



## Sharia Economic Dispute Resolution At The National Sharia Arbitration Board (BASYARNAS) MUI East Java: SWOT Analysis

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### ABSTRACT

This study examines the effectiveness of sharia economic dispute resolution through the National Sharia Arbitration Board (BASYARNAS) MUI East Java using SWOT analysis. Qualitative research methods with an analytical descriptive approach were used to analyze the strengths, weaknesses, opportunities, and threats of BASYARNAS in resolving sharia economic disputes. Primary data was obtained through an in-depth interview with the Chairman of Basyarnas, a Law Lecturer at Brawijaya University as well as a Notary, namely Dr. Mahdi Ahmad M.SH. M.Kn.. Meanwhile, secondary data comes from arbitration award documents and related literature. The results of the study show that BASYARNAS has strength in religious legitimacy and sharia expertise, but faces weaknesses in terms of socialization, the requirement for an arbitrator is a minimum of 15 years of experience and infrastructure. The biggest opportunity lies in the growth of the sharia economy in East Java while the main threat is competition with conventional dispute resolution institutions. The recommended strategies include increasing socialization, technology development, and improvement as well as strengthening performance in the internal scope.

### INTRODUCTION

The National Sharia Arbitration Board (BASYARNAS) is an independent Arbitration institution formed by the Indonesian Ulema Council (MUI). Basyarnas is an alternative institution that plays a strategic role in the settlement of sharia economic disputes (Alternative Dispute Resolution / ADR) outside the Court. This institution focuses on sharia economic dispute cases both in terms of sharia finance, business actors, and people who transact based on sharia contracts.

In practice, the existence of BASYARNAS in the region is important because it is able to provide faster services, relatively affordable costs, and processes that are in accordance with sharia principles (Arifin, 2021). However, the lack of public understanding of the role of Basyarnas, so that it has an impact on the number of disputes handled.

Referring to Law Regulation Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (General, 1999), Basyarnas is an institution recognized as resolving sharia economic disputes. The role and duty is to provide legal certainty through a final and binding Arbitration award.

However, as the times progress, there are new challenges that are increasingly emerging, such as: competition between institutions, limited internal resources, and improving the quality of services to the satisfaction of the community. In this case, BASYARNAS needs to evaluate the strengths, weaknesses, opportunities, and threats (SWOT analysis) faced. This is very important to improve the quality of services, strengthen institutional capacity and foster trust from the community, so that it can be the main option in resolving sharia economic disputes.

## **LITERATURE REVIEW**

### **Sharia Economic Disputes**

A dispute is a dispute that occurs between one party and another related to a valuable right, either in the form of money or objects (Anita D.A. Kolopaking, 2013). A sharia economic dispute is a conflict between two or more people related to the field of sharia-based economic and financial business. The factors that occur in a dispute can be caused by differences in the interpretation of a contract, the existence of defaults, violations of an agreement that is not in accordance with sharia principles.

Based on Law Number 3 of 2006 concerning Religious Courts, the settlement of sharia economic disputes can be carried out through religious courts or through arbitration institutions. This choice of settlement forum provides time and cost flexibility for the parties to choose the litigation and non-litigation path according to the agreement. Basyarnas is an alternative institution for resolving sharia economic disputes outside of court (non-litigation) which can be a very appropriate solution both in terms of cost and time.

### **Contracts in Sharia Economics**

An agreement is an agreement between two or more people who agree with each other, namely that each party is obliged to carry out what has been agreed upon beforehand. If one of the parties defaults or violates, he will receive sanctions according to the contract (Adiwarman A. Karim, 2007).

The contracts applied in Sharia Economics include: Ijarah (Renting), Murabahah (profit sharing), Musyarakah (Mutual capital cooperation) and so on. (Abdul Ghofur Ansori., 2007). As the times get more rapid, the Sharia Economy has also experienced many developments.

Therefore, it is important to improve the contracts implemented by the Sharia Economy, so that more and more laws and regulations provide opportunities for the implementation of these contracts. for financial institution transactions, such as Law No. 7 of 1992 concerning banking in the reform era, marked by the approval of Law No. 10 of 1998.

The Law is regulated in detail the legal basis and types of businesses that can be operated and implemented by Islamic banks. This law has opened the direction for conventional banks to convert themselves into Islamic banks. (Antonio, 2001)

### **Arbitration as an Alternative Dispute Resolution Institution**

Alternative Dispute Resolution is an institution that resolves disputes or differences of opinion through a process agreed upon by both parties, including: out-of-court settlement through consultation, negotiation, mediation, and conciliation (Margaret, 2024) . One method of dispute resolution is negotiation, where the parties agree to resolve their problems through negotiation or deliberation. (Ros Angesti Anas Kapindha, Salvatia Dwi M, 2014) According to Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution.

Arbitration in Islamic law is known as *tahkim*, which is etymologically derived from the word *hakama* which means to decide or impose a law. According to Wahbah al-Zuhayli (2011), *tahkim* is the transfer of power by two parties in dispute to a third party to decide their dispute based on sharia law.

The basis of sharia arbitration is found in the Qur'an Surah An-Nisa verse 35: "If you are worried that there is a dispute between the two, then send a *hakam* from the male family and a *hakam* from the female family." This verse shows the legitimacy of arbitration as a dispute resolution mechanism in Islam (Syafe'i, 2019).

### **Sharia Financial Institutions**

Sharia Financial Institutions are important institutions in the economy. Based on Law No. 14 of 1967 concerning banking principals, financial institutions are organizations that collect funds to be returned to the public. There are 2 differences between Islamic and conventional finance, namely: 1. Conventional finance is a place that facilitates those who want to save excess finances and those who need finance. Meanwhile, in sharia finance, the difference is only in the principle used, namely using sharia principles. (Ikhsanti, 2022)

### **National Sharia Arbitration Board (BASYARNAS)**

Arbitration comes from the Latin word *arbitrare* or *arbitrage*, which means a power to resolve a case according to its decision or discretion decided by the arbitrator and where the decision must be enforced (Subekti, R., 1980). Basyarnas is the only institution for resolving sharia economic disputes outside the judiciary in Indonesia (Frans Hendra Winarta, n.d.). With the existence of Article 1 number 1 of Law No. 30 of 1999 which regulates Arbitration and alternative dispute resolution (General, 1999) which resulted in BANI (Indonesian National Arbitration Board and BASYARNAS (National Sharia Arbitration Board). In accordance with sharia principles, BASYARNAS was established to resolve disputes in the field of sharia economics in a fair, fast, and inexpensive manner (Irfan et al., 2017). The Islamic banking, Islamic insurance, Islamic capital market, and other Islamic economic transactions are included in the authority of BASYARNAS.

The structure of BASYARNAS East Java includes the following:

- Mr. Dr. Mahdi Ahmad Mahfud, SH., MKn. (Chairman)
- Vice chairman
- Treasurer
- Secretary
- Arbitrator

Dispute Resolution Process (Mariantika, 2024) in BASYARNAS East Java Usually, disputes are resolved through the following stages: a. By attaching evidence that there is a sharia arbitration clause in the agreement, the disputing party can apply for arbitration b. Examination of files by the secretariat c. The appointment of arbitrators is carried out based on the decision of the Basyarnas or the agreement of the parties d. Closed arbitration court e. The final and binding reading of the decision f. Registration of a judgment in the District Court to obtain executory authority. The study of dispute resolution at BASYARNAS cannot be separated from an in-depth analysis of internal and external factors that affect its performance. In this case, SWOT analysis is an appropriate instrument to assess the extent to which institutions are able to maximize their potential and anticipate existing obstacles.

### **SWOT Analysis in the Context of Arbitral Institutions**

Almost every company or business observer uses SWOT analysis. The use of this SWOT Analysis has actually been around for thousands of years and has been used to develop long-term business strategies so that the goals of the company can be clearly achieved in the face of

business competition (Freddy Rangkuti, n.d.). So, SWOT Analysis is a strategic approach that functions to systematically identify various factors in order to formulate a company's strategy (Baroto, T., & Purbohadiningrat, 2014). This analysis rests on the idea that strengths and opportunities must be optimized, while weaknesses and threats are problematic situations that do not benefit the company that need to be minimized (Slamet, R., Nainggolan, B., Roessobiyatno, Ramdani, H., Agung, Hendriyanto, & Ilma, 2016). SWOT Analysis (SWOT analysis) consists of efforts to find out the strengths, weaknesses, opportunities and threats that determine the performance of the Company itself. Regarding external information about opportunities and threats, it can be obtained from various sources, including: government documents, suppliers, banks, other company partners, including the customers themselves. In this case, no company has the same strengths and weaknesses in all aspects of the business (Rangkuti, 2008). Align with the mindset (Jogianto, 2005) that SWOT is used to assess the weaknesses and strengths of the resources owned by the company and the challenges as well as opportunities that are being passed. In this case, the SWOT analysis strategy is suitable to be used in the development of the progress of Basyarnas so that it can compete with the Religious Court and the District Court.

## METHODS

### Analysis Method

This research was conducted at the BASYARNAS MUI East Java office located at Jl. Wisma Pangesangan 204 Surabaya, in the period August-September 2025. The data collection technique in this study was obtained through an in-depth interview with the Chairman of the East Java Basyarnas, Mr. DR. Mahdi Ahmad M.SH. M.Kn, literature, in the form of arbitration award documents, and laws and regulations. The research method uses qualitative descriptive. The analysis used is the descriptive analysis method, SWOT Matrix and SWOT diagram analysis.

### Data Analysis Techniques

Data analysis uses the Miles and Huberman model with stages of data reduction, data presentation, and conclusion drawn. For SWOT analysis, a SWOT matrix and an IE (Internal-External) matrix were used to formulate a BASYARNAS development strategy. SWOT analysis is a continuation of the analysis of internal- external conditions, where internal factors in the form of strengths and weaknesses are combined with external factors in the form of opportunities and threats that produce several alternative strategies for the development of Basyarnas. Both factors should be considered with a SWOT analysis (Rangkuti F, 20014).

$$\text{SWOT Matrix} = (\text{S-W}) + (\text{O-T})$$

Description: S : Strengths W : Weaknesses O : Opportunities T : Threats

## RESULTS

### Profile of BASYARNAS MUI East Java

The Indonesian Ulema Council established the East Java MUI BASYARNAS in accordance with the MUI Decree No. Kep-09/MUI/XII/2003, namely on December 24, 2003 (Garcia et al., n.d.), which was previously called the Indonesian Muamalat Arbitration Board (BAMUNI). In 2003 as the regional representative of the central BASYARNAS (Collins et al., 2021). The requirements to become an arbitrator are based on Article 12 of Law No. 30 of 1999 (Rahmat et al., 2008) namely at least 35 years old, and have experience and mastery in the field of dispute resolution for at least 15 years. In 2024-2025, Basyarnas has handled sharia economic dispute cases 8 times (Mahdi, 2025).

### BASYARNAS MUI East Java Development Strategy

After combining the strengths, weaknesses, opportunities, and threats of the development of Basyarnas using SWOT analysis, it is likely that alternative strategies can be developed to compete with the Religious and District Courts. To determine alternative competitive strategies that use IFAS is in the following way: (a)

Determine the factors of the strategy strengths and weaknesses or opportunities and threats. (b) Determine each weight on a scale from 1.0 (very important) to 0.0 (non-important). These factors can make it possible to provide strategic alternative impacts. (c) Count each fact on a scale ranging from 4 (highest) to 1 (lowest). The value of the probability factor is positive (the odds are getting bigger with the number +4, but if the odds are small, then a value of +1 is given for the opposite threat value. For example, if the threat value is very large, it is given a score of 1 but if the threat is small, it is given a value of 4. (d). Determine the rating value by multiplying the weight and rating. (e) Perform the sum of the weight score to obtain the weighting of IFAS.

**Table 1. Identification of Factor Analysis Summary (IFAS) Basyarnas MUI East Java**

Internal Factors	Weight	Rating	Score
Final and Binding Decisions	0,15	4	0,60
Popularity as an institution under the auspices of the MUI	0,10	3	0,30
Limitations in terms of promotion and socialization	0,15	2	0,30
Obstacles to regeneration to become an arbitrator Minimum 15 years of experience	0,20	1	0,20
Limited number of Arbitrators and Professional Human Resources	0,15	2	0,30
Relatively cheaper costs than litigation	0,10	3	0,13
Limited infrastructure and digitalization support	0,15	2	0,30
Total	1,00		2,30

Source : Primary Data Analysis Results, 2025

Remark : The result of multiplication between Weight and Rating

Based on the results of the Score of 2.30, it shows that the Internal condition is still very weak. It is evident that although BASYARNAS has strengths, weaknesses in terms of promotion, human resources, and internal regulations are more dominant.

**Table 2. External Factor Analysis Summary (EFAS) BASYARNAS MUI East Java**

External Factors	Weight	Rating	Score
Government regulatory support	0,15	3	0,45
Comparison of best practices with Malaysia	0,10	3	0,30
Lack of public awareness of Basyarnas	0,15	2	0,30
Religious Courts that still dominate	0,20	1	0,20
Execution regulations that are still	0,15	2	0,30

vulnerable are weak			
Development of Banks, Sharia Cooperatives and Fintech	0,15	4	0,60
International level Arbitration Competition (SIAC, ICC etc)	0,10	2	0,20
<b>TOTAL EXTERNAL FACTORS</b>	<b>1.00</b>	-	<b>2.35</b>

Based on the combined results of the IFAS-EFAS analysis (Mashuri & Nurjannah, 2020), The number of external factors of 2.35 and the number of internal factors of 2.30 shows that the position of external factors is in a fairly favorable position because there are significant opportunities both from Government regulation and the growth of the Islamic economic sector even though the threat from the Court of Religion and International Arbitration is still quite strong, thus placing Basyarnas Mui East Java in Quadrant II (Turnaround Strategy).

The external factors can be seen from the increasing amount of public awareness with the existence of Basyarnas which can be a solution in resolving sharia disputes faster and is final binding (Mahdi, 2025). Although the initial financing is more expensive, the parties will reach an agreement without anyone being harmed. In addition, the development of arbitration in Malaysia can be a role model for Basyarnas in increasing its existence in resolving economic disputes. But unfortunately, the weakness of internal factors still needs to be improved and renewed, both in terms of promotion to the wider community, as well as obstacles in human resources to become an arbitrator. This results in the performance of arbitrators who cannot optimize in taking advantage of an existing opportunity.

With this, the strategy (solution) that needs to be improved is a turnaround strategy that plays a role in restoring or improving the development of the position of an institution quickly and efficiently, and innovative and strong leadership is needed (Prihatiningsih & Susanti, 2023). The ways that can be taken include:

1. Increase promotion and socialization to the community by collaborating with lecturers, students, advocates, and Islamic financial institutions in introducing more closely what Basyarnas are.
2. Updating the provisions of the policy requirements to become an arbitrator, especially in experience without neglecting qualified qualities, aims to increase the regeneration of an arbitrator to be more dynamic.
3. Building relationships with Religious Courts as well as international arbitration institutions in an effort to increase public attraction to Basyarnas and strengthen the legitimacy of judgments.
4. Utilizing support from the government in expanding sharia arbitration services in Indonesia.

In this case, it can be concluded that the settlement of sharia economic disputes in Basyarnas East Java has great potential in its development, but the success in the long term is very determined by the ability of an institution and openness to the shortcomings it has because the goal is to be able to evaluate weaknesses to get strategies and solutions to the problems faced, as well as make internal improvements in order to be able to take advantage of external opportunities by Optimal.

After grouping between opportunities, threats, strengths, and weaknesses of the development of Basyarnas, it will then be analyzed using the SWOT method in order to get alternatives in competing with religious courts and district courts. Based on the results of the SWOT analysis and position in the IE matrix, Basyarnas MUI East Java is in the position of "Grow and Develop" with the following recommended strategies:

**Table 3. Strategy Matrix of SWOT BASYARNAS MUI East Java**

	STRENGTH(S)	DISADVANTAGES (W)
<b>OPPORTUNITY (O)</b>	<b>S-O Strategy</b> 1. Increasing its status as a leading arbitration institution 2. Creating a unique arbitrage product for sharia fintech	<b>W-O Strategy</b> 1. Strengthening socialization through collaboration with Islamic financial institutions, lecturers, advocates, and students. 2. Improve the arbitration system with an online basis
<b>THREAT (T)</b>	<b>S-T Strategy</b> 1. Utilizing the legitimacy of the MUI to strengthen competitive advantage. 2. Increasing competitive advantage based on sharia Compliance.	<b>W-T Strategy</b> 1. Capacity building of arbitrators and infrastructure 2. Strengthening cooperation with universities

Source: Data Processed, 2025.

Based on this strategy, it can be known that:

1. The SO (Strength Opportunity) strategy is a strategy that uses the power of increasing its status as a leading arbitrage institution, creating a unique arbitrage product for Islamic fintech.
2. The ST (Strength Threat) strategy uses a strategy of strength such as utilizing the legitimacy of the MUI to strengthen competitive advantage, and increase competitive advantage based on sharia compliance
3. The WO (Weakness Opportunity) strategy is a strategy that minimizes the weaknesses that exist in Basyarnas by strengthening socialization through collaboration with Islamic financial institutions, students, lecturers, and advocates. Improve the online-based sharia arbitration system.
4. The WT (Weakness Threat) strategy is a strategy that minimizes weaknesses by increasing the capacity of arbitrators who are more innovative and expert in their fields, increasing cooperation with related institutions, as well as improving in terms of infrastructure (Wiswasta & Agung, 2018).

## CONCLUSION

Based on the results of the research conducted, it can be concluded that: BASYARNAS MUI East Java has the main strength in the form of religious legitimacy from the MUI and the expertise of arbitrators in sharia business law. The decision is final binding which does not harm either party where in this decision both parties agree, and the settlement process is faster and the cost is cheaper than in the Court.

Due to the lack of socialization of the community, the lack of public attraction and the experience requirement to be an arbitrator of at least 15 years, this hinders the regeneration and availability of professional human resources, resulting in the weakness of Basyarnas in the internal sphere. The biggest opportunity for BASYARNAS lies in the growth of the sharia economy in East Java and the support of

government regulations. Meanwhile, the main threat comes from competition with conventional arbitration institutions and public preferences that are still leaning towards district courts. Third, BASYARNAS' position in the IE matrix is in the "Growing and Developing" quadrant with an internal factor score of 2.22 and an external factor of 2.42, which indicates quite good conditions for further development.

The increasing growth of Islamic economic and financial in East Java, regulatory support from the Government, and cooperation with universities, students, and Islamic financial institutions can be opportunities in increasing the role of Basyarnas.

## **SUGGESTION**

Based on the results of the SWOT analysis, some strategic suggestions for the development of BASYARNAS MUI East Java are as follows: First, increasing socialization and education programs to the public about the existence and benefits of sharia arbitration, especially through cooperation with Islamic financial institutions and universities. Second, the development of information technology infrastructure to support the online arbitration process, so that it can improve the accessibility and efficiency of services.

Third, increasing the capacity and number of arbitrators through continuous training programs and the recruitment of new arbitrators who have competence in the field of Islamic economics. Fourth, there is a recent revision related to the decision of 15 years of experience as an arbitrator, the aim is to have more public interest in becoming a more competent and qualified arbitrator.

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