



The Pursuit of Legal Harmony in the Integration of Sharia Economic Law Compilation, OJK Regulations, and DSN-MUI Fatwas

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Abstract

The present study aims to explore the depth of conflict of legal norms between the Sharia Economic Law Compilation (KHES), Financial Authority Services (OJK) regulations, and the National Sharia Board of the Indonesian Ulema Council (DSN-MUI) fatwas, investigate the causes of this normative divergence, and explore harmonization strategies to create legal certainty for Sharia financial institutions in Indonesia. Designed with normative legal research methodology, this study garnered data through literature review and analyzes it using interpretation method. Study findings demonstrate that there are eighteen different norms in the three regulations, with some differences resulting in conflict. The causes of these conflicts vary, including the use of ambiguous terms, adoption of conventional definitions, errors in translation of terms, and inconsistencies in concept development. In addition, the concurrent application of rules, differences in terminology, time gaps in issuance, and overlapping authorities also contribute to disharmony. This research contributes by offering a comprehensive solution, which includes identifying the sources of disharmony, harmonizing concepts and definitions, and applying legal interpretation and construction methods. This approach addresses the discrepancies and create a harmonious normative balance in policy and regulation. The implications of this research are very significant for Sharia financial institutions in Indonesia, as it identifies conflicts of legal norms between KHES, OJK regulations, and DSN-MUI fatwas and explores harmonization strategies.

Keywords: Normative Harmonization, Sharia Finance, Sharia Economic Law Compilation, Financial Authority Services Regulations, DSN-MUI Fatwas, Legal Certainty of Sharia financial institutions

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Introduction

Amid the rapid development of Sharia financial institutions (LKS) in Indonesia, which has expanded to various regions and includes the banking sector and non-bank financial institutions (Santi et al., 2019), there is an urgent need for a robust legal structure as the basis for operation of Sharia financial institutions. Without a solid legal framework, the establishment and operation of LKS will face various constraints (Widayanti & Sari, 2023). In response, the Indonesian government has consistently and gradually released regulations as an operational foundation for Sharia financial institutions. The Compilation of Sharia Economic Law (KHES) is one of these regulations, which serves as an essential guide for courts in handling Sharia economic cases (Atikah, 2017). The role of KHES is increasingly crucial, given the lack of other legislation with similar legal substance (Darwin, 2016).

In addition to KHES, the role of the Financial Services Authority (OJK) in supervising and regulating LKS cannot be ignored (Sari, 2019). Based on the Financial Services Authority Law No. 21 of 2011, OJK has issued a series of OJK Regulations (POJK) to guide the operations of LKS. Fatwas (legal opinions) of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) also play an essential role in providing direction in applying sharia principles in LKS. These DSN-MUI fatwas are often integrated into POJK or related regulations (Zein, 2018).

Nevertheless, the existence of these various sources of law creates two effects: on the one hand, they provide complementary support, but on the other hand, they also open up the possibility of legal disharmony (Keohane & Nye, 2001). There are, for example, disparities in the regulations on maintenance costs of *Ijarah* (rent) objects between KHES, DSN-MUI fatwas, and POJK, as well as in operational costs in *Mudharabah* (profit-plus) contracts.

Syarif's study shows that the development of Islamic economics in Indonesia is very rapid, supported by various laws and regulations such as Law No. 3 of 2006 concerning the authority of Religious Courts in handling Islamic economic disputes, Law No. 19 of 2008 concerning State Sharia Securities, and Law No. 21 of 2008 concerning Islamic banking. It has strengthened the legal basis of Islamic economics in Indonesia (Adam, 2018; Syarif, 2019). KHES is an effort to positivize sharia economic law into the Indonesian national legal system. KHES is a significant work and a breakthrough in Indonesia's economic law. Nevertheless, there are still several problems with its

application because it has yet to involve various experts and practitioners of Islamic law (Hasneni, 2016). Wahid's research reports that the DSN-MUI Fatwa has changed characteristics from classical fatwas (legal opinions) to contemporary fatwas with a binding legal force based on the law. This fatwa is explicitly intended for financial institutions and special authorities in Islamic economics, not only as an answer to questions but as an active response from DSN-MUI (Wahid, 2019). Financial Services Authority (OJK) in Indonesia is vital in regulating and supervising LKS under Law No. 21 of 2011. OJK has issued a series of OJK Regulations (POJK) to guide the operations of LKS, and these regulations often integrate DSN-MUI fatwas to ensure the implementation of Sharia principles in LKS (Salam & Irsyad, 2020). Further, implementing credit restructuring in Islamic financial institutions raises legal issues between bank and non-bank institutions, especially in the context of economic stimulus policies during the COVID-19 pandemic regulated by OJK. This policy shows differences in implementation that can lead to legal conflicts (Sakinah & Suherman, 2021)

Based on the aforementioned evidence, a closer investigation is required to explore the potential conflict between these legal norms, especially considering the importance of legal certainty in the legal system (Sudikno, 1993; Rahardjo, 2012; Julyano et al., 2019). Legal certainty is a fundamental pillar in legal principles and is essential to the integrity of the rule of law. In the context of LKS, realizing legal certainty is vital to ensure justice, support, and promote Sharia financial institutions.

Method

Designed with normative legal research, the present study focuses on forming legal arguments based on an in-depth analysis of the main issues at hand (Hadjon et al., 2005). To achieve this objective, the research utilized several approaches. First is a statutory approach, through a critical review of relevant legal rules such as KHES and POJK. Second is a conceptual approach, which outlines and understands key concepts or terminology related to the main issue (Berenskoetter, 2017), such as the various contracts in KHES, POJK, and DSN-MUI fatwas. Third is the analytical approach, which examines the substance of the articles in KHES, POJK, and DSN-MUI fatwas. Finally, a comparative approach, which compares the contents of KHES, POJK, and DSN-MUI fatwas to identify harmonious or disharmonious articles, provides a broader view of the interrelationships and differences between these regulations.

Data were garnered through the documentation method, where the researchers accessed and reviewed various relevant legal documents, regulations, and fatwas. The data regarding the aforementioned approaches were analyzed in depth. In applying the research themes, the researchers systematically organized the data obtained from the various sources to form a strong argument regarding normative harmony or incongruity. Through this process, the study highlights the problem of disharmony and proposes solutions based on an in-depth and structured analysis of empirical data.

Result and Discussion

Different Legal Norms between KHES, POJK, and DSN-MUI Fatwas

This research identified different legal norms when comparing KHES, POJK, and DSN-MUI Fatwas. These three regulations often regulate the same thing but with different terms and approaches (Anshary, 2023). For instance, in *murabahah* contracts, KHES uses the term *shahib al-mal* (financier), while DSN-MUI fatwas choose the terms seller and buyer. There is also a difference in the understanding of *Ijarah*, where KHES limits it to the lease of goods, in contrast to DSN-MUI fatwas, which expands it to include the lease of services (Kholili, 2023). It opens up the potential for diverse interpretations in its application by the Sharia financial institutions (Rizki, 2019).

Some cases include Bank Syariah M, where *murabahah* is used to finance house purchases. This Sharia bank acts as a seller who buys the house and then sells it to the customer with a profit margin (Nurawalunnisa, 2017). This practice follows the Fatwas of DSN-MUI, which uses the terms seller and buyer. At Bank MI, *shahib al-mal* (financier) is used when providing *murabahah* financing for vehicle purchases. This aligns with KHES, which uses this terminology (Surohman et al., 2022). Bank Syariah BN offers heavy equipment rental products such as cranes or excavators to construction companies. This agreement is called *ijarah*, according to KHES, because it relates to the lease of goods. Bank Syariah Indonesia provides business consulting services for micro, small, and medium enterprises (MSMEs) using an *ijarah* contract. This follows the Fatwa of DSN-MUI, which expands the definition of *ijarah* and includes services rental (Attamimi et al., 2019). Bank Syariah B offers *mudharabah* (profit-plus) savings products with a set profit-sharing ratio. For example, a customer deposits funds with a 60:40 ratio, where 60% of the profit goes to the bank and 40% goes to the customer. This follows the POJK, which uses the term *nisbah* (profit-sharing ratio) (Anggraini & Hasibuan, 2023). Bank Syariah BK uses a flexible profit-sharing approach following the fatwa of DSN-MUI. The profit-sharing ratio can be renegotiated quarterly based on investment performance. Many *baitul mal wa tamwil* (Islamic Savings and Credit Cooperatives; BMT), in Yogyakarta, Indonesia use profit-sharing principles to provide microfinance to small traders. The term used is often “profit sharing”, which is flexible according to the BMT and trader agreement, following the fatwa of DSN-MUI. Islamic principles prohibit *usury* (*riba*/lending at interest or excessive interest) and things that can encourage *usury*. Things that can lead to usury that Islamic Sharia prohibits are the combination of *qardh* (an interest-free loan) and sale and purchase contracts, as well as other exchange contracts, such as *ijarah*.

On the other hand, the Fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) Number: 26/DSN-MUI/III/2002 on Gold Rahn opens up opportunities for *usury* because it allows the combination of *qardh* and *ijarah* contracts (Hamid, 2023). The Indonesian Ulema Council (MUI) has used at least nine Qur’anic verses containing *syar’u man qablanā* (the Sharia law established by Allah) as the basis for establishing several fatwas, such as fatwas on *ijarah*, Islamic cards, multipurpose financing, *kafalah* (unilateral contract of guarantee where one party agrees to stand in the place of a debtor before his or her creditors), Islamic factoring, and other fatwas related to contemporary transactions (Rohim et al., 2023). This research found that the mobile narratives in cyberspace were not only in the form of dialog and contestation in the form of fatwas but also related to the religious authority they receive. Social media such as YouTube allows them to gain authority due to the democratic nature provided by social media (Hamdani, 2023).

The concept of *ta'min* (insurance) is also different (Nasrulloh & Mutaqqin, 2020). KHES likens it to conventional insurance, focusing on risk transfer, while DSN-MUI fatwas view it as risk sharing. In the context of payment for *bai' salam* (a form of forward contract when the price for an asset is paid upfront at the time of the contract) contracts, KHES allows for payment based on agreement, while the DSN-MUI Fatwa insists payment must be made when the contract is agreed, with the OJK circular letter allowing for advance payments (Mentorship, 2019).

The position of the *mudharib* (a working partner, who provides entrepreneurship, skill and management under a *mudharabah* agreement) in the *mudharabah* contract is also a subject of difference. KHES considers him a representative of *sahib al-mal*, but the DSN-MUI fatwa considers him a cooperative partner (Mudzhar, 2017). This relates to the rights of the *mudharib*, where KHES sees the *mudharib*'s profit as a reward for work, while the DSN-MUI fatwa deems it as part of the results of cooperation. Regarding mixing assets in *mudharabah* contracts, KHES prohibits this practice, unlike the DSN-MUI fatwa, which allows it.

There are also differences of opinion regarding the *mudharib*'s travel expenses. According to KHES, these costs are taken from the capital provided by *sahib al-mal*, while the DSN-MUI fatwa declares that these costs are the responsibility of the *mudharib*. These differences represent variations in terminology and the interpretation and implementation of the law, which can impact how sharia financial institutions conduct their operations. While many rules are similar, differences in details and applications create the need for customization and careful handling to avoid potential conflicts and maintain legal certainty.

Based on Gustav Radbruch's theory, which emphasizes that law should contain elements of justice, expediency, and legal certainty, legal norms that create uncertainty should be eliminated. Legal certainty is an essential law element, especially for written legal norms. With certainty, the law gains its essence as a guide for community behavior (Kansil, 2009). According to Otto, some of the main principles for achieving legal certainty include the existence of clear, consistent, and easily accessible rules; consistent application of rules by government agencies; public compliance with these rules; and consistent application of the law by independent and impartial judges in dispute resolution (Shidarta, 2006).

To achieve the ideal conditions described by Otto, which reflect legal certainty, it is crucial to have clear and consistent rules. Maria Farida argues that the three legal norms (KHES, POJK, and DSN-MUI fatwas) can be considered legal norms that apply continuously, are not limited by time, and will apply until revoked or replaced. However, given that KHES, POJK, and DSN-MUI fatwas have not fully met these criteria, realizing the legal certainty principle, as Otto illustrated, has yet to be fully achieved. Therefore, harmonization and clarification between these norms are essential to realize the desired legal certainty.

Sources of Conflicting Norms in KHES, POJK and DSN-MUI Fatwas

The growth of Islamic economics depends not only on the increasing number of actors and public awareness of Islamic economics but is also strongly influenced by the legal instruments that regulate it. This is due to the close and reciprocal relationship between law and economy, where law is essential in supporting economic growth (Iyan,

2012). Therefore, legal certainty is a crucial aspect that must be maintained by actors in the economic sector.

Specifically, the progress of the Islamic economy in Indonesia can be seen from the increase in Sharia financial institutions (LKS) and strong government support, as realized through Bank Syariah Indonesia. Regulations that support the activities of LKS have contributed significantly to this development. The availability and quality of regulations play a vital role in developing LKS in Indonesia.

LKS in Indonesia operates under various regulations, including Laws, Government Regulations, Presidential Regulations, Ministerial Regulations, and Government Agency Regulations, including KHES, POJK, and DSN-MUI fatwas. Hans Kelsen emphasized that legal norms should be consistent with higher norms, but there is no guarantee that lower norms always follow higher norms. In this case, the court can determine the final decision, particularly in conflict with legal norms. He also proposed the importance of judicial review in determining the constitutionality or legality of a legal norm. Every legal norm is considered valid until overturned by the competent authority through judicial review or, in the case of laws, through new legislation based on the *Lex posterior derogate priori* or by *desuetude* (Asshiddiqie, 2011).

In practice, there is norm disharmony between KHES, POJK, and DSN-MUI fatwas, which is caused by several disharmony factors such as excess legislation, differences in interests and interpretations, and obstacles in the application of regulations which include overlapping authorities and conflicts of interest (Slamet, 2010). This disharmony can occur due to misalignment between various laws or regulations, conflicts between laws and implementing regulations, conflicting central government policies, and differences between central and local government policies, resulting in uncertainty and conflicts of authority (Slamet, 2004).

Empirical evidence shows that regulations governing Sharia financial institutions (LKS) show differences in rules between one another, indicating disharmony caused by various factors (Adam et al., 2020). If traced, the regulations governing LKS include various rules such as KHES, DSN-MUI fatwas, POJK, laws, and government regulations, including specialist regulations for certain institutions such as Islamic banking, capital markets, insurance, pension funds, and certificates of Indonesian sharia banks (SBIS). The existence of many rules is one of the sources of disharmony in regulating LKS.

Differences in interpretation and technical understanding also contribute to the disharmony. This is evident from the variety of terms used in KHES and DSN-MUI fatwas, which reflect divergence in interpretation. For example, the constant changes and updates in the DSN-MUI fatwa, which tends to be more flexible than favorable law rules, expose the challenge of anticipating change. In this case, DSN-MUI fatwas often differ from existing rules because they constantly adapt to people's needs.

Overlapping authority and conflict of interest are essential to disharmony (Aristeus, 2021). For example, KHES, POJK, and DSN-MUI fatwas, each issued with different purposes and authorities, create potential conflicts in their application. The simultaneous application of various legal rules, without adequate harmonization efforts, often leads to conflicts of interest between institutions.

In a broader context, regulatory disharmony, known as hyper-regulation or legal obesity, is a common problem in many legal systems. This is often due to the dynamics of laws and regulations that must keep up with the rapid development of society, the hierarchical structure of regulations, and the complexity of the aspects of life regulated

(Hage, 1997; Sartor, 1992). In addition, norm conflicts can be caused by sectoral ego among regulation makers and the influence of complex government institutional structures, which often experience intersections and overlapping authorities.

Furthermore, a leaner government institutional structure and clear division of authority can help reduce potential disharmony and improve government effectiveness. This shows the importance of coordinated efforts in regulatory formation to ensure harmonization and minimize conflicts between existing rules.

Potential regulatory disharmony is often caused by various factors, which include the weak authority and influence of institutions responsible for legal harmonization. In addition, the knowledge and competence of lawmakers, including legislative drafters, still need improvement. Lack of rigor in the legal examination, non-comprehensive policy impact analysis, and changes in policy-making officials with different views and interests complicate harmonized law formation. Other technical factors, such as drafting methods, are essential in creating consistent and unambiguous regulations.

In the context of KHES, POJK, and DSN-MUI fatwas, the disharmony that occurs must be seriously addressed, considering that these three norms are the legal foundation for Sharia financial institutions (LKS) operations. The disharmony that must be addressed can lead to legal uncertainty in LKS operations. Informed by interviews conducted with several LKS, it was revealed that various institutions refer to different rules, which has implications for differences in the practice of activities, such as in *bai'as-salam* contracts. This can lead to potential disputes between parties in the LKS.

Some of the leading causes of disharmony between KHES, POJK, and DSN-MUI Fatwas (Yumarni, 2023) include the use of different or imprecise terms, the use of terms similar to conventional terms, errors in translation of terms, development of new concepts are inconsistent with old concepts, incomplete retrieval of fatwa concepts, and development of concepts without improving existing fatwas. For example, in the *murabahah* norm, the seller is referred to as *sahibul mal*, or in the SBIS norm, that only uses a *jualah* (contract form for promise of reward) contract. This approach often creates multiple and conflicting concepts.

To address the issue of disharmony, efforts should be made to reduce the sources of disharmony, including adjusting terminology, improving consistency in concept development, and ensuring that any changes in regulations are made by considering the overall legal framework. This approach tends to help create a more stable and predictable legal environment for LKS, reduce the likelihood of disputes, and strengthen legal certainty. A summary is shown in Table 1 below:

Table 1
Case Description

No	Case Description	Examples
1	Inappropriate use of terms	- The seller of <i>murabahah</i> is equated with <i>sahibul mal</i> . - <i>Tabarru</i> is translated into a non-savings contract.
2	Use of the exact definition as conventional concepts	- <i>Ta'min</i> means transfer of risk (a term used in conventional insurance activities).

3	Incorrect translation of terms	- Mutual funds translated into <i>sukuk Maliyah</i> . - <i>Kafalah</i> translates to guarantee, which should be a guarantee.
4	A new fatwa that elaborates on the old concept	- <i>Hawalah</i> without remuneration; currently, the new fatwa is <i>Hawalah bil Ujrah</i> .
5	Taking incomplete fatwa concepts	- <i>Ta'min</i> contract does not include <i>mudharabah musytarakah</i> contracts. - Certificates of Indonesian sharia banks (SBIS) are only <i>jualah</i> .
6	There is a concept development while the old fatwa has not been improved	- The mutual fund contracts in the fatwa are only <i>wakalah</i> and <i>mudharabah</i> , while in practice they currently use <i>wakalah bil ujarah</i> , <i>ba'i</i> , <i>ijarah</i> , and <i>mudharabah</i> .
7	Formulation of different concepts	- Payment terms in <i>bai as-salam</i> contracts differ between KHES, POJK, and DSN-MUI fatwas.

Harmonization of KHES, POJK, and DSN-MUI Fatwas to Promote Legal Certainty in Sharia Financial Institutions

Regulatory harmonization is a crucial step to ensure the stability and effectiveness of the law (Marikar, 2023). The harmonization aims to maintain harmony, resilience, and integrity of laws and regulations to function effectively. In addition, harmonization is a preventive effort to avoid judicial review requests and ensure that the rule-making process is based on legal principles to meet the needs and legal certainty (Setiadi, 2007).

Harmonization also plays a role in preventing and overcoming legal disharmony (Sefton-Green, 2010; Syahlan, 2021). This is achieved through legal discovery, reasoning, and rational argumentation to affirm the will of law, society, and morals. When disharmony occurs, as explained by Kusnu Goesniadhie, steps such as identification of causes, legal discovery through legal interpretation and construction, legal reasoning, and the formation of rational argumentation are needed to change the disharmonious state of the law into a harmonious one (Slamet, 2004).

According to John Henry Merryman, in legal harmonization, three models can be used, i.e. tinkering, following, and leading (Glendon et al., 1971). The tinkering model optimizes existing laws with certain adjustments, while the following model focuses on adapting laws to social change. The leading model is more proactive, using the law to bring about social change. In the context of Islamic financial institutions, the leading model is the best choice because it can adapt to rapid developments and provide anticipation of liberalization in the banking, finance, trade and economic sectors in general.

In legal harmonization efforts, some crucial approaches that need to be applied include the laws and regulations approach, where alignment and harmonization of regulatory objectives, strategies, and guidelines are carried out based on the principles embedded in the 1945 Constitution and other regulations that support good governance.

In addition, an approach focuses on harmonization between the two institutions, which involves adjustments through legal interpretation, legal reasoning, and the establishment of rational argumentation. This approach considers the interests of both institutions involved and constantly integrates religious values to create legal products that are effective and just. In this way, legal harmonization plays a vital role in bringing order to the implementation of the law and ensuring the effectiveness and fairness of the legal system as a whole (Pistor, 2002).

Positive legal systems often face norm conflicts, where two or more positive legal norms for the same regulatory object contradict each other (Kreuder-Sonnen & Züm, 2020). In these circumstances, complying with one norm often means violating another, which necessitates the derogation or negation of the validity of one of the norms. Ideally, this derogation is regulated through a specific positive law norm, known as a “derogation norm”, which explicitly determines the prevailing norm among the conflicting norms. However, in many cases, norm conflicts occur in the absence of a clear derogation norm, hence the need for norm conflict principles such as *lex superior derogat legi inferiori*, *lex specialis derogat legi generali*, and *lex posterior derogat legi priori* as a basis for legal reasoning and argumentation in resolving such conflicts.

Legal reasoning based on this principle must be systematic and logical to produce valid and acceptable legal arguments. First, the principle of hierarchy underlines the importance of coordination between central and regional regulations in the hierarchy of legislation, emphasizing obedience and principles between the two types of regulations (Simanjuntak, 2019). Second, the principle of *lex posterior derogat legi priori* emphasizes the need to refer to higher regulations in the hierarchy of laws and regulations, prioritizing the existence and compliance with higher regulations as the basis for forming lower regulations. This helps to create a just and systematic legal system. Third, the *lex specialis derogat legi generalis* principle confirms that more specific regulations will override more general regulations, showing that laws are made to create justice and ensure that no interpretation deviates from the original purpose of making regulations, providing a sense of legal certainty in society.

Thus, the search for solutions to norm conflicts in laws and regulations is carried out by applying these norm conflict principles (Kelsen, 2017). These principles contain the principle that laws and regulations at a higher, more specific, or more recent level have priority and can negate the validity of regulations at a lower, more general, or older level. This approach is essential in ensuring fair and efficient resolution of norm conflicts.

In the practice of positive law, the problem of norm conflict is often encountered, where two or more positive legal norms that apply to the same regulatory object contradict each other. This situation requires derogation or negation of the validity of one norm to comply with another norm. Ideally, the negation of the validity of a norm should be explicitly stated through a derogation norm, which answers the question of which norm has valid legal force between conflicting norms. However, there is often a conflict of norms without an explicit derogation norm, so the principles of conflict of norms, such as *lex superior derogat legi inferiori*, *lex specialis derogat legi generali*, and *lex posterior derogat legi priori*, are used as tools of legal reasoning and argumentation to determine which norm takes precedence.

In its application, this norm conflict principle must be used systematically and logically, where the *lex superior* principle becomes the primary consideration in determining the validity of a norm. If there is a conflict between two equal rules, the *lex specialis* principle must take precedence over the *lex posterior*. In the context of *lex specialis*, proving that a rule is *lex specialis* can be done by considering the general-specific criteria of regulation and whether the norm contains at least one key factor not present in the more general norm. This approach harmonizes formal and informal logic in law to produce valid and acceptable legal arguments.

Harmonization and synchronization of legal products need to be carried out not only when forming new laws (Chandra et al., 2020; Muhapilah et al., 2023) but also on existing legal products because legal dynamics can cause existing legal products to become disharmonious or out of sync with new regulations. The harmonization function is essential in legal scrutiny to identify potential norm conflicts. Although cases of norm conflict in the absence of derogation norms are complex, the principle of norm conflict is essential in finding norms that should be applied, eliminating contradictions between norms, and maintaining the legal system as an orderly and harmonious order.

One way to avoid disharmony between regulations is to equalize the wording in various regulations, although this step is difficult because each regulation has different purposes and intentions. For example, the position of KHES issued through the Supreme Court Regulation (PERMA) shows that PERMA is not a higher legal product and is only authorized to make internal regulations (Sa'diyah et al., 2021).

Positive legal systems often face norm conflicts, where two or more conflicting positive legal norms exist for the same regulatory object—in this situation, complying with one norm results in a violation of the other norm, which requires derogation or negation of the validity of the other norm. Ideally, the derogation of a norm's validity is explicitly regulated through a "derogation norm" that determines which norm prevails among the conflicting norms. However, cases of norm conflict often occur without a clear derogation norm, so in practice, norm conflict principles such as *lex superior derogat legi inferiori*, *lex specialis derogat legi generali*, or *lex posterior derogat legi priori* are used as legal reasoning and argumentation tools to determine which norm takes precedence.

In the application of these principles, there is a debate among legal experts regarding their effectiveness in resolving norm conflicts (Dunoff et al., 2023). It is argued that determining which norm applies in the case of norm conflict cannot be based solely on a meta norm such as principles, principles, or legal logic but must be explicitly stated in a separate norm, namely the derogation norm. The derogation norm is considered the most effective way to avoid differences in interpretation because it explicitly answers the question of which norm has valid legal force among conflicting norms. The aim is to create legal certainty, which is one of the fundamental values of law, according to Gustav Radbruch.

Using the norm conflict principle as a tool of legal reasoning and argumentation must be carried out with a systematic and logical approach by ensuring that determining a legal rule as *lex superior*, *lex specialis*, or *lex posterior* is a correct statement. Regarding norm conflicts between equal regulations, the *lex specialis* principle must precede the *lex posterior*.

In addition, in the context of Islamic economics and LKS, it is essential to harmonize and synchronize existing regulations, such as KHES, POJK, and DSN-MUI fatwas, to avoid norm disharmony. This step is essential to ensure clarity and legal certainty, which will minimize the occurrence of disputes, including sharia economic disputes in LKS. Legal certainty, as an essential principle in law, is also a mandate of Article 6 Letter i of Law No. 12 of 2011, which states that the substance of a regulation must contain legal certainty. This idea is emphasized in law as a guide in behavior and the importance of a fixed, clear, and consistent law.

Legal certainty is a fundamental aspect of the law, recognized in the 1945 Constitution Article 28D paragraph 1, guaranteeing that every citizen of the Republic of Indonesia is entitled to recognition, guarantees, protection and certainty of a just law and equal treatment before the law. The principle of legal certainty ensures that the law is implemented appropriately and effectively, given that certainty is one of the main objectives of law. Without certainty, the identity and meaning of the law become unclear, and the law will no longer be effective as a guide to behavior for everyone.

To ensure legal certainty, especially for actors and service users in Sharia financial institutions (LKS), there needs to be harmony and complementarity between the rules that become a reference for LKS in Indonesia. In the context of LKS, legal certainty means regulatory consistency and law enforcement in implementing Islamic economic activities, including settling Islamic economic disputes. The consistency of this regulation is indicated by regulations that do not contradict each other and can be used as guidelines for resolving disputes.

Harmonization of regulations in Islamic economics, including KHES, POJK, and DSN-MUI fatwas (Zufriani & Ayu, 2023), is critical and needs to be done immediately, especially on contradictory norms. This harmonization includes the adjustment of KHES with other regulations governing the Sharia economy in Indonesia, especially with DSN-MUI fatwas and POJK. The importance of this harmonization is also emphasized in new regulations made for LKS, such as Bank Indonesia (BI) and Financial Services Authority (OJK) regulations, which need to be adjusted to the DSN-MUI Fatwa, considering that the technical rules for implementing Islamic economics in Indonesia are generally sourced from these fatwas.

Thus, legal harmonization in the Islamic financial sector is essential to create legal certainty, which is vital for the development of LKS itself and for providing confidence to the public in using LKS products and services. Through more substantial legal certainty, it is expected to minimize the occurrence of disputes and increase public confidence in the Islamic financial system.

In the context of legal certainty for Sharia financial institutions (LKS), the consistency of regulations and law enforcement is essential (Wardhani, 2023), especially regarding Sharia economic dispute resolution. This certainty is characterized by regulations that do not contradict each other, and that can be used as a reference in dispute resolution. Therefore, harmonizing regulations in the Sharia economic sector, including KHES, POJK, and DSN-MUI fatwas, is essential, especially for norms that are found to be contradictory. In this harmonization process, cooperation between various parties, including the Supreme Court, Religious Courts, Ministry of Finance, and Bank Indonesia,

needs to be prioritized, and adjustments must be made to the use of consistent terms and definitions in all regulations. Intense socialization and integration of regulations into one consistent rule will help prevent disharmony.

If there is disharmony in KHES, POJK, and DSN-MUI fatwas, the approach suggested by Kusnu Goesniadhie can be applied, namely through identification of the causes of disharmony, legal discovery using methods of legal interpretation and construction and reasonable and logical legal reasoning. This approach is expected to produce rational legal arguments and support good governance.

Sociological and philosophical approaches are crucial in forming laws and regulations (Johnstone & Ingleby, 2020). The sociological approach ensures that regulations reflect the social reality of society, while the philosophical approach is concerned with legal ideals that ensure justice, order, legal certainty, and public welfare.

Another crucial contributing factor in the development of Islamic financial institutions is the support of proactive legislation, providing a legal framework (Berger-Walliser & Shrivastava, 2014) and solid regulations. In addition, the issue of different years of issuance and position between KHES, POJK, and DSN-MUI fatwas also affects harmonization. Regulations set at different times often require synchronization and adjustment to current conditions and needs, so regulations for the same aspects and with the same objectives should not be regulated through different legal products. This is important to maintain consistency and legal certainty within the scope of Islamic financial institutions in Indonesia.

Conclusion

The present study showcases eighteen different norms identified in KHES, POJK, and DSN-MUI fatwas. Although these differences do not necessarily lead to legal contradictions, some norms are substantially different, creating different legal consequences and disturbing the principle of legal certainty. The causes of this disharmony vary, ranging from imprecise terms and definitions that match conventional concepts to incorrect translations of terms and the formulation of different concepts. Other essential factors, such as the simultaneous application of rules, differences in terminology, time gaps in rule issuance, and overlapping authority, also contribute to this disharmony. This situation demands serious and careful handling because the three norms are fundamental in regulating the activities of Sharia financial institutions (LKS), and continued disharmony can result in legal uncertainty in LKS.

Efforts to harmonize KHES, POJK, and DSN-MUI fatwas to achieve legal certainty for LKS in Indonesia involve identifying the causes of disharmony, concept or definition alignment, and legal discovery through legal interpretation and construction. In resolving norm conflicts, norm conflict principles, such as *lex superior derogat legi inferiori*, *lex specialis derogat legi generali*, and *lex posterior derogat legi priori* should be used systematically and logically to ensure the validity of a norm. This approach ensures that the applicable law best suits the context and needs of LKS in Indonesia.

This study faces limitations in terms of data and information, mainly because its focus is restricted to analyzing the norms in KHES, POJK, and DSN-MUI fatwas that existed up to the time of the study. With the rapid development in the Islamic finance

sector, new regulations or changes in existing regulations may need to be accommodated. In addition, the scope of this research is limited to the harmony of legal norms in LKS, not addressing other aspects of the Islamic financial system, such as economic or social, or its comparison with the conventional financial system. The research methodology that is more qualitative and focuses on legal principles is also a limitation due to the need for a detailed quantitative analysis of the impact of norm disharmony on LKS practices.

Further studies could expand the sources of data and information, including analysis of the latest regulations and changes in existing regulations, to illustrate the current dynamics in Islamic finance law. Future research could also broaden its scope to include other aspects of Islamic finance, such as comparisons with conventional financial systems and the social and economic impacts of implementing Islamic finance law.

This study can provide recommendations on the harmonization of terminology and definitions as an essential first step to overcome norm disharmony in Islamic finance regulations, which can be done by holding regular discussion forums between regulatory bodies such as the National Sharia Board of the Indonesian Ulema Council (DSN-MUI), Financial Authority Services (OJK), and Sharia Economic Law Compilation (KHES) drafters to identify and harmonize the terminology and definitions used in their regulations. In addition, establishing cross-sector expert teams that formulate standardized terminology and definitions that can be accepted by consensus will be very helpful in achieving uniformity of interpretation and application of the law. Strengthening inter-agency coordination is also essential for the simultaneous application of rules. Therefore, inter-agency coordination in implementing new rules should be improved, including joint issuance or consultation before promulgating new regulations to avoid norm conflicts. Joint training and workshops for Islamic financial institutions should be organized to ensure a mutual understanding of the applicable regulations. In addition, periodic review and revision of regulations should be conducted to ensure relevance and conformity with the latest developments in the Islamic finance sector by establishing an independent panel to evaluate and provide recommendations for regulatory changes.

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