et al., 2021; Ulya Atsani, 2022; Zada et al., 2022).

Moreover, diverging from the studies mentioned above, this research analyzes the transformation of Sharia economic law into the national legal system through the rulings of the Constitutional Court. It not only focuses on the legislation of Sharia economic law but also examines the Constitutional Court's argumentative basis in negotiating between the interests of the state and the implementation of Sharia economic law. Investigating the rulings of the Constitutional Court is crucial in the discourse on the development of Sharia economic law in Indonesia.

This study investigates the constitutionalism of Islamic law and the negotiation process between the state's interests in implementing Sharia economic law. It also analyzes the interaction between the principles of Sharia economic law and government policies and actions in maintaining a balance between the interests of the state and the implementation of Sharia economic law principles as determined by the Constitutional Court. Through this research, a deeper understanding can be gained regarding how the constitutionalism of Islamic law can be implemented in an economic context and how the negotiation between the interests of the state and Sharia principles is carried out within the legal system in Indonesia.

## **Method**

This study adopts a normative legal research method based on relevant legislation and Constitutional Court decisions. Several Constitutional Court decisions are examined in this research, including Decision Case Number 93/PUU-X/2012 regarding Law Number 21 of 2008 on Islamic Banking, Case Number 86/PUU-X/2012 regarding Law Number 23 of 2011 on Zakat Management, Case Number 19/PUU-VI/2008 regarding Law Number 7 of 1989 in conjunction with Law Number 3 of 2006 on Religious Courts, and Decision Case Number 2/PUU-IX/2011 regarding Law Number 18 of 2009 on Animal Husbandry and Health. These decisions present the Constitutional Court's argumentation in negotiating the state's interests in implementing Shari economic law in Indonesia.

## **The Constitutional Court and The Development of Islamic Economic Law**

The Reform Era has provided a new space for Muslims in Indonesia to discuss Islam and Sharia through state mechanisms. However, when examining the characteristics of Constitutional Court decisions involving Islam, there is no indication of placing Sharia above the Constitution (Hosen, 2015). This is based on the format of the Indonesian state, which is based on the state ideology of Pancasila and the 1945 Constitution. This format establishes a symbiotic model in which the state and religion are separate entities but mutually influence each other. This relationship pattern can be seen in several laws regulating religious issues, particularly Islam, which is adhered to by most of the Indonesian population (Safa'at, 2022).

The Constitutional Court in Indonesia is critical in ensuring that the 1945 Constitution is upheld in the nation's governance. This function places the Constitutional Court in a crucial position as a mediator between the interests of the state and Islam. Article 28E paragraph (1), Article 29 paragraph (2), and Article 28I paragraph (1) of the 1945 Constitution provide the constitutional foundation guaranteeing religious freedom for citizens. Therefore, the Constitutional Court is a judicial institution empowered to ensure that legislation enacted by the legislature aligns with the 1945 Constitution (Butt, 2010). In this context, the Constitutional Court can facilitate the state in building a legal framework that supports the implementation of human rights and the rights of Muslims (Mitchell et al., 2013).

One study that Simon Butt has conducted explores the extent to which the state provides mechanisms and restrictions in exercising freedom of religion for Muslims in Indonesia. In Simon Butt's findings, there is a "new player" in the contestation between the role of the state and Islam in Indonesia, which is the Constitutional Court. This finding stems from the Constitutional Court's function as an essential arbiter between the central government and Islamic law since the 1945 Constitution incorporates Pancasila, which mandates the role of religion in the state. According to Simon, since its inception, the state has formally limited the position of Islamic law within the national legal system. The state has also sought to neutralize Islamic law as a source of obligations and legal authority independent of the state (Butt, 2010).

In its early days, the authority of the Constitutional Court was to invalidate laws and other public authority actions deemed contrary to the Constitution. However, in the 1950s, Western Europe gave rise to a new concept of constitutionalism that required the application of constitutional supervision to provide guarantees and protection of fundamental rights. Since the 1900s, the model of constitutional supervision to protect human rights has spread globally (Sweet, 2011). In the next phase, constitutional courts play a role in the constitutional oversight of legal norms as *negative and positive* legislators (Sólyom, 2003).

As a negative legislator, normatively, the Constitutional Court is only authorized to repeal or invalidate norms in laws that are inconsistent with the 1945 Constitution of the Republic of Indonesia. However, the evolving facts today also indicate that Constitutional Court decisions have a dynamic character regarding Islamic legislation. Sometimes, the Constitutional Court creates or formulates norms as positive legislators (Sari & Raharjo, 2022), such as Constitutional Court Decision Number 46/PUU-VIII/201 in a judicial review case related to Islamic law, such as Law Number 1 of 1974 on Marriage (Idris & Umar, 2020). However, in examining Article 49 paragraph (1) of the Religious Judiciary Act, the Constitutional Court stated that the legislature has the authority and discretion to determine the jurisdiction of religious courts. The Constitutional Court also cannot fulfill the Petitioner's request to expand the jurisdiction of religious courts because it only functions as a "negative legislature," meaning it can only invalidate provisions of a law.

From 2003 to 2022, there have been more than 20 Constitutional Court decisions related to the substance of Islamic law. Some of the Constitutional Court decisions related to the substance of Islamic law include Case Number 143/PUU-VII/2009 concerning Law Number 19 of 2018 on State Sharia Securities, Case Number 93/PUU-X/2012 concerning Law Number 21 of 2008 on Sharia Banking, Case Number 86/PUU-X/2012 concerning Law Number 23 of 2011 on Zakat Management, Case Number 19/PUU-VI/2008 concerning Law Number 7 of 1989 in conjunction with Law Number 3 of 2006 on Religious Courts, and regarding Law Number 1 of 1974 on Marriage in three cases, namely Case Number 46/PUU-VIII/2010, Number 69/PUU-XIII/2015, and Number 22/PUU-XV/2017.

The emergence of these decisions reflects the role of the Constitutional Court as the "guardian of human rights-Muslim rights." The Constitutional Court is responsible for protecting and upholding human rights and Muslim rights in the context of the law and the Constitution. The theoretical basis for this role is the concept of human rights, which encompasses the fundamental rights possessed by every individual based on human dignity (Triwahyuningsih, 2018). In the context of the state, the role of the Constitutional Court as the guardian of human rights and Muslim rights is often the result of negotiations between human rights, which underlie the protection of individual rights, and the state's interests related to aspects of security, stability, and national integrity. These negotiations reflect a balance between protecting individual rights and considering the state's overall interests (Dommen, 2002)

The Constitutional Court plays a vital role in recognizing Sharia Economic Law, including ensuring that laws supporting Sharia economic practices are not discriminatory toward specific groups or individuals (Syafi'ie, 2012). Furthermore, the Constitutional Court ensures that laws supporting Sharia economic practices are based on public participation and democratic principles (Luthfy, 2019). In the process of lawmaking, the Constitutional Court can ensure that public participation is involved and that the opinions of the public are heard so that the resulting Sharia economic policies reflect the aspirations and needs of the people democratically. The Constitutional Court is responsible for providing legal recognition and protection for Sharia economic law (Tarina et al., 2023). Through this recognition, the Constitutional Court ensures that laws supporting Sharia economic practices do not conflict with the Constitution, are non-discriminatory, and are based on public participation and democratic principles.

### **The Landmark Constitutional Court Decisions**

Since its establishment in 2003 until 2023, the Constitutional Court has decided on several cases involving testing laws related to Islamic economics. In 2008, the Constitutional Court examined Law Number 19 2008 concerning State Sharia Securities (SBSN) in Decision Case Number 143/PUU-VII/2009. The most recent case involving the testing of laws is the Examination of Law Number 33 of 2014



concerning Halal Product Assurance and Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation, Decision Case Number 18/PUU-XXI/2023 . The Constitutional Court increasingly recognizes the existence of Islamic economic law and ensures that the laws enacted are still within the framework of supporting Sharia-compliant economic practices without contradicting the Constitution.

Table of Constitutional Court Decisions on Sharia Economic Law

Decision Number	Tested Law	Legal Considerations
2/PUU-IX/2011	Law Number 18 of 2009 on Livestock and Animal Health	The veterinarian and halal certificates are inseparable from ensuring that animals are healthy and halal for consumption.
93/PUU-X/2012	Law Number 21 of 2008 on Sharia Banking	The dispute regarding Sharia economic law can only be resolved in religious courts and creates legal uncertainty.
86/PUU-X/2012	Law Number 23 of 2011 on Zakat Management	Baznas (National Zakat Agency) is a state-established institution with the authority to utilize zakat nationally.
18/PUU-XXI/2023	Law Number 33 of 2014 on Halal Product Assurance and Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation	The state is obligated to ensure halal product circulation to promote economic growth. This serves as a guarantee from the state to practice religious obligations.

In 2012, the Constitutional Court tested the constitutionality of Article 58, paragraph (4) of Law Number 18 of 2009 on Livestock and Animal Health. The complete norm of Article 58 paragraph (4) states, "Animal products produced and imported into the territory of the Unitary State of the Republic of Indonesia for circulation must be accompanied by the veterinarian and halal certificates." With the logic of *a contrario*, animal products without a veterinarian and halal certificates are prohibited from being produced, imported, and circulated. The applicants deemed the prohibition to have constitutional problems. The applicants, who were meat traders of pork and dog and pig farmers,

argued that Article 58 paragraph (4) of the law had hindered their rights to work, maintain their livelihoods, receive equal treatment before the law, and exercise their religious rights as stipulated in Article 27 paragraph (2), Article 28A, Article 28D paragraph (1), and Article 28I paragraph (2) of the 1945 Constitution.

In the first sentence, the norm of Article 58, paragraph (4) is that legal validity is based on clear and explicit legal provisions (Arwanto, 2016). Article 58, paragraph (4) is an imperative provision that regulates the requirements for animal products to be circulated in Indonesia. However, the following sentence reveals that the applicants, meat traders of pork and dog and pig farmers, consider Article 58 paragraph (4) to violate their constitutional rights. This refers to the principle of constitutionalism, where constitutional principles and human rights are considered superior to ordinary laws (Sweet, 2009). The applicants claim that Article 58 paragraph (4) hampers their rights to work, maintain their livelihoods, receive equal treatment before the law, and exercise their religious rights as guaranteed in Articles 27 paragraph (2), 28A, 28D paragraph (1), and 28I paragraph (2) of the 1945 Constitution.

In Decision Number 2/PUU-IX/2011, the Constitutional Court of Indonesia recognized the need to differentiate between veterinary and halal certificates. Veterinary certificates are associated with the obligation of the relevant parties to ensure that the animals intended for consumption are genuinely healthy and free from diseases. On the other hand, halal certificates protect the Muslim community from consuming non-halal animals. According to the Court, veterinary certificates represent a form of healthcare service, explicitly ensuring that animals to be sold and distributed are disease-free, guaranteeing the entire population's safety. Additionally, the Court emphasized that halal certificates are religious obligations, particularly within Islam, and are constitutionally protected (Decision of the Constitutional Court 2/PUU-IX/2011, 2011).

The Constitutional Court considers the importance of public health and consumer protection by mandating veterinary certificates. In addition, the Court also recognizes the significance of halal certificates as a religious obligation guaranteed by the Constitution. This decision by the Constitutional Court reflects an effort to uphold Sharia-compliant economic law involving health aspects and religious beliefs (Syahuri & SH, 2011). Thus, the Court takes a balanced approach between

state interests and the implementation of Sharia principles in economic practices in Indonesia. According to the Court, Article 58 paragraph (4) of Law 18/2009 should also be interpreted narrowly (Monteiro, 2018). Imposing the halal certificate requirement would deprive job opportunities for applicants, which are constitutionally guaranteed, considering that some applicants work as sellers of pork, dog meat, and pig breeders. The Court argues how it is possible to issue a halal certificate for animals that are inherently non-halal according to Sharia (Decision Case 2/PUU-IX/2011, 2011, p. 60). The applicability of Article 58 paragraph (4) of Law Number 18 of 2009 is limited to halal animals, not non-halal animals. Therefore, if the article is intended for non-halal animals, it is declared unconstitutional (Ritonga, 2016). If the animal is permissible for consumption according to religion, then its production must be accompanied by a veterinary certificate and a halal certificate.

In addition to the cases mentioned earlier, the Constitutional Court also tested the constitutionality of Article 55, paragraph (2) of Law Number 21 of 2008 concerning Islamic Banking. The article states that in cases where the parties have agreed on a dispute settlement other than as referred to in paragraph (1), dispute settlement shall be carried out under the contents of the contract. According to the applicants challenging the provision's constitutionality, the article fails to realize legal certainty as stipulated in Article 28D paragraph (1) of the 1945 Constitution, while legal certainty for citizens cannot be reduced. The reason is that Article 55 paragraph (1) regulates the settlement of Islamic banking disputes, which is the absolute competence of religious courts. In contrast, Article 55, paragraph (2), on the contrary, allows dispute settlement to occur in religious courts and other forums according to the parties' agreement. This view aligns with constitutionalism principles and the principle of legal certainty. Article 55, paragraph (2) causes legal uncertainty by providing room for dispute settlement outside religious courts. However, it should fall within the absolute competence of religious courts (Baihaki & Prasetya, 2021). In this context, the Constitutional Court has considered constitutional principles that guarantee legal certainty for citizens while also considering the need for alternative mechanisms in dispute resolution. The Court must balance protecting citizens' rights and facilitating Sharia-compliant economic law's effective and efficient development (Safa'at, 2022).

Regarding the examination of the law, through Decision Number 93/PUU-X/2012, the Constitutional Court declared that Law Number 3 of 2006 on the Amendment to Law Number 7 of 1989 concerning Religious Courts has expanded the absolute authority of the religious courts to handle Sharia economic disputes. The availability of other forums, as stated in Article 55 paragraph (2) of Law Number 21 of 2008, leads to overlapping jurisdiction in resolving Sharia banking disputes. The Constitutional Court concluded that the phrase "dispute settlement other than" in Article 55 paragraph (2) could potentially create legal uncertainty in the event of Sharia banking disputes. Constitutional Judge Hamdan Zoelva, in that decision, also presented a concurring opinion. According to Zoelva, the legal uncertainty does not arise from the premise of overlapping jurisdiction but somewhat contradicts the principle of the absolute separation of powers (Constitutional Court Decision 93/PUU-X/2012). If there is a choice of legal dispute resolution in Sharia banking, even if agreed upon by both parties, it will disregard the provisions in Law Number 3 of 2006 that govern the absolute authority of the religious courts. The law derives its authority from the Constitution by attribution. Thus, there are two arguments regarding the unconstitutionality of Article 55 paragraph (2) as stated in Constitutional Court Decision 93/PUU-X/2012. First, the article is declared unconstitutional if Sharia banking disputes are resolved outside the religious Court. Second, the article creates overlapping authority and jurisdictional issues.

This argument emphasizes that Law Number 3 of 2006 provides apparent authority to the religious courts in resolving Sharia banking disputes (Abdiwijaya, 2015; Haryanti, 2017). Therefore, the choice of resolving disputes outside the religious Court is considered contradictory and violates the provisions of that law. Article 49 letter (i) of Law Number 3 of 2006 states that the religious Court has the duty and authority to settle Sharia banking disputes. In addition, the Explanation of Article 49 letter (i) states that Sharia banks fall within the category of Islamic economy regulated by that law. Therefore, the settlement of Sharia banking disputes outside the religious Court violates the provisions of Law Number 3 of 2006.

Another landmark decision by the Constitutional Court in the context of Sharia economics is the decision related to zakat. The enactment

of Law Number 23 of 2011 concerning zakat management is based on the hope of increasing the utility and results, improving the effectiveness and efficiency of services in Zakat management. Although it is related to the interests of the Muslim community, parties are questioning the constitutionality of the Zakat Law, including (i) the centralization of zakat management under Baznas (National Zakat Agency); (ii) the subordination of LAZ (Local Zakat Collecting Institution) to Baznas; (iii) discretionary licensing by the government for zakat management; (iv) criminalization of unauthorized zakat collectors (Alfitri, 2018, 2022).

According to the Constitutional Court, the government's policy of establishing a zakat management institution (based on principles of transparency and accountability) with centralized management is a form of state intervention to ensure the effectiveness and efficiency of zakat management by the community (Decision Number 86/PUU-X/2012, 2012, p. 92). The existing zakat collection institutions are considered inadequate in serving the needs of the *muzakkī*, resulting in the distribution of zakat from areas of surplus to areas that are still in need not being maximized (Decision Number 86/PUU-X/2012) (Alfitri, 2018). This decision demonstrates the Constitutional Court's understanding of zakat distribution from areas with surplus to areas still experiencing shortages. The Constitutional Court emphasizes that zakat distribution must be carried out effectively and efficiently to ensure that the beneficiaries of zakat can benefit from it.

The government's policy of establishing a zakat management institution with principles of transparency and accountability indicates state intervention in zakat management by the community (Yahya, 2020). This decision was made to enhance the overall effectiveness and efficiency of zakat management and ensure that zakat is managed according to principles prioritizing transparency and accountability. Although there are existing zakat collectors, the Constitutional Court recognized in Decision Number 86/PUU-X/2012 that these institutions have not fully met the needs of the *muzakkī*. This has resulted in the suboptimal distribution of zakat from regions with excess to those experiencing shortages (Yahya, 2020). The decision reveals the existence of deficiencies in the zakat distribution mechanism that needs to be improved for more effective outreach to areas in need.

Through this decision, the Constitutional Court acknowledges the

weaknesses in the current zakat distribution system. The Court also recognizes the importance of upholding social justice and economic redistribution principles in Sharia economics. The Constitutional Court encourages improving the zakat distribution system to ensure optimal functioning (Hakim, 2016), allowing the collected zakat from regions with surplus to be effectively and precisely allocated to areas experiencing deprivation (Hakim, 2016). In this context, the role of the Constitutional Court as a constitutional justice institution becomes crucial in ensuring that policies and mechanisms related to Sharia economics, including zakat distribution, are within the bounds of the Constitution. While the government aims to intervene in zakat management by establishing a centralized zakat management institution, the Constitutional Court's decision acknowledges the deficiencies in zakat management that must be addressed for more effective and efficient zakat distribution to reach the needed areas.

Regarding the case of Zakat law, the Constitutional Court provides the following legal considerations: Firstly, the government's policy of establishing a centralized Zakat management institution (with a focus on transparency and accountability) constitutes state intervention to ensure the effectiveness and efficiency of zakat management by the community (Constitutional Court Decision 86/PUU-X/2012). According to the Constitutional Court, the existing zakat amil institutions have not been able to fully serve the needs of *muzakki*, resulting in the suboptimal distribution of zakat from regions with surplus to those in need (Constitutional Court Decision 86/PUU-X/2012). Therefore, the establishment of BAZNAS by the government is interpreted as an effort to strengthen and synergize *zakāh*, *infāq*, *waqf*, and *ṣadaqah* services in Indonesia (Alfitri, 2018). BAZNAS is a non-structural government institution established by the government and is accountable to the President through the Ministry of Religious Affairs. The establishment of BAZNAS also represents an open legal policy for law formation to improve the effectiveness of zakat, infaq, and sedekah management in Indonesia (Wibowo, 2015). Hence, the government's establishment of BAZNAS can strengthen and synergize Indonesia's *zakāh*, *infāq*, *waqf*, and *ṣadaqah* services.

Secondly, the position of LAZ (Zakat Collection Institution) is not subordinate to BAZNAS (National Board of Zakat) solely because they must periodically report on the collection, distribution, and utilization

of zakat to BAZNAS. On the contrary, this should be understood as assisting BAZNAS in helping the state manage zakat accountably and transparently (Constitutional Court Decision 86/PUU-X/2012). From this perspective, the policy ensures that the funds disbursed by *muzakki* (zakat payers) reach the intended recipients and are appropriately managed. Thirdly, according to the Constitutional Court, the requirements that zakat institutions must fulfill are: operating in the field of Islamic religious affairs, being non-profit, having a zakat utilization work plan, and having the capacity to implement work programs. The requirements for Lembaga Amil Zakat (LAZ) (Zakat Collection Institutions) to be registered as Islamic community organizations involved in education, da'wah (Islamic outreach), and social activities and to have legal entity status are considered by the Court to be unjust. Therefore, the requirement for LAZ to obtain permission, as challenged by the applicant, is deemed unconstitutional by the Constitutional Court. As a result, LAZ does not have to be an Islamic community organization involved in education, da'wah, and social activities with legal entity status to obtain operational permission for zakat utilization.

Fourthly, on the one hand, the Constitutional Court acknowledges the obligation of LAZ to obtain permission to protect citizens who pay zakat and ensure its proper distribution to the recipients (*mustahik*). However, on the other hand, due to the vastness of Indonesia's territory, not every remote area can be reached by Baznas (National Amil Zakat Agency), which obstructs individuals in rural areas, for example, from fulfilling their zakat obligations simply because the local LAZ needs prior permission. In this context, if there is no available LAZ or Baznas with permission in a particular region or remote area, it is allowed for the community to channel their zakat to that institution so as not to impede the citizens' right to worship. Therefore, the criminal provisions for LAZ without permission have limited scope as long as they are not understood as a gathering of people, religious scholars, Islamic figures, or mosque administrators within a community that has not been reached by authorized LAZ (Constitutional Court Decision 86/PUU-X/2012) (Iswanto & Hadinatha., 2023)

In essence, if obtaining a permit as a zakat collector is easily accessible in a specific area, then groups of people, religious scholars, Islamic figures, and mosque administrators should not manage and

utilize zakat, both as collectors and distributors. This is in line with the principle of subsidiarity in Sharia economics. The principle of subsidiarity states that economic activities should be carried out independently by the community, while state intervention should be limited to matters that require specific regulation or supervision. In the context of zakat management, the principle of subsidiarity emphasizes the importance of community participation (Abidin, 2012), including groups of people, religious scholars, Islamic figures, and mosque administrators, in managing and utilizing zakat. However, it should be noted that this argument depends on the interpretation of the theory and legal context of Sharia economics. There are various approaches and perspectives in understanding and applying the principle of subsidiarity in the context of zakat management (Abidin, 2012), which can lead to differences of opinion among experts and stakeholders regarding this issue.

Apart from the issue of zakat, another Sharia economics-related case subject to material testing in the Constitutional Court in the case of testing Law Number 33 of 2014 concerning Halal Product Assurance. In its general explanation, the presence of Law 33/2014 aims to ensure that all religious adherents can worship and practice their religious teachings to others, and the state is obliged to protect the worship of every citizen, especially in the context of ensuring the halal status of a product. However, some citizens questioned the existence of Law 33/2014 before the Constitutional Court. In Decision Number 8/PUU-XVII/2019, the Petitioner raised at least two issues. First, the Petitioner considered that the phrase "religious adherents" in the considerations of letter b of Law 33/2014 and the phrase "community" in Article 3 letter an of Law 33/2014 has infringed upon their constitutional rights as a non-Muslim. These norms essentially talk about the state's obligation to ensure the protection of every religious adherent and guarantee the halal status of products, and one of the ways is by implementing the Halal Product Assurance (*Jaminan Produk Halal* or JPH) system. Its function is to provide comfort, security, safety, and certainty of the availability of halal products for people when consuming and using them. For the Petitioner, these two norms should only be intended for Muslims while they adhere to a non-Muslim religion.

Meanwhile, non-Muslims are not obliged to receive halal product assurance. Secondly, according to the Petitioner, Article 26 paragraph (2)



of Law 33/2014, which requires business operators to label products as non-halal, violates their rights unless the non-halal label is only intended for Muslims. In other words, if a producer produces a haram product and labels it as non-halal, it will cause economic harm to non-Muslims (Talib et al., 2010).

The Constitutional Court's opinion is that regarding global developments, such as the practices of ASEAN-AFTA, NAFTA, the European Economic Community, and the World Trade Organization, the assurance of enjoying halal products is not only aimed at meeting the needs of Muslims but also non-Muslims (Decision Number 8/PUU-XVII/2019, p. 53). The obligation to ensure the availability of halal products, the Constitutional Court adds, not only serves the purpose of facilitating worship but has also become a lifestyle and contributes to high economic growth (Decision Number 8/PUU-XVII/2019). This means that the halal status of products is not only associated with religious matters but also has positive economic motives (Fitriyanti, 2022).

According to the Constitutional Court, the constitutional basis for enacting Law 33/2014 is the state's responsibility to protect the community's rights to a healthy and protected life in worship according to their religion (Decision Number 8/PUU-XVII/2019). Moreover, in Indonesia, Islam is the majority religion. Therefore, it is undeniable that the effort to ensure the distribution of halal products is the state's obligation and the right of the community to enjoy offerings following Sharia. According to the Constitutional Court, these norms are intended to protect Muslims. However, while protecting Muslims, these provisions do not hinder non-Muslims from obtaining haram goods. Non-Muslims are given the freedom to produce and use non-halal products. Thus, the Petitioner's claim that their rights have been limited in not being able to use non-halal products has been refuted.

The Constitutional Court also provides an understanding of Article 26, paragraph (2) of Law 33/2014. According to the Constitutional Court, this provision does not prohibit producers from producing non-halal goods. On the contrary, non-Muslims' production and distribution of haram goods are allowed because the products are labeled as "non-halal" in a visible part of the packaging that the public can easily see. The purpose is to enable consumers to choose between halal and haram products. According to the Constitutional Court, the clarity of

this "status" manifests in Article 28F of the 1945 Constitution, which guarantees the constitutional right of religious adherents to obtain information. The obligation to label a product as "non-halal" is an exception for goods obtained, both during the production process and in terms of their ingredients, through prohibited means. It is a form of fulfilling the community's right to information as guaranteed by the Constitution.

### **The Implications of Constitutional Court Decisions**

Based on the four decisions mentioned above, the Constitutional Court has completed the commitment of the DPR and the President of the Republic of Indonesia to implement a Sharia-based economic system in Indonesia. This can be seen from the consistent legal reasoning of the Constitutional Court, which always leads to acceptance of citizens' aspirations to run the economy according to Sharia principles. Although these arguments are not always based on religious premises on constitutional principles, the Constitutional Court's decision strengthens the existence and applicability of Islamic economic law. This statement is strengthened by the fact that there is not a single provision in the statutory regulations related to Islamic economic law, which was declared unconstitutional by the Constitutional Court, except for a narrow interpretation regarding licensing for zakat collection institutions (LAZ).

Referring to the Constitutional Court's decision, there are several fundamental consequences related to the existence of Islamic economic law in Indonesia. The firmness of the relationship between the state and religion cannot be denied. The logic is that Indonesia is neither a religious state nor a secular state but rather a combination of the two with inseparable interactions that are manifested through the principles of protection and realization of people's rights to practice their religion, including the practice of Islamic economics as a fundamental basis (Renie et al., 2020). The Constitutional Court's affirmation of the state's obligation to guarantee the proper and professional use of zakat is another example of the close relationship between the state and religion. In this regard, the Constitutional Court has significantly maintained the interaction dynamics between religion and the state (Safa'at, 2022).

Furthermore, none of the provisions requested by the applicants in the constitutional review of legislation related to Islamic economics

have been declared unconstitutional. This is the second implication that provides evidence of the constitutional validation of Islamic economic law. According to the theory of norm hierarchy, the validity of a norm is determined by a higher norm. If lower norm conflicts with a higher norm, the Constitutional Court has the authority to declare that norm contrary to the Constitution. Conversely, if there is insufficient evidence that a lower norm conflicts with the fundamental law, thus there is no reason to declare that norm contrary to the Constitution (Alfitri, 2007; Faiz, 2019). Based on the Court's considerations - which emphasize the need for halal certification, Sharia economic dispute resolution in religious courts, the state's responsibility to guarantee the distribution of halal products, and the state's responsibility to maximize the utilization of zakat - it becomes more convincing that, even though the Islamic economic system originates from a religious premise, no constitutional issues. On the contrary, according to the Constitutional Court, the practice of Islamic economics is a right the state must protect because of its constitutional basis and legitimacy. Therefore, Muslims and the general public do not need to question the existence of Islamic economic law in Indonesia.

Furthermore, the Constitutional Court's decision indirectly strengthens the aspirations of Muslims based on human rights. In essence, when Islamic economics is included in the national legal system, it can be interpreted as the success of Muslims in encouraging positivism through democratic mechanisms (Iswanto, 2021). The existence of Sharia economic law has always been encouraged and encouraged by the Muslim community. The presence of laws on Sharia economics is a positive response from legislators (DPR and President). Seeing this fact, the Constitutional Court further strengthens the aspirations of Muslims by affirming legal norms regarding the obligation to certify halal products to ensure that Muslim communities are protected from the consumption of prohibited goods. If related to the Constitutional Court Decision Number 91/PUU-XVIII/2020, which introduces the concept of meaningful participation to assess whether a law fulfills aspirations, it can be concluded that laws related to Sharia economic law have adopted the concept of meaningful participation. Therefore, the Constitutional Court did not declare the existence of an unconstitutional provision as requested by the applicants in the judicial review. On the

other hand, the Constitutional Court has "accepted" the aspirations of Muslims in the field of Islamic economics based on the principles of protection and recognition of the human rights of Muslim citizens without any ambiguity.

Affirmation of the right of Muslims to carry out economic activities according to religious principles also implies that the Constitutional Court has contributed to building and supporting an economic system based on Sharia. For example, research by Hilaire Tegnau et al. shows that Islamic law contributes to morality, ethics, and decency in the political sphere and promotes public order (Isra, 2020). As previously explained, Islamic economics is a subsystem of Islamic law. Islamic economics promotes morality, ethics, and decency and contributes to public order. In this position, the Constitutional Court has a role in maintaining order. The Court's rejection of products that are not labeled as halal or the absence of information regarding prohibited products is considered by the Court as an expression of the right of the Indonesian population, who are predominantly Muslim, to access information. The goal is to guarantee public order.

## **Conclusion**

Through its judicial review powers, the Constitutional Court has contributed to and supported efforts to increase and strengthen the existence of Sharia economic law in Indonesia. Although this support is not directly based on religious teachings, the Constitutional Court has strengthened the presence of Sharia economic law in Indonesia through its final and binding decisions. The legal basis for the Constitutional Court to strengthen the position of Islamic economics comes from the logic of human rights, especially those related to freedom of religion, which theoretically fall into the category of non-derogable rights (rights that cannot be reduced under any circumstances). This position reaffirms Sharia constitutionalism in Indonesia in the economic field. The strong presence of Sharia economic law in the Constitutional Court's decisions has real consequences, namely further strengthening the relationship between religion and the state, which has a strong basis of aspirations, and indirectly the Constitutional Court has encouraged the availability of economic-activities based on Sharia principles.

## Reference

- Abdiwijaya, A. (2015). Hukum dan Islam Sengketa Ekonomi Syariah (Telaah UU No. 3/2006 dan UU No. 50/2009). *Jurnal Al-Qadau: Peradilan Dan Hukum Keluarga Islam*, 2(2), 135–146.
- Abidin, Z. (2012). Manifestasi dan Latensi Lembaga Filantropi Islam dalam Praktik Pemberdayaan Masyarakat: Suatu studi di Rumah Zakat Kota Malang. *Jurnal Salam*, 15(2).
- Adinugraha, H. H., & Muhtarom, A. (2021). Understanding Of Islamic Studies through Sharia Economics Perspective In Indonesia. *Journal of Islamic Economics Perspectives*, 3(1), 17–31.
- Ahmad Baihaki, & M. Rizhan Budi Prasetya. (2021). Kewenangan Absolut Pengadilan Agama Dalam Penyelesaian Sengketa Ekonomi Syariah Pasca Putusan Mahkamah Konstitusi Nomor 93/PUU-X/2012. *Krtha Bhayangkara*, 15(2), 289–308. <https://doi.org/10.31599/krtha.v15i2.711>
- Ahyani, H., & Slamet, M. (n.d.). Sharia Economics Rahmatan Lil'Alamin in an Economy Era 4.0 (Review of the Philosophy and Theory of Islamic Economic Law). In *academia.edu*.
- Akmal, Z. (2018). Relevansi Pasal 29 Konstitusi Terhadap Sila Pertama Pancasila Sebagai Dasar Negara. *Lex Renaissance*, 3(1), 5.
- Alfitri. (2007). Expanding a Formal Role for Islamic Law in the Indonesian Legal System: The Case of Mu'Amalat. *Journal of Law and Religion*, 23(1), 249–270. <https://doi.org/https://doi.org/10.1017/S0748081400002666>
- Alfitri. (2018). Religion and constitutional practices in Indonesia: How far should the state intervene in the administration of Islam? *Asian Journal of Comparative Law*, 13(2), 389–413. <https://doi.org/10.1017/asjcl.2018.20>
- Alfitri, A. (2022). Islamic Law and Society in Indonesia: Corporate Zakat Norms and Practices in Islamic Banks. In *Islamic Law and Society in Indonesia* (Islam and). Routledge. <https://doi.org/10.4324/9781003183112>
- Apik Anitasari Intan Saputri. (2020). Quo Vadis Regulation of Islamic in Post-Reform Indonesia. *International Journal of Science and Society*, 2(4).
- Arifin, M. (2021). The Influence Of Islamic Law And Economic Principles On Banking Industry In Indonesia. *Journal Of Legal, Ethical And Regulatory Issues*, 24(7), 1–11.
- Arwanto, B. (2016). Perlindungan Hukum Bagi Rakyat Akibat Tindakan Faktual Pemerintah. *Jurnal Yuridika*, 31(3).
- Bambang Iswanto. (2021). Political Configuration and The Development of Islamic Law in Indonesia During the New Order and Reformation Era. *Al-A'raf: Jurnal Pemikiran Islam Dan Filsafat*, 18(1).
- Berger, M., & Sonneveld, N. (2010). Sharia and national law in Egypt. *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, 51–88.
- Budiman, I. (2021). Converting Conventional Banks To Sharia Banks In Aceh: An Effort To Maintain A Stable Economy In The Covid-19 Outbreak. *Share: Jurnal Ekonomi Dan Keuangan Islam*, 10(1), 24–40.

- Butt, S. (2010). Islam, the state and the Constitutional Court in Indonesia. *Pac. Rim L. & Pol'y J.*, 19, 279.
- Caroline Dommen. (2002). *Raising Human Rights Concerns in the World Trade Organisation Actors, Processes and Possible Strategies*.
- Davis, N. J., & Robinson, R. V. (2006). The egalitarian face of Islamic orthodoxy: Support for Islamic law and economic justice in seven Muslim-majority nations. *American Sociological Review*, 71(2), 167–190.
- Dequen, J. P. (2021). Ambiguities and Interdependencies: The Relationship between Legal Positivism and Islamic Law in Colonial India, 1765–1909. *State Law and Legal Positivism*.
- Dyah Ochtorina Susanti. (2021). The Profit-Sharing System Between Landowners and Cultivators of Tobacco: Islamic Economic Law Perspective. *Kertha Patrika*, 43(2).
- Dommen, C (2002). *Raising Human Rights Concerns in the World Trade Organisation Actors, Processes and Possible Strategies*.
- Emzaed, A. M., Kamsi, K., & Lubis, A. A. A. M. R. (2020). A Politics of Recognition: The Legislation of Zakat Law in a Transition of New Order and Reform Era. *Ulumuna*, 24(2), 320–347.
- Fitriyanti, E. (2022). *Pengaruh Labelisasi Halal dan Label BPOM terhadap Keputusan Pembelian Produk MS Glow pada Mahasiswa Fakultas Ekonomi dan Bisnis Islam IAIN Kudus angkatan 2018*. IAIN KUDUS.
- Hakim, B. R. (2016). Analisis Terhadap Undang-Undang Nomor 23 Tahun 2011 Tentang Pengelolaan Zakat (Perspektif Hukum Islam). *Syariah: Jurnal Hukum Dan Pemikiran*, 15(2).
- Haryanti, T. (2017). Kewenangan Peradilan Agama Dalam Penyelesaian Sengketa Ekonomi Syariah. *Jurnal Tabkim*, 9, 74–87.
- Hasan. (2019). Compilation of Sharia Economic Law and Islamic Law Positivation in Indonesia. *International Journal of Scientific and Research Publication*, 9(8).
- Hoesein, Z. A. (2017). Sharia Economy in Indonesia from Constitutional Perspective. *International Journal of Civil Engineering and Technology*, 8(11), 1070–1085.
- Hosen, N. (2015). The Constitutional Court and 'Islamic' Judges in Indonesia. *Austl. J. Asian L.*, 16, 161.
- I.D.G. Palguna, Saldi Isra, P. M. F. (2021). The Role of the Constitutional Court in Protecting Economic and Social Rights in Indonesia. *Journal of Legal, Ethical and Regulatory Issues*, 24(5).
- Idris, M., & Umar, K. (2020). Dinamika Mahkamah Konstitusi Dalam Memutus Perkara Judicial Review. *Siyasatuna: Jurnal Ilmiah Mahasiswa Siyasa Syar'iyah*, 2(2), 263–277.
- Isra, S. (2014). Peran Mahkamah Konstitusi dalam Penguatan Hak Asasi Manusia di Indonesia. *Jurnal Konstitusi*, 11(3), 409–427.
- Iswanto, B. & M.F.H. (2023). The Constitutional Court Decision and Islamic Philanthropy Movements: Analysis of Zakat Organizations Legality in Samarinda. *Mazahib: Jurnal Pemikiran Hukum Islam*, 22 (1).

- Luth, T., Ruba'i, M., Hamidi, J., & Susmto, B. (2017). The Role of Sharia Economic Law in Sustainable Development in Indonesia. *JL Pol'y & Globalization*, 63, 224.
- Luthfy, R. M. (2019). Hubungan Antara Partisipasi Masyarakat, Pembentukan Undang-Undang dan Judicial Review. *Al-Daulah: Jurnal Hukum Dan Perundangan Islam*, 9(1), 168–193.
- Maza, R. El, Yunarti, Y., Nazeri, N., & ... (2022). Sharia Economic Law Regulation on The Development of Sharia Financial Institutions in Indonesia. *Journal of Social Work ...*
- Mitchell, S. M., Ring, J. J., & Spellman, M. K. (2013). Domestic legal traditions and states' human rights practices. *Journal of Peace Research*, 50(2), 189–202.
- Monteiro, J. M. (2018). Teori penemuan hukum dalam pengujian undang-undang dan peraturan pemerintah pengganti undang-undang. *Jurnal Hukum PRIORIS*, 6(3), 267–286.
- Muchamad Ali Safa'at. (2022). The Roles of the Indonesian Constitutional Court in Determining State-Religion Relation. *Constitutional Review*, 8(1).
- Muhammad Arifin. (2021). The Influence of Islamic Law and Economic Principles on Banking Industry in Indonesia. *Journal of Legal, Ethical and Regulatory Issues*, 24(7).
- Mukharom, M., Heryanti, B. R., Astanti, D. I., & Aravik, H. (2020). Sharia economic legal contribution of economic development in Indonesia. *Journal of Islamic Economics Perspectives*, 1(2), 43–50.
- Pan Mohamad Faiz, dkk. (2019). *Mahkota Mahkamah Konstitusi: Bunga Rampai 16 Tahun Mahkamah Konstitusi*. Rajawali Pers.
- Pratama, A. P., Disemadi, H. S., & Prananingtyas, P. (2019). Existence And Position Of Islamic Economic Laws In Indonesia. *Legality: Jurnal Ilmiah Hukum*, 27(2), 222–231.
- Rasidin, M., Sidqi, I., & Witro, D. (2020). Drop shipping in Islamic economic law perspective: E-commerce study inter marketplace drop ship in the industrial revolution era 4.0. *Nurani: Jurnal Kajian Syariah ...*
- Renie, E., Luth, T., & Hamidah, S. (2020). The Development of the Politics of Law in Indonesia's Sharia Economic Environment. *IOP Conference Series: Earth and Environmental Science*, 469(1), 12119.
- Ritonga, R. (2016). Analisis Pengujian Pengaduan Konstitusional (Constitutional Complaint) pada Mahkamah Kostitusi Indonesia sebagai Salah Satu Upaya Perlindungan Hak-Hak Warga Negara. *Keadilan Progresif*, 7(1).
- Rusydia, A. S., Hidayat, Y., Widiastuti, T., & Rahayu, S. S. (2021). Cash Waqf for Developing Islamic Economy: Case Study in Indonesia. *Al-Uqud: Journal of Islamic Economics*, 5(1), 43–59.
- Saldi Isra. (2020). *Lembaga Negara: Konsep, Sejarah, Wewenang, dan Dinamika Konstitusional*. Rajawali Pers.
- Sari, A. F. P., & Raharjo, P. S. (2022). Mahkamah Konstitusi sebagai Negative Legislator dan Positive Legislator. *Sovereignty*, 1(4), 681–691.

- Sólyom, L. (2003). The role of constitutional courts in the transition to Democracy: with special reference to Hungary. *International Sociology*, 18(1), 133–161.
- Suciyani, S., & Amrin, A. (2022). Development of Sharia Economic Law in Indonesia (Positivation of Zakat Law). *Legal Brief*.
- Sungkawaningrum, F. W., & Mubarak, N. (2020). Islamic Economy Between Concepts And Methodology Through The Thoughts Of Muhamad Anas Zarqo. *Muamalat: Jurnal Kajian Hukum Ekonomi Syariah*, 12(2), 77–90.
- Sweet, A. S. (2009). Constitutionalism, legal pluralism, and international regimes. *Indiana Journal of Global Legal Studies*, 16(2), 621–645.
- Sweet, A. S. (2011). *Constitutional courts*. Forthcoming, Oxford Handbook of Comparative Constitutional Law (OUP, 2012).
- Syafi'ie, M. (2012). Instrumentasi Hukum HAM, Pembentukan Lembaga Perlindungan HAM di Indonesia dan Peran Mahkamah Konstitusi. *Jurnal Konstitusi*, 9(4), 681–712.
- Syahuri, D. R. T., & SH, M. H. (2011). *Tafsir Konstitusi Berbagai Aspek Hukum*. Prenada Media.
- Talib, Z., Zailani, S., & Zainuddin, Y. (2010). Conceptualizations on the dimensions for halal orientation for food manufacturers: a study in the context of Malaysia. *Oceania*, 3354(60), 17.
- Tarina, A., Radian, M. L., & Andriani, M. (2023). Kepastian Hukum Atas Fatwa DSN-MUI Pada Bidang Perbankan Syariah Pasca Putusan Mahkamah Konstitusi Nomor 65/PUU-XIX/2021. *Jurnal Hukum Sasana*, 9(1), 210–228.
- Triwahyuningsih, S. (2018). Perlindungan dan penegakan hak asasi manusia (ham) di indonesia. *Legal Standing: Jurnal Ilmu Hukum*, 2(2), 113–121.
- Ulya Atsani. (2022). Purification of Sharia Banking Law in the National Banking System. *Juris: Jurnal Ilmiah Syariah*, 21(1), 101–108. <https://doi.org/10.31958/juris.v21i1.5725>
- Wibowo, M. (2015). Menakar konstitusionalitas sebuah kebijakan hukum terbuka dalam pengujian undang-undang. *Jurnal Konstitusi*, 12(2), 196–216.
- Yahya, I. (2020). Zakat Management in Indonesia: a Legal Political Perspective. *Al-Ahkam*, 30(2), 195–214.
- Zada, K., Suparta, M., Ruswadi, B., Dahri, H., & Sahid, M. M. (2022). Constitutionalizing Sharia: Identity and Independence of Islamic Politics Among Students. *Juris: Jurnal Ilmiah Syariah*, 21(2), 195–206. <https://doi.org/10.31958/juris.v21i2.6954>.

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