

Harmonizing Fiduciary Enforcement after Constitutional Court Decision No. 18/2019 and DSN-MUI Fatwa No. 68/2008: A Doctrinal and Ethical Convergence of Positive Law and *Rahn Tasjili*

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Abstract. *This article examines the harmonization of fiduciary enforcement in Indonesia following Constitutional Court Decision No. 18/2019 and DSN-MUI Fatwa No. 68/2008 on Rahn Tasjili. The Constitutional Court restricted unilateral repossession through fiduciary certificates, mandating either debtor consent or judicial oversight, while the fatwa embeds ethical safeguards of fairness ('adl) and harm prevention (darar). Employing a normative-juridical approach, this study analyzes statutory law, jurisprudence, and fatwa-based norms to identify points of convergence. The findings reveal that both frameworks limit creditor dominance, strengthen debtor protection, and preserve creditor certainty through documentation and due process. Divergences remain in their normative origins, yet outcomes converge toward proportionality and justice.*

Keywords: *fiduciary security; rahn tasjili; constitutional court decision; DSN-MUI fatwa; maqāsid al-shari'ah*

Abstrak. *Artikel ini mengkaji harmonisasi pelaksanaan eksekusi jaminan fidusia di Indonesia pasca Putusan Mahkamah Konstitusi No. 18/2019 dan Fatwa DSN-MUI No. 68/2008 tentang Rahn Tasjili. Mahkamah Konstitusi membatasi penarikan sepihak objek fidusia melalui sertifikat fidusia dengan mensyaratkan adanya persetujuan debitur atau pengawasan yudisial, sementara fatwa tersebut menanamkan perlindungan etis berupa keadilan ('adl) dan pencegahan kemudharatan (darar). Dengan menggunakan pendekatan normatif-yuridis, penelitian ini menganalisis peraturan perundang-undangan, yurisprudensi, dan norma berbasis fatwa untuk mengidentifikasi titik-titik konvergensi. Temuan penelitian menunjukkan bahwa kedua kerangka tersebut sama-sama membatasi dominasi kreditur, memperkuat perlindungan debitur, serta menjaga kepastian hukum bagi kreditur. Perbedaan tetap terdapat pada asal-usul normatifnya, namun hasil akhirnya bertemu pada prinsip proporsionalitas dan keadilan.*

Kata kunci: *jaminan fidusia; rahn tasjili; putusan mahkamah konstitusi; fatwa DSN-MUI; maqāsid al-shari'ah.*

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Introduction

Indonesia's fiduciary-security enforcement is undergoing a critical recalibration at the intersection of positive law and Islamic finance norms (MAMATOVA et al., 2025). The Constitutional Court's Decision No. 18/2019 restricts automatic *parate executie* (immediate execution) and re-centers due process; while DSN-MUI Fatwa No. 68/2008 on *Rahn Tasjili* frames collateralization via registered title with ethically bounded enforcement. In practice, finance companies once relied on fiduciary certificates to repossess unilaterally (Badriyah et al., 2019). The Court now requires a debtor's acknowledged default or execution through the courts. Under *Rahn Tasjili*, the *marhūn* (the physical asset) remains with the debtor while proof of title is held by the pledgee, and execution proceeds by sale under sharia-compliant fora (Rahman & Muhammad, 2021). These regimes converge on the principles of proportionality and procedural safeguards. This article posits the harmonization of fiduciary enforcement and *Rahn Tasjili* as a necessary response to evolving legal and ethical considerations.

The existing literature has yet to comprehensively reconcile fiduciary enforcement in Indonesia with Islamic collateral frameworks, such as *Rahn Tasjili*. Most studies focus either on the doctrinal shifts following Constitutional Court Decision No. 18/2019 or on the normative substance of DSN-MUI fatwas without situating their convergence (Dinata, 2020; Januar et al., 2021; Jauza Tsania Herdin & Mohamad Fajri Mekka Putra, 2022; Kristiyanti, 2021; Pitanuki, 2020). Consequently, debate remains fragmented between legal formalism and *fiqh*-based ethics. Legal analyses underline how the Court's decision curtails creditor dominance but creates uncertainties in execution procedures (Puspitasari et al., 2024). Studies of *Rahn* emphasize the importance of ethical safeguards in the expropriation of collateral, but rarely compare them to the enforcement of the law (Jannah, 2024; Shebaita, 2025; Sriani et al., 2023). This gap leaves practitioners and scholars without a coherent framework to harmonize fiduciary law and sharia norms. Therefore, this study addresses the gap by examining harmonization as both a doctrinal necessity and a socio-ethical innovation in fiduciary security law.

This article aims to articulate a harmonized framework for fiduciary enforcement that integrates Constitutional Court jurisprudence with DSN-MUI fatwas on *Rahn Tasjili*. Clarifying this convergence is essential for resolving procedural ambiguities left by Decision No. 18/2019 and for aligning collateral enforcement with Islamic ethical principles. By doing so, the research seeks to provide legal certainty while preserving debtor protections and creditor rights. Through a normative-juridical analysis of statutory law, Constitutional Court

rulings, and DSN-MUI fatwas, the study formulates a coherent approach to fiduciary execution. It also reflects doctrinal expectations in comparative literature, which demand a synthesis between positive law and *fiqh*-based norms (Mappasessu & Akmal, 2025; Mousourakis, 2025). The objective is not merely descriptive but prescriptive, offering a harmonization model that strengthens justice, legal certainty, and compliance with *Maqāṣid al-Sharī'ah*.

The central argument of this study is that fiduciary enforcement in Indonesia requires harmonization with *Rahn Tasjīlī* to achieve justice and legal certainty. Unilateral enforcement practices by creditors under fiduciary certificates have historically created vulnerability and controversy among debtors (Hampson, 2023; Norton, 2020). The Constitutional Court's Decision No. 18/2019 curtailed such practices but left procedural ambiguities. In parallel, DSN-MUI Fatwa No. 68/2008 offers ethical guidance by emphasizing debtor protection during collateral repossession. Legal uncertainty emerges when creditors demand direct repossession despite the Court's mandate for judicial involvement. Conversely, *Rahn Tasjīlī* stipulates that execution requires prior warning, debtor consent, or adjudication, reflecting sharia principles of fairness (*'adl*) and harm prevention (*darar*) (Wulandari et al., 2024). Comparative analyses indicate that systems incorporating procedural safeguards promote both creditor confidence and debtor rights. Therefore, harmonizing fiduciary enforcement with *Rahn Tasjīlī* is not only doctrinally defensible but normatively essential to balance competing interests and fulfill the objectives of *Maqāṣid al-Sharī'ah*.

Previous studies on fiduciary enforcement and *Rahn Tasjīlī* have provided valuable insights; however, they remain fragmented and insufficiently integrated. Scholarship on fiduciary law in Indonesia has centered on doctrinal analysis of the Fiduciary Law and Constitutional Court jurisprudence, while Islamic legal studies focus on the ethical dimension of *rahn* and its variations. Few attempts have been made to bridge these domains into a unified framework. Previous research highlights the uncertainty surrounding fiduciary execution following Decision No. 18/2019 (Badriyah et al., 2021; Dinata, 2020; Januar et al., 2021; Jauza Tsania Herdin & Mohamad Fajri Mekka Putra, 2022; Kristiyanti, 2021; Pitanuki, 2020). Meanwhile, other studies discuss the principles and application of *Rahn Tasjīlī* without referring to the enforcement of fiduciary obligations (Nasada et al., 2025; Wulan & Aryatie, 2023). As a result, the literature does not provide a coherent harmonization model. This study fills the gap by synthesizing statutory interpretation with fatwa-based norms, offering a normative framework grounded in *Maqāṣid al-Sharī'ah*. Thus, the novelty lies in positioning fiduciary

enforcement not as a binary conflict, but as a harmonized model that combines positive law and Sharia values. This study departs from previous research that has generally examined fiduciary enforcement and *Rahn Tasjili* separately. By explicitly synthesizing Constitutional Court jurisprudence with DSN-MUI fatwa, this article introduces a harmonization model that has not been systematically formulated before. This novelty lies in framing fiduciary enforcement not only as a constitutional issue but also as a sharia-based ethical imperative, thereby providing an integrated doctrinal and normative perspective.

The unit of analysis in this research is the enforcement of fiduciary security following the constitutional court decision No. 18/PUU-XVII/2019, examined in light of DSN-MUI Fatwa No. 68/2008 on *Rahn Tasjili*. These two normative regimes represent distinct yet intersecting frameworks: one grounded in positive statutory law, the other in Islamic jurisprudence. Analyzing their convergence is essential to capture how enforcement mechanisms can be harmonized. The Constitutional Court ruling restricts automatic *parate executie*, requiring judicial involvement except when default is acknowledged, while Fatwa No. 68/2008 conceptualizes *rahn tasjili* as collateral secured through title registration with procedural safeguards for repossession. Both sources represent distinct legal traditions, yet they address the same subject—secured transactions. Thus, the study focuses on fiduciary enforcement and *Rahn Tasjili* as material objects whose harmonization forms the foundation of normative analysis.

Methods

This research employs a normative–juridical method, adopting a doctrinal and conceptual approach (Bhagyamma G, 2023; NE Varuhas, 2023; Taekema, 2018). The normative–juridical design is suitable because the study does not generate primary field data but relies on legal sources (Hamzani et al., 2023) to interpret and harmonize fiduciary enforcement and *Rahn Tasjili*. The doctrinal approach focuses on statutes, jurisprudence, and fatwas as binding references, while the conceptual approach examines principles of justice, certainty, and *Maqāṣid al-Sharī'ah* (Abdullah, 2020; Muhammadin, 2020). Key legal sources include Law No. 42/1999 on Fiduciary Security, Constitutional Court Decision No. 18/2019, and DSN-MUI Fatwa No. 68/2008, complemented by related fatwas (No. 25/2002; No. 92/2014). Academic literature in Sharia economic law and secured transactions also provides theoretical grounding. Therefore, this study employs a normative–juridical framework that integrates doctrinal texts and conceptual analysis to construct a harmonization model (Whittaker, 2014).

The data for this research consist of primary, secondary, and tertiary legal materials. A classification of legal sources ensures systematic coverage of binding norms, interpretive commentary, and supportive references for fiduciary enforcement and *Rahn Tasjili*. This hierarchy also strengthens the doctrinal validity of the findings. Primary legal materials include Law No. 42/1999 on Fiduciary Security, Constitutional Court Decision No. 18/2019, and DSN-MUI Fatwa No. 68/2008, alongside related fatwas (No. 25/2002; No. 92/2014). Secondary materials comprise academic journals, textbooks, and scholarly commentaries in Islamic economic law and secured transactions. Tertiary materials, such as legal dictionaries, encyclopedias, and online databases, are utilized to clarify terminology and provide contextual background information. Thus, the study draws upon a layered set of legal sources to construct a harmonization framework grounded in both positive law and sharia norms.

The data in this research were analyzed using a descriptive–qualitative technique through normative interpretation (Lewin & Shakun, 1976; Sabine, 1912). This technique is appropriate because the study seeks not only to describe legal norms but also to harmonize different regulatory regimes: positive law under the Fiduciary Law and Constitutional Court Decision, and sharia norms under DSN-MUI fatwas. The analysis employs several methods of legal interpretation: grammatical (to elucidate statutory language), systematic (to situate provisions within the legal system), and teleological (to link enforcement procedures with the objectives of *Maqāṣid al-Shari'ah*) (Beloushi, 2014). Comparative analysis is also applied to juxtapose fiduciary enforcement with *Rahn Tasjili*, highlighting convergences and divergences. Thus, the analytical technique combines descriptive and normative interpretation to construct a harmonization framework that is both doctrinally grounded and ethically coherent.

Results and Discussion

Empirical and Doctrinal Realities of Fiduciary Enforcement after Constitutional Court Decision No. 18/2019

Fiduciary enforcement in Indonesia experienced a doctrinal turning point following Constitutional Court Decision No. 18/PUU-XVII/2019 (Budi, 2020; Damara Putri et al., 2022; Yanto et al., 2022). Before this ruling, creditors holding fiduciary certificates could unilaterally repossess collateral through *parate executie*, a practice criticized for undermining debtor rights. The decision recalibrated this power by requiring either a debtor's voluntary admission of default or judicial involvement

for execution. The Court clarified that the executorial clause in fiduciary certificates is no longer absolute but conditional, thereby balancing creditor interests with debtor protection (Eko & Unggul, 1999; Ningsih, 2025). This doctrinal shift has practical implications: finance companies face longer procedures, while debtors gain stronger safeguards. Thus, the post-decision landscape illustrates a new equilibrium in fiduciary enforcement where unilateral repossession is curtailed in favor of due process (Brown, 1927).

The rationale behind the Constitutional Court's decision lies in the principle of proportionality and the need to prevent abuse of creditor power. Prior to the ruling, creditors often executed fiduciary collateral without debtor consent, causing social unrest and multiple legal disputes. The Court sought to realign enforcement with constitutional guarantees of due process and equal protection under the law. Empirical cases reveal that debtors frequently resisted repossession, leading to conflict, intimidation, and litigation (Erick et al., 2023). The Court emphasized that the executive power of fiduciary certificates must be exercised under judicial oversight unless the debtor expressly admits default (Arief, 2024; Erick et al., 2023). This ensures that enforcement is not only legally valid but also socially just. Hence, the decision reflects a doctrinal correction to safeguard debtor dignity while maintaining creditor rights within a balanced enforcement regime.

Before delving into doctrinal implications, it is useful to map the changes introduced by Constitutional Court Decision No. 18/2019. Table 1 summarizes the key differences in fiduciary enforcement before and after the ruling, highlighting the shift from unilateral repossession to due process-based execution.

The changes reflected in the Constitutional Court Decision No. 18/2019 mark a doctrinal correction in fiduciary enforcement. As summarized in Table 1, unilateral creditor dominance has been replaced by a more balanced framework, requiring either debtor acknowledgment of default or judicial supervision. This shift recalibrates the executorial clause to protect debtors without negating creditor rights. By conditioning execution on due process, the Court aligned fiduciary enforcement with constitutional guarantees of fairness and legal certainty. This realignment addresses prior social tensions where repossessions often escalated into disputes. Hence, the decision reinforces proportionality and ensures that fiduciary enforcement evolves in line with justice and constitutional values.

Table 1. Changes in Fiduciary Enforcement Before and After Constitutional Court Decision No. 18/2019

Aspect	Before Decision No. 18/2019	After Decision No. 18/2019
Legal Basis	Fiduciary Law No. 42/1999, Art. 15 (executive clause absolute).	Fiduciary Law No. 42/1999 as interpreted by MK Decision No. 18/2019 (executive clause conditional).
Execution Mechanism	<i>Parate executie</i> allowed: the creditor could repossess collateral directly with a fiduciary certificate.	Execution is only possible if: (i) the debtor voluntarily admits default, or (ii) the creditor files for judicial execution.
Debtor Position	Debtor is vulnerable to unilateral repossession, often without sufficient procedural safeguards.	Debtor protected by due process; repossession cannot be unilateral without consent or court order.
Creditor Position	Strong dominance; immediate repossession power.	Balanced with debtor rights; longer process but with legal certainty via judicial involvement.
Social Impact	Frequent disputes, intimidation, and social unrest.	Reduced conflict; legitimacy reinforced by court procedure.

Source: Compiled from Law No. 42/1999 on Fiduciary Security and Constitutional Court Decision No. 18/PUU-XVII/2019.

Table 1 highlights three key trends that emerged after the decision. First, fiduciary enforcement now operates under conditionality, replacing automatic *parate executie*. Second, debtor rights are strengthened, as repossession requires either consent or judicial confirmation. Third, creditor certainty is maintained, albeit with procedural adjustments that legitimize enforcement. These tendencies reveal a shift from unilateral enforcement to shared accountability, reducing conflict and enhancing legitimacy. The balancing of interests not only secures creditor recovery but also upholds debtor dignity as mandated by constitutional justice. Thus, the doctrinal and empirical realities demonstrate a harmonized enforcement regime where law serves both efficiency and equity.

Normative Foundations of *Rahn Tasjili* under DSN-MUI Fatwa No. 68/2008

The normative foundation of *Rahn Tasjili* is anchored in DSN-MUI Fatwa No. 68/2008, which formalizes collateral through registered proof of ownership (MUI, 2008). Unlike conventional fiduciary law that grants executive authority through certificates, *Rahn Tasjili* emphasizes the ethical preservation of the *marhūn* (collateral) with the *rahin* (debtor) while transferring only the document of title to the *murtahin* (creditor) (Bustanul Arifin & Moh. Ulumuddin, 2023).

The fatwa stipulates that repossession may occur only after maturity, preceded by notice to the debtor, and should be resolved fairly through sharia-compliant forums such as BASYARNAS (National Sharia Arbitration Board of the Indonesian Ulema Council) or Religious Courts. This framework balances creditor security with debtor protection by embedding due process into sharia practice. Thus, *Rahn Tasjili* represents an Islamic legal model that harmonizes enforceability with ethical accountability and procedural justice.

Although DSN-MUI Fatwa No. 68/2008 provides the normative framework for *Rahn Tasjili*, its operational enforceability within Islamic financial institutions must be grounded in regulatory recognition under the Financial Services Authority (OJK). Instruments such as POJK No. 31/POJK.05/2014 on Sharia Financing Products and SEOJK No. 36/SEOJK.05/2015: Concerning the Implementation of Sharia Financing Institution Operations, institutionalize the application of collateral mechanisms in accordance with Sharia principles. These regulatory frameworks serve as the positive-law foundation that transforms the ethical directives of the DSN-MUI fatwa into enforceable legal norms, ensuring that fiduciary-like guarantees under Islamic law attain both legal certainty and supervisory legitimacy within Indonesia's financial system.

The rationale of *Rahn Tasjili* lies in balancing creditor certainty with debtor dignity through ethical restrictions on repossession. In contrast to fiduciary practice, where creditors once held unilateral execution powers, the fatwa underscores that collateral execution must uphold fairness (*'adl*) and avoid harm (*darar*). This ensures that enforcement does not become an instrument of oppression. The fatwa requires *murtahin* to first notify the *rahin* upon maturity and allow repayment before proceeding with repossession. If unresolved, the collateral may be sold through fair mechanisms, and disputes must be resolved via BASYARNAS or Religious Courts.¹ These stipulations embed procedural safeguards within sharia law, aligning enforcement with the objectives of *Maqāṣid al-Sharī'ah*, particularly *ḥifẓ al-māl*. Thus, *Rahn Tasjili* strengthens the ethical dimension of collateral enforcement while preserving its legal enforceability.

To clarify the normative position of *Rahn Tasjili*, Table 2 provides a comparative overview of its key features alongside fiduciary enforcement. This comparison illustrates how both frameworks achieve creditor certainty and debtor protection through different doctrinal routes.

The comparative framework in Table 2 demonstrates that fiduciary enforcement and *Rahn Tasjili* share converging objectives despite different

normative origins. Both systems aim to protect creditors' rights while preventing injustice against debtors. Fiduciary enforcement, as revised by the Constitutional Court, now emphasizes due process; *Rahn Tasjili* ensures ethical safeguards through sharia values. Table 2 shows that while fiduciary law secures creditors through certificates with conditional executorial power, *Rahn Tasjili* secures them by depositing ownership documents while preserving the collateral with the debtor. In both, execution requires procedural fairness and transparency. Hence, *Rahn Tasjili* offers an ethical complement to fiduciary enforcement, highlighting that enforceability must align with justice and proportionality.

Table 2. Comparative Features of Fiduciary Security and *Rahn Tasjili*

Aspect	Fiduciary Security (Law No. 42/1999; MK Decision No. 18/2019)	<i>Rahn Tasjili</i> (DSN-MUI Fatwa No. 68/2008)
Object of Collateral	Movable property or registered assets are transferred in title to the creditor.	Collateral remains with the debtor (<i>rahn</i>); only the certificate/title is deposited with the creditor (<i>murtahin</i>).
Legal Basis	Positive law: Law No. 42/1999; Constitutional Court restricts <i>parate executie</i> to judicial process or debtor consent.	Sharia law: DSN-MUI Fatwa No. 68/2008; rooted in <i>fiqh al-mu'āmalāt</i> .
Execution Mechanism	Before MK Decision: unilateral repossession by the creditor. After the Decision, execution is only possible if the debtor admits to default or via the court.	Execution requires notice to the debtor; if unresolved, the sale of collateral through fair procedures; disputes resolved at BASYARNAS or the Religious Court.
Debtor Protection	Strengthened after MK Decision: repossession cannot be unilateral, must follow due process.	Emphasizes fairness (<i>ʿadl</i>), harm prevention (<i>ḍarar</i>), and protection of the debtor's dignity.
Creditor Certainty	Secured by a certificate with an executory clause, but now conditional on judicial process.	Secured by a deposit of the ownership document; repossession allowed only under ethical and procedural safeguards.
Normative Orientation	Formal justice and constitutional due process.	Ethical justice in line with <i>Maqāṣid al-Sharī'ah</i> (especially <i>ḥifẓ al-māl</i>).

Source: Compiled from Law No. 42/1999 on Fiduciary Security, Constitutional Court Decision No. 18/2019, and DSN-MUI Fatwa No. 68/2008 on *Rahn Tasjili*.

Table 2 reveals three important tendencies that define the normative orientation of *Rahn Tasjili*. First, collateral execution is conditioned by notice

and fairness, preventing unilateral repossession. Second, debtor dignity is upheld by keeping the collateral in their possession, reflecting a socio-ethical emphasis. Third, creditor certainty is preserved through the submission of title documents and recognized dispute resolution channels. These tendencies show that *Rahn Tasjili* rebalances the enforcement equation: creditors remain secure while debtors are protected from exploitation, and disputes are channeled into legitimate forums. This doctrinal design aligns enforcement with *Maqāṣid al-Sharī'ah*, especially *ḥifẓ al-māl*. Thus, *Rahn Tasjili* strengthens the moral legitimacy of enforcement by embedding procedural safeguards into sharia-based collateral law.

Toward Harmonization: Convergence of Fiduciary Law and *Rahn Tasjili*

The convergence of fiduciary enforcement and *Rahn Tasjili* offers a pathway toward harmonization between positive law and Islamic jurisprudence (Karimullah, 2022). While fiduciary law, post Constitutional Court Decision No. 18/2019, emphasizes due process and judicial oversight (Hariri & Samsul Arifin, 2025). *Rahn Tasjili* stresses ethical accountability and fairness in execution (Nasada et al., 2025). Both frameworks address the same challenge: striking a balance between creditor certainty and debtor protection. Fiduciary law curtails unilateral repossession, requiring either debtor acknowledgment of default or court approval, whereas *Rahn Tasjili* mandates prior notice and sharia-compliant dispute resolution. Despite their distinct origins, both converge in rejecting arbitrary enforcement and affirming proportionality (MUI, 2008); Mahkamah Konstitusi RI, Putusan Nomor 18/PUU-XVII/2019 (2019). Thus, harmonization is not only possible but necessary, as it integrates constitutional guarantees and sharia principles into a unified enforcement model.

While fiduciary security reflects a positivist conception of ownership transfer that prioritizes legal certainty and creditor protection, *Rahn Tasjili* represents a trust-based moral construct grounded in the Sharia objectives (*maqāṣid al-sharī'ah*). The philosophical contrast demonstrates that the fiduciary framework pursues economic efficiency and procedural certainty, whereas *Rahn Tasjili* seeks distributive justice and ethical equilibrium between creditor and debtor.

The rationale for harmonization arises from the complementary safeguards embedded in fiduciary law and *Rahn Tasjili*. Fiduciary enforcement, reinterpreted by the Constitutional Court, embeds judicial oversight to secure due process,

while *Rahn Tasjili* integrates ethical imperatives of fairness (*‘adl*) and harm prevention (*ḍarar*). These mechanisms, though distinct, both limit creditor arbitrariness. Empirical applications show that creditors can no longer unilaterally repossess collateral, and disputes must go through courts or recognized sharia forums (Fitri, n.d.; Mulyani et al., 2024; Suharto et al., 2020). In *Rahn Tasjili*, repossession requires debtor notification and transparent sale, ensuring debtor dignity. ² Together, these frameworks establish proportionality: creditors gain certainty through structured processes, and debtors are shielded from exploitation. Comparative scholarship confirms that systems uniting procedural safeguards and ethical controls create sustainable enforcement regimes (Kennett, 2025; Sweet & Mathews, 2019; Thulo et al., 2025). Therefore, harmonization is justified as both a doctrinal necessity and an ethical innovation, aligning legal certainty with *Maqāsid al-Sharī‘ah*.

Table 3. Convergence and Divergence between Fiduciary Enforcement and *Rahn Tasjili*

Aspect	Fiduciary Enforcement (Law No. 42/1999; MK Decision No. 18/2019)	<i>Rahn Tasjili</i> (DSN-MUI Fatwa No. 68/2008)	Convergence/Divergence
Legal Source	Based on statutory law and Constitutional Court jurisprudence.	Based on a sharia fatwa grounded in <i>fiqh al-mu‘amalāt</i> .	Divergence (different normative origins).
Collateral Position	Ownership title transferred to the creditor, the object remains with the debtor until default.	The title document is deposited with the creditor, object remains with the debtor.	Convergence (debtor retains possession).
Execution Requirement	Execution requires the debtor’s acknowledgment of default or court approval.	Execution requires debtor notification; sale only via fair, transparent mechanisms.	Convergence (no unilateral repossession allowed).
Debtor Protection	Protected through due process and judicial involvement.	Protected through ethical imperatives (<i>‘adl</i> , <i>ḍarar</i> prevention).	Convergence (debtor dignity prioritized).
Creditor Certainty	Certificate with an executorial clause conditional on the judicial process.	An ownership document ensures the creditor’s claim is secure.	Convergence (certainty preserved via documentation).
Normative Orientation	Formal justice and constitutional proportionality.	Ethical justice is aligned with <i>Maqāsid al-Sharī‘ah</i> (<i>ḥifẓ al-māl</i>).	Divergence in foundation, convergence in outcome.

Source: Compiled from Law No. 42/1999, Constitutional Court Decision No. 18/2019, and DSN-MUI Fatwa No. 68/2008.

To explore convergence more systematically, Table 3 identifies points of similarity and divergence between fiduciary enforcement and *Rahn Tasjili*. This synthesis demonstrates that despite distinct legal foundations, both regimes align in rejecting arbitrary repossession and affirming proportionality.

The comparative synthesis in Table 3 confirms that fiduciary enforcement and *Rahn Tasjili* converge on shared principles despite different legal origins. While fiduciary law derives authority from statutory and constitutional jurisprudence, *Rahn Tasjili* originates from Islamic jurisprudence and fatwa norms. Yet both frameworks equally reject unilateral repossession and embed debtor protection in their design. As shown in Table 3, creditors under both systems retain legal certainty through certificates in fiduciary law and ownership documents in *Rahn Tasjili*, while debtors are safeguarded by procedural fairness or ethical accountability. The divergence lies in normative foundations, but outcomes align in prioritizing justice and proportionality. Hence, harmonization is not an artificial merger but a natural convergence, reinforcing the legitimacy of enforcement under both constitutional and sharia law.

Table 3 highlights three observable tendencies that define the trajectory of harmonization. First, both regimes move away from absolute creditor dominance by requiring judicial or ethical procedures for the execution of judgments. Second, debtor dignity is protected consistently—whether through *due process* or sharia imperatives of *‘adl* and *ḍarar* prevention. Third, creditor certainty is preserved, albeit through documentation rather than unilateral authority. These tendencies reveal a paradigm shift: enforcement is no longer defined by coercion but by structured accountability. Harmonization thus reframes fiduciary law into an enforcement model that is legally valid, ethically defensible, and aligned with *Maqāṣid al-Sharī‘ah*. Consequently, harmonization emerges as both a doctrinal synthesis and a normative innovation, bridging the gap between positive law and Islamic legal ethics for sustainable enforcement.

Interpretation within the Framework of *Maqāṣid al-Sharī‘ah*

The findings of this study reveal that fiduciary enforcement and *Rahn Tasjili* converge on shared principles of proportionality, debtor protection, and creditor certainty. Fiduciary enforcement, recalibrated by Constitutional Court Decision No. 18/2019, now requires judicial oversight or acknowledgment by the debtor before execution. Meanwhile, *Rahn Tasjili* emphasizes ethical procedures, including debtor notification, transparent sale, and sharia-compliant

dispute resolution. Table 1 illustrates the shift in fiduciary law from unilateral repossession toward due process. Table 2 outlines the ethical safeguards of *Rahn Tasjili*, and Table 3 highlights convergences in debtor protection and creditor security. Together, these frameworks demonstrate a normative realignment toward fairness and sustainability. Thus, harmonization emerges as both an empirical necessity and a doctrinal innovation that integrates constitutional guarantees with sharia principles.

The harmonization of fiduciary enforcement and *Rahn Tasjili* can be theoretically explained through the principle of legal pluralism and the objectives of *Maqāsid al-Shari'ah*. Legal pluralism acknowledges the coexistence of multiple normative systems—statutory law, constitutional jurisprudence, and Islamic legal ethics—within the same legal order (Mukaddam, 2024; Salim, 2015). Harmonization becomes essential to prevent fragmentation and to create a coherent enforcement framework. In fiduciary law, the Constitutional Court emphasizes procedural due process to protect debtors, while in *Rahn Tasjili*, debtor protection is embedded through ethical imperatives (*ʿadl*, *hifz al-māl*, and *ḍarar* prevention). Comparative scholarship affirms that sustainable financial regulation requires integrating both formal legal certainty and moral accountability (La Torre et al., 2020; Ng, 2018). Therefore, harmonization can be understood not only as a doctrinal necessity but also as a theoretical manifestation of legal pluralism aligned with Sharia objectives of justice and wealth protection.

The harmonization of fiduciary enforcement and *Rahn Tasjili* carries significant implications for both legal scholarship and financial practice. For scholars, it enriches doctrinal analysis by demonstrating how positive law and Islamic jurisprudence can converge in securing justice and legal certainty. For practitioners, it establishes clearer procedures that reduce disputes and reinforce accountability. The shift mandated by Constitutional Court Decision No. 18/2019 ensures judicial oversight, while DSN-MUI Fatwa No. 68/2008 embeds ethical safeguards (MUI, 2008); Mahkamah Konstitusi RI, Putusan Nomor 18/PUU-XVII/2019 (2019). Together, they provide a balanced framework for resolving collateral disputes that is both enforceable and morally defensible. Comparative studies in Islamic finance have affirmed that integrating Sharia-based safeguards enhances public trust and financial inclusion (Defilania, n.d.; Taufik Syamlan et al., 2025). Thus, harmonization not only advances academic discourse but also enhances MSME financing and consumer protection within Indonesia's diverse legal landscape.

Compared to prior research, this study provides a distinct perspective by explicitly bridging fiduciary enforcement with *Rahn Tasjili*. National studies often focus on the doctrinal impact of Constitutional Court Decision No. 18/2019, highlighting its role in limiting unilateral execution (Dinata, 2020; Syafrida & Hartati, 2020). Meanwhile, Islamic legal scholarship has examined *rahn* contracts mainly in theoretical or ethical terms without integrating them with statutory frameworks (Ercanbrack & Ali, 2024). Internationally, Malaysian scholarship emphasizes documentation and sharia supervisory boards in ensuring accountability in Islamic finance (Aribi et al., 2019). By contrast, Indonesian scholarship has tended to separate fiduciary law from Islamic collateral mechanisms. This study contributes novelty by synthesizing both, presenting harmonization as a realistic model rather than parallel doctrines. Thus, this research moves beyond segmented analysis, situating Indonesia's fiduciary enforcement within a broader comparative discourse that connects constitutional law with sharia-based norms.

The harmonization of fiduciary enforcement and *Rahn Tasjili* can be interpreted as a realization of *Maqāṣid al-Sharī'ah* in the field of collateral law. At its core, *Maqāṣid al-Sharī'ah* seeks to preserve essential human interests, including the protection of wealth (*hifz al-māl*), justice (*'adl*), and the prevention of harm (*ḍarar*). Both fiduciary laws, after Constitutional Court Decision No. 18/2019, and *Rahn Tasjili* embody these objectives through different mechanisms. Fiduciary enforcement protects creditors while preventing abusive repossession by requiring judicial oversight. Meanwhile, *Rahn Tasjili* protects debtors by embedding fairness, consent, and procedural safeguards. Together, they illustrate that positive law and Islamic ethics converge on shared *maqāṣid*, ensuring equity in financial transactions (Al-Nahari et al., 2022; Ishak & Asni, 2020; Monawer et al., 2022). Therefore, harmonization should not be viewed merely as a technical adjustment, but as a normative effort to embody *Maqāṣid al-Sharī'ah* in Indonesia's pluralistic legal system.

Implementing the harmonization of fiduciary enforcement and *Rahn Tasjili* requires substantial steps at the regulatory, judicial, and educational levels. Without systematic follow-up, the doctrinal convergence identified in this study risks remaining theoretical and failing to have an impact on practice. Regulatory reform, judicial alignment, and capacity-building are critical to embedding harmonization. Regulators should issue guidelines that integrate fiduciary execution procedures with Sharia-based safeguards; courts must consistently interpret disputes under both statutory and fatwa norms; and financial institutions need training to design contracts that reflect dual compliance. Academic institutions

can also contribute by disseminating harmonization models in legal education and practitioner forums. Thus, harmonization should be institutionalized as a legal reform agenda, ensuring that fiduciary enforcement in Indonesia is both constitutionally sound and aligned with *Maqāṣid al-Sharī'ah*.

Conclusions

This study found that fiduciary enforcement and *Rahn Tasjīlī* converge on principles of proportionality, debtor protection, and creditor certainty. Fiduciary law, post Constitutional Court Decision No. 18/2019, restricts unilateral repossession, and requires either debtor consent or judicial approval, while *Rahn Tasjīlī* embeds ethical safeguards through notice, fairness, and sharia-compliant dispute resolution. Comparative analysis (Tables 1–3) shows that both frameworks limit creditor dominance, protect debtor dignity, and preserve creditor security through documentation. The divergence lies in their normative origins, statutory law vs. sharia fatwa, but outcomes align toward sustainable enforcement. Hence, harmonization emerges as both doctrinally necessary and ethically grounded, integrating constitutional guarantees with Islamic legal principles.

This study contributes both theoretically and practically to the discourse on fiduciary enforcement in plural legal systems. Theoretically, it extends the literature by positioning *Rahn Tasjīlī* as a complementary framework to fiduciary law, filling a research gap that often treats them separately. Practically, it informs regulators, courts, and financial institutions on designing harmonized enforcement mechanisms. The findings suggest that harmonization can reduce disputes, strengthen consumer protection, and enhance financial inclusion by aligning statutory procedures with sharia values. This dual compliance benefits both creditors and debtors by ensuring fairness, certainty, and ethical accountability. Thus, the study offers novelty in proposing harmonization as a viable model for Indonesia's legal pluralism and as a bridge between constitutional justice and *Maqāṣid al-Sharī'ah*. This novelty makes the study one of the first academic contributions to articulate fiduciary enforcement and *Rahn Tasjīlī* within a single harmonization framework, demonstrating how constitutional justice and *Maqāṣid al-Sharī'ah* can be operationalized together in Indonesia's plural legal system.

Despite its contributions, this study has several limitations that must be acknowledged. The research relies primarily on doctrinal and normative analysis of statutory law and fatwas without empirical field data from creditors, debtors, or judicial institutions. This may limit the generalizability of findings to actual

practice. While the study provides a comprehensive normative synthesis, future research should incorporate empirical case studies, interviews, or quantitative data to measure how harmonization impacts dispute resolution and financial inclusion. Comparative analysis with other jurisdictions, such as Malaysia or the Middle East, could further enrich insights. Therefore, this study should be viewed as a foundational step, with opportunities for empirical validation and cross-jurisdictional comparison in subsequent research.

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