

THE APPLICATION OF FINAL AND BINDING PRINCIPLES IN SHARIA ECONOMICS DISPUTE RESOLUTION THROUGH BASYARNAS

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Received: 21/03/2021; Reviewed: 07/08/2021; Accepted: 09/08/2021.

DOI: <https://doi.org/10.24815/kanun.v23i2.20439>

ABSTRACT

This study aims to determine the application of the final and binding principles in sharia economic dispute resolution through Basyarnas. This research method used empirical research with secondary and primary data. Secondary data was complemented by primary and secondary legal materials, while primary data was obtained through interviews. The data analysis was carried out in a descriptive qualitative manner. The results indicated that the final principle is applied to the settlement of sharia economic disputes through Basyarnas when the parties have received the sharia arbitration decision and do not object to the decision issued by Basyarnas, or when one of the parties submits an objection to the sharia arbitration decision, and the arbitrator re-signed the revised decision in accordance with Article 58 of Law Number 30 of 1999 and Article 20 of the 2017 Basyarnas Rules of Procedure. The final sharia arbitration decision will have binding power for the parties (binding) after the decision is registered with the Religious Court in accordance with the respondent's regional laws.

Key Words: final and binding principles; basyarnas; islamic economics.

INTRODUCTION

Sharia Economics based on the explanation of Article 49 Letter (i) of Law 3 of 2006 concerning Amendments to Law Number 7 of 1989 concerning Religious Courts as amended by Law Number 50 of 2009 are "actions or business activities carried out based on sharia principles, which include: sharia banks, sharia microfinance institutions, sharia insurance, sharia reinsurance, sharia mutual funds, sharia bonds and sharia medium-term securities, sharia securities, sharia financing, sharia pawnshops, sharia financial institution pension funds, and business sharia", which is based on Article 37 letter i of Law No. 3 Th. 2006. In its development, the Supreme Court Regulation Number 14 of 2016 concerning Procedures for Settlement of Sharia Economic Cases

explained that commercial *waqf*, *zakat*, *infaq*, and *shadaqah*, both contentious and volunteer, are part of sharia economic cases.

The development of Islamic economic activities in Indonesia is relatively rapid. Referring to statistical data on Islamic banking in 2018, the number of BUS spread is 478 Operational Head Offices (KPO), 1199 Branch Offices (KC), and 198 Cash Offices (KK). In addition, the distribution of the number of UUS is 153 Operational Head Offices (KPO), 146 Branch Offices (KC), 55 Cash Offices (KK). On March 14, 2003, the Islamic capital market was launched with the first objective of making the public aware of several sharia instruments such as sharia shares, sharia mutual funds, and sharia bonds (Rahman, 2019).

The data above illustrates that the development of the Islamic economy in Indonesia is relatively fast, but the rapid development of the sharia economy is also accompanied by the increasing number of disputes that occur in the field of Islamic economics. According to data submitted by Hermansyah until November 2016, sharia economic disputes reached 146 disputes, compared to 10 years earlier, the increase in sharia economic disputes reached more than ten times. Azizah said additional economic disputes from 2016 to 2019, sequentially from 2016-2019, sharia economic disputes totaling 146 disputes, 229 disputes, 287 disputes, and 312 disputes, respectively (Hermansyah, 2016).

Settlement of sharia economic disputes itself can use litigation, namely dispute resolution through the courts based on Law Number 3 of 2006 concerning Amendments to Law Number 7 of 1989 concerning Religious Courts, the authority of religious courts includes sharia economic cases. Settlement of sharia economic disputes can also use non-litigation channels, which are dispute resolution outside the court, through the National Sharia Arbitration Board (Basyarnas).

Basyarnas is the only arbitration institution in Indonesia that uses sharia principles which has the authority to examine and decide on muamalah disputes that arise in the fields of trade, finance, industry, services, and others (Komarudin, 2014). The legal basis of Basyarnas includes Law

Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution and also SK. MUI Leadership Council No. Kep-09/MUI/XII/2003 dated December 24, 2003, concerning the National Sharia Arbitration Board.

Dispute resolution at Basyarnas prioritizes peace and seeks an agreement between the parties. The parties can choose which laws to be used to resolve the dispute. Settlement of disputes at Basyarnas can also be agreed upon by the parties before the dispute occurs (*pactum de compromittendo*) or after the dispute occurs (*acta compromise*). Dispute resolution at Basyarnas also results in a decision that is final and binding, which means that the decision is the first and last level decision and has binding legal force for the parties, and also no other legal remedies can be taken, either appeal, cassation, or review. This is in accordance with Article 60 of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution that “The arbitration award is final and has permanent legal force and is binding on the parties”.

The application of the final and binding principle in dispute resolution through Basyarnas, especially in sharia economic disputes, indeed there are still many differences of opinion, both from experts and from the arbitrators themselves, this is based on several factors, one of which is the existence of legal rules related problems with the application of final and binding principles and differences in perception and understanding among arbitrators and practitioners and observers of Islamic economics.

The final and binding principle in dispute resolution through Basyarnas will later be produced in the form of a sharia arbitration decision which has binding legal force for the parties if it has been registered with the Religious Court. The problem that occurs until now is that there are still different legal rules regarding the scope of the judiciary used to register sharia arbitration decisions. This is related to the existence of Article 59 of Law no. 30 Th. 1999. The article states that the arbitration award is registered by the arbitrator or his proxy to the Registrar of the District Court.

The Supreme Court in the matter mentioned above has given a rule by issuing a Supreme Court Circular (SEMA) Number 8 of 2008, which states that the one who has the authority to carry out the execution of the Basyarnas decision is the religious court, but with the legislation that appears namely Law Number 49 of 2009 concerning Judicial Powers resulting in legal uncertainty, because Article 59 paragraph (3) states that: "In the event that the parties do not implement the arbitration award (including sharia arbitration) voluntarily, the decision is carried out based on the order of Chairman of the District Court at the request of one of the disputing parties".

The problem of legal uncertainty increased when in 2010, the Supreme Court issued SEMA Number 8 of 2010 and annulled SEMA No. 8 of 2008. In SEMA No. 8 of 2010, it was stated that the District Court has the authority to execute Basyarnas decisions. SEMA Number 8 of 2010 is not the core of the problem. Still, the core of the problem lies in Article 59 paragraph (3) of Law No. 48 of 2009 which if this Article still exists, it is as if the absolute authority given to the Religious Courts as regulated in Article 49 letter (i) of Law No. 3 of 2006 that the authority to settle sharia economic cases has been removed.

In 2013 there was a Constitutional Court Decision Number 93/PUU-X/2012 whose ruling stated that the Explanation Section of Article 55 of Law no. 21 of 2008 has no binding force, which means that with the decision of the Constitutional Court, the absolute competence of sharia economic dispute resolution returns to the religious court. The consequence is that after the decision of the Constitutional Court No. 93/PUU-X/2012, related to the settlement of sharia economic disputes if there is an article in the legislation that mentions the District Court, it must be read by the Religious Court. The phenomenon is also related to the registration of sharia arbitration decisions should be to the clerk of the Religious Court.

The above problems have also been overcome with the issuance of Supreme Court Regulation (PERMA) Number 14 of 2016 concerning Procedures for Settlement of Sharia Economic Cases so that the absolute competence of sharia economic dispute resolution becomes the authority of the

Religious Courts. Similarly, in dispute resolution outside the court through sharia arbitration, registration of decisions and their execution is through the Religious Courts. However, according to the author, the basis for the birth of PERMA is still a regulation that is contradictory in its substance, especially in the regulation regarding who has the authority to execute sharia arbitration because basically sharia arbitration decisions still have to be registered with the clerk of the Religious Courts in order to realize the application of the principle of binding or binding for the parties.

Based on some of the descriptions above, the author is interested in researching the application of the final and binding principles in settlement of sharia economic disputes through Basyarnas with the formulation of the problem of how to apply the final and binding principles in settlement of sharia economic disputes through Basyarnas. This research contributes to the development of Basyarnas in particular and Islamic Economic Law in general.

RESEARCH METHODS

This research used the empirical method with primary and secondary data. Secondary data was extracted from primary and secondary legal materials (Dewata & Achmad, 2010). Primary legal materials included the Qur'an, Hadith, Legislation (Law Number 30 of 1999, Law Number 21 of 2008, PERMA Number 14 of 2016), and Decree of the Indonesian Ulema Council Number Kep-09/MUI/ XII/2003. The secondary legal materials were from books, articles in scientific journals, research results, and articles from the internet relating to dispute resolution through sharia arbitration institutions in applying final and binding principles. Primary data was conducted by researching Basyarnas DIY and Jakarta through interviews with the Chairperson of Basyarnas DIY: Mr. Agus Triyanta, and Secretary of Basyarnas Jakarta: Mr. Muhammad Nur and Mrs. Euis, as well as making observations in the process of final and binding implementation. The resulting data were

analyzed descriptively and qualitatively by providing an overview of the application of the final and binding principles in the settlement of sharia economic disputes through Basyarnas.

DISCUSSIONS AND ANALYSIS OF RESULTS

The development of sharia economic activities in Indonesia is increasing, according to the data mentioned in the previous explanation by the author, becoming one of the factors increasing disputes or disputes that occur in sharia economic activities. According to data submitted by Hermansyah (Hermansyah, 2016), until November 2016, sharia economic disputes reached 146 disputes. Compared to 10 years earlier, the increase in sharia economic disputes multiplied by more than ten times. Azizah (Azizah, 2020) stated additional economic dispute cases from 2016 to 2019, sequentially from 2016-2019 sharia economic disputes totaling 146 disputes, 229 disputes, 287 disputes, and 312 disputes. The increasing number of sharia economic disputes must be balanced with the quality of sharia economic dispute resolution institutions that are getting better.

The Religious Courts and Basyarnas, which are sharia economic dispute resolution institutions in Indonesia, are an option for the community to resolve sharia economic disputes. Settlement of sharia economic disputes can be done through litigation and non-litigation.

The institution that has the authority to resolve sharia economic disputes through litigation is the Religious Courts, in accordance with Law Number 7 of 1989 concerning Religious Courts, which has been amended by Law Number 3 of 2006, which states that the authority of religious courts is to examine, resolve and decide the following issues: (1) marriage; (2) inheritance; (3) will; (4) grants; (5) waqf; (6) zakat; (7) infaq; (8) sadaqah; and (9) sharia economics.

Meanwhile, non-litigation settlement of sharia economic disputes is carried out through Basyarnas, which is the only sharia arbitration institution in Indonesia. In accordance with Article 58 of Law Number 48 of 2009 concerning Judicial Power, it states: "Efforts to settle civil disputes can be carried out outside the state court through arbitration or alternative dispute resolution".

Coupled with the explanation contained in the same law, elucidation of Article 59 of Law No. 48 of 2009 states that “arbitration in this provision also includes sharia arbitration”.

Article 55 of Law Number 21 of 2008 concerning Sharia Banking also provides provisions that arbitration institutions have the authority to resolve sharia banking disputes where sharia banking is included in sharia economic activities, in Article 55 of Law Number 21 of 2008:

- (1) Sharia Banking dispute resolution is carried out by the court within the Religious Courts.
- (2) In the event that the parties have agreed on a dispute resolution other than as referred to in paragraph (1), the dispute settlement shall be carried out in accordance with the contents of the contract.
- (3) The dispute resolution as referred to in paragraph (2) may not conflict with the Sharia principles.

Despite that, Article 55 does not clearly state that the authorized institution is a sharia arbitration institution. However, the General Section of the Elucidation of Law No. 21 of 2008 stated that sharia arbitration institutions also have the authority to resolve sharia economic disputes. It is even more evident in the explanation of Law Number 21 of 2008 in the general explanation that it is stated that if there is a dispute arising from sharia banking activities, one of them can be resolved through an arbitration institution.

Settlement of sharia economic disputes through Basyarnas begins with the agreement of the parties that in the event of a dispute, the chosen institution is a sharia arbitration institution, the agreement can be carried out before a dispute arises (*pactum de compromittendo*), and an agreement can also be made after a dispute occurs (a deed of compromise). As regulated in Article 9 paragraph (3) of Law Number 30 of 1999, the contents of the agreement must at least contain:

- a. Disputed matter;
- b. Full names and places of residence of the parties;
- c. Full name and place of residence of the arbitrator or arbitral tribunal; where the arbitrator or arbitral tribunal will make decisions;
- d. Secretary's full name;
- e. Dispute settlement period;
- f. A statement of willingness from the arbitrator, and;
- g. A statement of willingness of the disputing parties to bear all costs necessary for the settlement of the dispute through arbitration.

This discussion is limited to non-litigation related to sharia economic dispute resolution or sharia dispute resolution through Basyarnas. As the only sharia arbitration institution in Indonesia, Basyarnas is well known by the public, especially people who often carry out sharia economic activities.

The research to Basyarnas DIY resulted in data on sharia economic dispute resolution as described in table 1.

Table 1. Sharia economic disputes registered for settlement through Basyarnas DIY 2016-2021.

No.	Years	Number of Cases
1	2016	10
2	2017	5
3	2018	2
4	2019	8
5	2020	-
6	2021*	1
	Total	26
*Data was until February 2021		

In the data above, there are quite a number of disputes resolved by Basyarnas for the Special Region of Yogyakarta. This shows that the community is interested in resolving sharia economic disputes through Basyarnas. In addition to the data above, the number of disputes resolved through Basyarnas Jakarta until the results of this research were written reached 29 cases. This data was obtained from the results of an interview with Mrs. Euis from Basyarnas Jakarta. Based on this data, it can be used as a motivation to improve the quality of arbitrators at Basyarnas, especially in dispute resolution through Basyarnas.

Final and binding are some of the legal principles. Accordingly, legal principle is a general and abstract basic thought or the background of a concrete regulation (Jenie, 2007). These legal principles do not belong to the positive law, but they become the foundation of the positive law. Therefore, legal principles are not binding on the community because they are not positive laws, but

legal principles can be binding on the community if they have become part of positive law, such as the legal principles of final and binding.

The National Sharia Arbitration Board is the only sharia arbitration institution in Indonesia. One of the authorities of this Basyarnas is to resolve sharia economic disputes in Islamic law, as well as maintaining the relationship between the disputing parties (Nasution & Siregar, 2011). Dispute resolution at Basyarnas is also carried out quickly, simply, and at a relatively lower cost than litigation.

The settlement of sharia economic disputes through Basyarnas applies final and binding principles. The application of final and binding principles in dispute resolution at Basyarnas is based on regulations relating to arbitration. In all these regulations, it is emphasized that in settlement of disputes through arbitration, the final and binding principles are always applied. Several regulations that confirm this include: Article 60 of Law Number 30 of 1999, which states: "The arbitration award is final and has permanent legal force and is binding on the parties", Article 19 paragraph (1) of the Procedure Regulations of the National Sharia Arbitration Board which states: "The decision of Basyarnas which the Arbitrator has signed is final and binding for the parties to the dispute, and must be obeyed and implemented voluntarily", Article 32 paragraph (2) of UNCITRAL which states: "The award shall be made in writing and shall be final and binding on the parties. Accordingly, the involved parties must carry out the award without delay", Pasal 53 ayat (1) ICSID: "The award shall be binding on the parties and shall not be subject to any appeal or to any other remedy except those provided for in this convention. Each party shall abide by and comply with the terms of the award except to the extent that enforcement shall have been stayed pursuant to the relevant provision of this convention."

Each process in the settlement of sharia economic disputes through sharia arbitration will result in decisions that are final and binding, and this is one of the advantages of sharia arbitration in resolving sharia economic disputes. This final and binding principle is applied not only to the

final arbitration award but also during the dispute resolution process. Even during the mediation or reconciliation process, the peace decision is also final and binding as regulated in Article 13 of the Procedure Regulations of the Basyarnas:

- (1) During the trial period until before the decision is made, the Arbitrator must seek peace between the parties, and the disputing parties can make peace.
- (2) If peace is reached, the Arbitrator Council shall make a decision on peace which is final and binding on the parties and instructs the parties to comply with the contents of the peace decision.
- (3) The reconciliation decision shall be registered by the Arbitrator/Arbitrator Council/Proxy at the Religious Courts in accordance with the provisions of the prevailing laws and regulations.
- (4) If peace is not reached, the examination process will continue.

In Sharia arbitration decisions, apart from being final and binding, the process for making sharia arbitration decisions is also carried out by means of deliberation. Sharia arbitration decisions are also made based on justice and propriety (*ex aequo et bono*) and in accordance with legal provisions.

In discussing the final and binding principles, it is also necessary to know the meaning of the two phrases. The final phrase in the Big Indonesian Dictionary (Chulsum & Novia, 2006) has the meaning of the final stage of a series of examinations (work, competition), the phrase binding (binding) has the meaning strengthen (grip). Both have interrelated meanings between the phrases final and binding. These words mean the final process in the examination stage, which ends with a binding or unifying decision, and the decision must be carried out.

The final and binding principle on the settlement of sharia economic disputes through Basyarnas is applied based on the laws and regulations. One of them is in Law Number 30 of 1999, which clearly explains that an arbitral award is a final and binding decision, meaning that the decision can no longer be taken by other legal remedies such as appeal, cassation, or judicial review. However, the final and binding nature applied to sharia arbitration decisions is different from the final and binding principles applied to the decisions of the Constitutional Court.

The application of the final and binding principles in settlement of sharia economic disputes through Basyarnas is inseparable from the legal process carried out. The results of the author's observations which were carried out directly at the Basyarnas DIY office and conducted interviews with Mr. Agus Triyanta, who is the Chair of Basyarnas DIY, there are several procedural processes until the final and binding principles are applied.

Settlement of disputes at Basyarnas begins with applying for sharia arbitration by the applicant to Basyarnas. At this stage, the applicant completes the conditions determined so that the dispute resolution process can be carried out as stipulated in Article 3 of the Procedure Regulations of the National Sharia Arbitration Board. The most important thing before applying for sharia arbitration is that there must be an arbitration clause included in the agreement/contract, whether it is an agreement/contract before a dispute occurs or after a dispute occurs.

After the administrative process is completed, an appointment of a panel of arbitrators and mediators will be made by the Chairman of Basyarnas because in the sharia arbitration process, before conducting a sharia arbitration trial, a mediation session must first be conducted involving the disputing parties. The selection or process for the appointment of this arbitration panel has also been regulated in Article 4 of the Procedures for the National Sharia Arbitration Board. After the formation of a panel of arbitrators and mediators, at the first session, the parties can file an objection. If the panel of arbitrators chosen by the Chairman of Basyarnas is deemed inappropriate, the request for objection must be accompanied by the reasons.

In the event that the parties accept the determination of the panel of arbitrators and mediators, the first mediation session will be held, involving the parties, the mediator, and the court secretary to record the proceedings of the trial. This mediation trial will be conducted three times. If the mediation session fails to make peace three times, then the trial is continued with an arbitration session, chaired directly by the Chairperson of the Arbitrator Council.

The arbitration hearing must be conducted in private because in accordance with the principles in the proceedings through Basyarnas, which must maintain confidentiality so that all proceedings of the trial must be carried out in secret. The Arbitral Tribunal in presiding over the trial must act fairly. In treating the parties, there should be no distinction. The parties in the arbitration hearing shall be examined by the Arbitration Tribunal either orally or in writing. As with the examination at a trial in court, the parties also submit replicas, duplicates and provide evidence, and if necessary, the Arbitrator Council may summon witnesses or experts for questioning. This examination process must comply with Article 10 of the 2017 National Sharia Arbitration Board Procedure Regulations.

The next stage is conducting an examination process by the Arbitrator Council in the Sharia arbitration session. The Arbitral Tribunal may make a decision. Sharia arbitration decisions are taken based on deliberation. When the deliberation reaches a dead end, then the decision is made by a majority vote. Therefore, the Arbitrator Council in the sharia arbitration trial must have an odd number. The decision taken by the Arbitrator Council must be based on legal provisions, or the decision is made based on the principles of justice and propriety. The decision must not conflict with the petition of the petitioner, and there shall not be an *ultra petita*, or a decision that exceeds the petition of the petitioner unless there is a reconvention from the respondent, which is submitted together with the exception (if any) and the answer.

The decision is taken, within 30 days after the examination is closed, the sharia arbitration award must be readout. If the parties object to the decision, they are given the opportunity to submit an amendment in accordance with Article 58 of Law Number 30 of 1999: arbitrator or arbitral tribunal to make corrections to administrative errors and or add or reduce a claim for a decision.

At this stage of the process, the final and binding principles have not been applied to the settlement of sharia economic disputes through Basyarnas, after the authors analyzed Article 58 of Law Number 30 of 1999 and strengthened by observations and interviews with the Chairperson of

Basyarnas DIY, the final principle at this stage has not been applied because when the parties object to the sharia arbitration award, they can still apply for the revision of the sharia arbitration award. The application for correction of this decision is submitted to the Basyarnas Secretariat and also submitted to the opposing party as a copy.

The request for improvement of the arbitral award as stated in Article 58 of Law Number 30 of 1999 and Article 20 of the Procedure Regulation of the National Sharia Arbitration Board of 2017, in the explanation of Article 58 it is stated that there are several things that can be submitted for improvement in administrative matters, namely if there are errors in typing or there is an error in writing the names, addresses of the parties or the arbitral tribunal, and others if the application is only related to administrative corrections then it is not allowed to change the content of the decision. In addition, it is also stated that it is also possible to apply for additional or reduced claims, meaning that the parties can submit objections to the sharia arbitration award if the decision provides a decision that the opposing party does not demand, does not contain one or more things that are requested to be decided, or contains matters that contradict one another in the decision.

This request for correction must be submitted within 14 days after the award is received, based on Article 20 paragraph (2) of the Procedure Regulations of the National Shariah Arbitration Board, the arbitrator or the Arbitration Council may also make improvements on their own initiative on the sharia arbitration award that has been pronounced, the time of the correction This is also the same, namely for 14 days after the decision is pronounced, corrections made on the arbitrator's own initiative can also be made only on the number of calculations, errors in typing or printing occur.

The request for correction submitted by one of the parties who object to this sharia arbitration decision must be corrected and re-signed by the arbitrator or the Arbitrator Council within 14 days after the request for correction is received by Basyarnas. After the amendment of the decision is signed by the arbitrator or the Arbitrator Council, this final principle is attached to the sharia arbitration award.

The sharia arbitration award which has been signed by the arbitrator or the Arbitrator Council must be registered with the Religious Courts, in accordance with Article 59 in conjunction with Article 1 point 4 of Law no. 30 Th. 1999 and also regulated in Article 19 of the Procedure Regulations of the National Sharia Arbitration Board, stipulates that a signed sharia arbitration award must be registered with the Religious Courts according to the respondent's jurisdiction within 30 days after the decision is pronounced. Article 59 paragraph (1) of Law no. 30 Th. 1999: "Within a maximum period of 30 (thirty) days from the date of pronouncement of the award, the original or authentic copy of the arbitration award shall be submitted and registered by the arbitrator or his proxy to the Registrar of the District Court". After the Constitutional Court Decision No. 93/PUU-X/2012 which returns the absolute competence of sharia economic dispute resolution to the religious courts, then the purpose of the contents of Article 59 paragraph (1) of Law no. UU no. 30 Th. 1999 related to the registration of the original sheet or an authentic copy of the Sharia arbitration award to the Registrar of the Religious Courts in accordance with the jurisdiction of the respondent.

With regard to the registration of sharia arbitral awards, it is strengthened by the Supreme Court Regulation (PERMA) Number 14 of 2016, which states that the implementation of arbitral awards is carried out by courts within the scope of the Religious Courts. The issuance of this Supreme Court Regulation is considered to have resolved legal problems or uncertainties regarding which institution is authorized to execute sharia arbitration decisions, where previously there were legal problems at the time of the emergence of SEMA No. , canceled by SEMA Number 8 of 2010. SEMA Number 8 of 2008, which was canceled by SEMA Number 8 of 2010, was based on Article 59 paragraph (3) of Law Number 48 of 2009. In comparison, Law No. 7 of 1989 concerning the Religious Courts has been amended by Law Number 3 of 2006, which states that the settlement of sharia economic disputes is the absolute authority of the Religious Courts.

However, the problem of registering sharia arbitral awards has not been resolved, despite the issuance of PERMA Number 14 of 2016, which has restored the authority of the Religious Courts in registering and executing sharia arbitral awards. This is because the basis for the birth of the PERMA is still contradictory regulations in substance, especially in the regulation regarding who has the authority to register and execute sharia arbitration decisions. This greatly affects the application of the final and binding principle in settlement of sharia economic disputes through Basyarnas, because basically, sharia arbitration decisions still have to be registered with the Registrar of the Religious Courts so that the decision can bind the parties (binding) so that the decision has executorial power.

Therefore, sharia arbitration decisions must be registered after being signed and pronounced by the arbitrator or the Arbitrator Council. After being registered, the sharia arbitration award is final and binding, which means that the sharia arbitration decision can no longer be taken by other legal remedies such as appeal, cassation, or judicial review, and this sharia arbitration award is binding on the parties. This is the advantage of the proceedings at Basyarnas compared to the proceedings in court. In the proceedings in court, if one of the parties objected, they had to take another legal remedy through an appeal. If still not satisfied, an appeal was made to a judicial review, all of which would take a very long time and cost much money.

CONCLUSIONS

The application of the final and binding principles is applied in the settlement of sharia economic disputes through Basyarnas. The application of the final and binding principles cannot be separated from the stages carried out in resolving sharia economic disputes, from the sharia arbitration application process to the registration of sharia arbitration decisions to the Religious Courts. This final and binding principle is attached to the sharia arbitration award. This sharia arbitration award will be considered a final decision if the disputing parties have accepted and have

no objections to the sharia arbitration decision decided by the arbitrator or arbitration panel or when one of the parties submits an objection against the sharia arbitration award, and the arbitrator re-signs the corrected award, in accordance with Article 58 of Law Number 30 of 1999 and Article 20 of the Procedures for the National Sharia Arbitration Board (Basyarnas) of 2017. The final sharia arbitration award will have binding force on the parties after it is registered with the Religious Courts in accordance with Article 59 in conjunction with Article 1 point 4 of Law Number 30 of 1999 and Article 19 of the Procedure Regulations of the National Sharia Arbitration Board (Basyarnas) of 2017.

Based on the research results above, the writer recommends that there be reforms or changes to the rules governing Basyarnas, including Law No. 30 of 1999 and Law No. 48 of 2009, so that there are no more conflicts between laws. Especially in the rules for registering sharia arbitral awards because they will significantly impact the application of the final and binding principles. It would be even better if there were laws specifically regulating sharia arbitration. Furthermore, to provide a sense of security to justice seekers who intend to choose a sharia arbitration institution, in this case, Basyarnas as an institution that resolves sharia economic disputes, must improve the skills and knowledge of its arbitrators so that Basyarnas can provide fast, simple and low-cost services with final and binding principles, and can be applied and the community or other parties. As a result, disputing parties are no longer hesitant to choose Basyarnas as a sharia arbitration institution that resolves sharia economic disputes through non-litigation.

ACKNOWLEDGEMENT

We would like to thank the heads of the Faculty of Law of Universitas Muhammadiyah Yogyakarta, who have allowed the author to publish the results of this research. Appreciation is also extended to the reviewers who contributed to reviewing this article.

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