



Maintaining Value, Welcoming Innovation: Challenges and Reconstruction of Sharia Economic Law in the Development of Sharia Fintech in Indonesia

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Abstract: *The development of digital technology has transformed the global financial system, including the sharia economic ecosystem in Indonesia. The emergence of sharia financial technology (fintech) presents both an opportunity and a challenge for sharia economic law to remain relevant without abandoning its fundamental values. On the one hand, digital innovation opens broader and more inclusive access to financing; on the other hand, issues arise regarding sharia compliance, legal certainty, and regulatory harmonization between fatwas and laws and regulations. This article aims to analyze how sharia economic law adapts to the development of sharia fintech and assess the conformity of regulations issued by the Financial Services Authority (OJK) with sharia principles as stipulated by the National Sharia Council of the Indonesian Ulema Council (MUI). This research uses a normative juridical method with a statutory and conceptual approach. The results of the study indicate that normatively, sharia fintech regulations in Indonesia have accommodated basic principles such as the prohibition of usury (riba), gharar (gharar), and maysir (gambling). However, challenges remain in the interpretation of digital contracts, technology-based supervision, and responding to rapidly evolving innovations. Therefore, a reconstruction of Islamic economic law is needed that is not only oriented towards formal compliance but also adheres to the maqasid of sharia, the spirit of the Islamic economic system.*

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Introduction

The development of digital technology in recent decades has brought fundamental changes in the global financial system, including in Indonesia. This transformation is marked by the presence of financial technology (fintech) as a disruptive innovation that is able to change the pattern of community interaction in conducting financial transactions. Fintech not only brings efficiency in financial services, but also creates a more inclusive system by reaching people who were previously inaccessible to formal financial institutions. In the context of Indonesia's predominantly Muslim society, this development encourages the birth of sharia fintech as a form of adaptation between modern technology and Islamic legal principles. Sharia fintech is basically an integration between a technology-based financial system with sharia norms sourced from the Qur'an and Hadith. In sharia economic law, every economic activity must be based on the principles of justice, transparency, and benefit, and avoid prohibited practices such as *riba*, *gharar*, and *maisir*. This principle emphasizes that the main goal of the sharia economic system is not only material gain, but also the achievement of social balance and the welfare of the *ummah* as a whole.

Historically, the practice of sharia economics has developed since the time of the Prophet PBUH through various forms of fair and transparent transactions, such as buying and selling, *mudharabah*, and *musyarakah*. During that period, the Islamic economic system has shown its flexibility in accommodating the needs of society without neglecting moral and ethical values. Along with the times, the practice has undergone a transformation into a modern financial system, which is marked by the establishment of Islamic banking institutions and other financial institutions. In Indonesia, this development is further strengthened by the presence of regulations that regulate the operation of Islamic financial institutions as part of the national legal system. However, entering the digital era, sharia economic law is faced with new, more complex challenges. The presence of sharia fintech carries legal implications that are not simple, especially related to the validity of electronic contracts, digital transaction mechanisms, personal data protection, and supervision of sharia compliance. In practice, very rapid technological developments are often not balanced by adequate regulatory readiness, creating a potential legal gap that can have an impact on legal uncertainty and consumer protection. On the other hand, sharia fintech has enormous potential in encouraging financial inclusion in Indonesia. By utilizing digital technology, financial services can be accessed more widely and efficiently, so that they can reach people in remote areas and community groups who previously did not have access to banking services. This is in line with the goals of national economic development which emphasizes the equitable distribution of welfare and the reduction of social disparities. From the perspective of sharia economic law, this condition is also in line with the purpose of sharia *maqashid*, especially in safeguarding property (*ḥifz al-māl*) and realizing the benefits of the *ummah*. *Maqashid sharia* as a philosophical framework in Islamic law emphasizes that every rule of law must have the purpose of protecting and improving human welfare. In the context of sharia fintech, the *maqashid* approach becomes very relevant to ensure that technological innovations not only meet the formal legality aspects, but also provide substantive benefits to

society. However, various studies show that the implementation of sharia maqashid in Islamic finance practices in Indonesia still faces various obstacles, such as the dominance of formalistic approaches and the lack of clear indicators in measuring the success of the implementation of these principles.

In addition, the Qur'an as the main source of Islamic law has provided clear guidelines regarding principles in economic activities. One of the verses that is the main basis in economic transactions is QS. An-Nisa verse 29:

O you who believe, do not believe in the Messenger of Allaah (peace and blessings of Allaah be upon him), and do not believe in the Messenger of Allaah (peace and blessings of Allaah be upon him).

"O you who have believed, do not eat each other's property in a wrong way, except in a way of trade that is done on the basis of mutual consent between you."

The paragraph emphasizes that every economic transaction must be carried out fairly, transparently, and on the basis of the willingness of the parties, and does not contain elements of fraud or ambiguity. In the context of sharia fintech, this principle is very important to ensure that any technological innovation remains within the corridor of Islamic law and does not deviate from the basic values of sharia. In addition to the normative aspect, regulations also play an important role in regulating the development of Islamic fintech in Indonesia. The Financial Services Authority (OJK) as a supervisory institution has issued various policies related to fintech, including sharia-based ones. However, these regulations are still general and do not fully accommodate the specific characteristics of sharia fintech, so it is necessary to develop more comprehensive and specific regulations. This is important to create legal certainty and increase public trust in Islamic fintech services. Furthermore, other challenges faced in the development of sharia fintech are the low level of sharia financial literacy among the community, as well as the limited number of human resources who have competence in the field of technology and sharia law at the same time. In addition, digital security risks, such as data leaks and online fraud, are also issues that need serious attention in the development of this industry. Therefore, a holistic approach is needed in overcoming these challenges, both through strengthening regulations, increasing literacy, and developing safe and reliable technology.

In facing these challenges, efforts are needed to reconstruct sharia economic law that is able to bridge the gap between basic sharia values and the need for technological innovation. This reconstruction includes not only the formation of new regulations, but also the reinterpretation of sharia principles to remain relevant to the times. Thus, sharia economic law is expected to become an adaptive, progressive, and able to respond to the challenges of the digital era without losing its identity and basic values. With this background, studies on the adaptation and reconstruction of sharia economic law in the development of sharia fintech are very important to be carried out. This is not only related to the normative aspects of the law, but also concerns efforts to realize a fair, inclusive, and sustainable financial system in Indonesia. Therefore, this research is expected to contribute to the development of sharia economic law that is more responsive to the dynamics of the times, and able to maintain a

balance between values and innovation in sharia fintech practices.

Research Methods

This research is a legal research with a normative juridical approach, which is research that focuses on the study of applicable legal norms, both those sourced from laws and regulations, legal doctrines, and legal principles that develop in the literature. This approach is used because the research aims to analyze how Islamic economic law adapts to the development of Islamic fintech and assess the extent to which existing regulations have reflected the values of the maqashid syariah. Thus, this study does not focus on empirical data in the field, but on the analysis of relevant legal materials. In its implementation, this research uses several approaches, namely the legislative approach (statute approach), conceptual approach (conceptual approach), and philosophical approaches (philosophical approach). The legislative approach is carried out by examining various regulations related to fintech and Islamic finance in Indonesia, especially those issued by the Financial Services Authority (OJK) and other relevant legal provisions. The conceptual approach is used to understand the basic concepts in sharia economic law, such as the principle of muamalah, the prohibition of riba, gharar, and maisir, as well as the concept of maqashid syariah as the basis of analysis. Meanwhile, a philosophical approach is used to examine the basic values that underlie sharia economic law, especially in relation to the legal goal of realizing justice, utility, and legal certainty.

The types and sources of legal materials in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations related to fintech and Islamic finance, as well as Islamic legal sources such as the Qur'an and Hadith. Secondary legal materials are in the form of scientific books, legal journals, results of previous research, and doctrines of experts relevant to the research topic. The tertiary legal materials include legal dictionaries, encyclopedias, and other sources that support the understanding of primary and secondary legal materials. The technique of collecting legal materials is carried out through library research, which is by reviewing and examining various literature that is relevant to the problem being studied. Furthermore, the collected legal materials are analyzed using a qualitative analysis method with a descriptive-analytical approach, namely by systematically describing the problem being studied, then analyzed to obtain logical conclusions and in accordance with the purpose of the research. Through this method, it is hoped that a comprehensive understanding of the adaptation of sharia economic law in the development of fintech and its relevance to the values of sharia maqashid in Indonesia can be obtained.

Result and Discussion

Adaptation of Sharia Economic Law to the Development of Sharia Fintech.

1. The Concept and Foundations of Sharia Fintech in the Islamic Legal Framework.

The massive development of digital technology in the last decade has given birth to the phenomenon of financial technology (fintech) as a disruptive innovation that fundamentally changes the face of financial services. In the context of Indonesia as a country

with the largest Muslim population in the world, this dynamic then gave birth to the sharia fintech ecosystem as a form of synthesis between the advancement of information technology and the principles of Islamic muamalah law. Sharia fintech is basically an application of digital-based financial technology that is designed and operated in accordance with sharia principles, including the prohibition of *riba*, *gharar*, and *maisir*, while prioritizing the values of justice, transparency, and the benefit of the people.

Normatively, the Islamic legal foothold for digital economy activities is not static. Sharia economic law has an adaptive capacity that stems from the flexibility of *ijtihad* methodology, especially through the *qiyas* and *mashlahah mursalah* approaches, which allow scholars to formulate laws for new issues that are not explicitly regulated in the *nas*. In the context of fintech, this adaptive capacity is the basis for the National Sharia Council-Indonesian Ulema Council (DSN-MUI) to issue Fatwa Number 117/DSN-MUI/II/2018 concerning Information Technology-Based Financing Services Based on Sharia Principles. The fatwa is an important milestone that legitimizes the operations of Islamic fintech while emphasizing that technological innovation does not necessarily contradict Islamic values, as long as the substance and transaction mechanism meet the stipulated harmonies and contract conditions.

2. Adaptation Mechanism: between the principles of Muamalah and Digital Innovation.

The process of adapting sharia economic law to the development of fintech takes place through two main paths, namely normative adaptation through the reinterpretation of muamalah principles and regulatory adaptation through the formation of positive legal policies. On the normative path, Islamic scholars and legal experts are required to carry out *ijtihad* on contemporary issues arising from digital transactions, such as the validity of electronic contracts, the clarity of transaction objects in digital platforms, and the mechanism for monitoring sharia compliance in the virtual environment.

One of the crucial issues that arises is the validity of digital contracts. In the perspective of classical muamalah *fiqh*, the validity of an agreement requires the existence of *ijab* and *kabul* that can be stated orally, in writing, or in signs that are understood by the parties. In the context of digital transactions, click-wrap agreements or confirmation through the application interface can be interpreted as a modern manifestation of *ijab* and *kabul*, as long as it contains elements of voluntariness (*taradhin*) and does not contain elements of coercion or fraud. This approach is a real example of how the universal principles of Islamic law are applied contextually to the reality of digital technology that continues to evolve.

Furthermore, adaptation also occurs in terms of contract models used in sharia fintech. Various sharia fintech platforms in Indonesia use contracts that have been known in the treasures of muamalah *fiqh*, including *mudharabah*, *musyarakah*, *murabahah*, *ijarah*, and *wakalah bil ujah*, which are then adapted into technology-based operational mechanisms. The adaptation of these contracts is not only formalistic, but must really ensure the fulfillment of the *maqashid* or purpose of each contract, so that technology only functions as a medium for carrying out transactions whose substance remains in accordance with sharia values.

3. Challenges of Digital Contract Interpretation and Sharia Compliance

Although the adaptation process has taken place, various substantive challenges are still faced in its implementation. First, there is the problem of the interpretation of digital contracts, where the electronic consent mechanism is often not accompanied by an adequate explanation to the user about the type of contract used, the rights and obligations of the parties, and the legal consequences. This condition has the potential to cause gharar or ambiguity which is one of the elements that are prohibited in Islamic economic law.

Second, there are challenges in terms of sharia compliance supervision. Unlike conventional Islamic financial institutions that have a Sharia Supervisory Board (DPS) that can conduct direct supervision, fintech platforms operate in a highly dynamic and cross-jurisdictional digital ecosystem. This makes the function of sharia supervision much more complex and requires technical competence that goes beyond the understanding of fiqh alone. Third, the very fast pace of technological innovation often exceeds the speed of the ijihad process and the formation of regulations, thus creating a potential legal gap that can open a gap for practices that are not in accordance with sharia principles.

4. Regulation as an Instrument of Harmonization: The Role of OJK and DSN-MUI

In an effort to bridge the gap between technological innovation and sharia compliance, regulatory frameworks play a very strategic role. In Indonesia, there is a dualism in the regulation of sharia fintech involving the Financial Services Authority (OJK) as a positive law-based financial regulator on the one hand, and DSN-MUI as a sharia fatwa authority on the other. The harmonization between these two institutions is the main prerequisite for the creation of an Islamic fintech ecosystem that simultaneously meets formal legal certainty and substantial sharia compliance.

OJK has issued a number of relevant regulations, including POJK Number 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services, and POJK Number 13/POJK.02/2018 concerning Digital Financial Innovation. However, these regulations are still general and do not specifically accommodate the specific characteristics of sharia fintech. This condition causes the regulation of sharia fintech still relies on conventional fintech regulations by referring to the DSN-MUI fatwa as a complement, without a comprehensive and independent integrated regulation.

Therefore, closer synergy is needed between OJK and DSN-MUI in forming special regulations for sharia fintech which includes the provisions of contract standards, governance, technology-based supervisory mechanisms, consumer protection, and dispute resolution in accordance with the principles of Islamic economic law. Without such regulations, sharia economic law risks losing its relevance in the midst of the ever-advancing flow of digitalization, or conversely, trapped in a narrow formalism that only pays attention to the aspect of textual legality without paying attention to the substance of sharia maqashid as the spirit of the entire Islamic economic system.

Analysis of the Implementation of Sharia Maqashid in Sharia Fintech Regulation in Indonesia

The development of sharia financial technology (fintech) in Indonesia is a manifestation of the meeting between technological innovation and the principles of Islamic economic law. In this context, regulations have a strategic role to ensure that developing innovations do not deviate from sharia values, especially those summarized in the concept of sharia maqashid. The fundamental question that then arises is the extent to which sharia fintech regulations in Indonesia have reflected the values of sharia maqashid in practice.

1. Sharia Fintech Regulation Framework in Indonesia

Sharia fintech regulations in Indonesia are not basically independent, but are part of the general framework of fintech regulations regulated by the Financial Services Authority (OJK), and strengthened by the fatwa of the National Sharia Council-Indonesian Ulama Council (DSN-MUI). This system is known as dual compliance, which is simultaneous compliance with state regulations and sharia principles.

Some important regulations that are the basis include POJK Number 77/POJK.01/2016 which was later updated to POJK Number 10/POJK.05/2022 concerning information technology-based funding services. This regulation provides a legal framework related to fintech operations, including aspects of licensing, consumer protection, and supervision. However, in the context of sharia, the regulation still relies on the DSN-MUI fatwa as a normative reference in determining the suitability of contracts and business practices.

This condition shows that sharia fintech regulations in Indonesia are still fragmented, not yet comprehensively integrated into one special regulation. This is one of the main challenges in ensuring the consistent implementation of sharia maqashid values.

2. The Concept of Sharia Maqashid as an Evaluation Parameter

Sharia maqashid is the main purpose of Islamic law which includes five main aspects (maqashid al-khamsah), namely (a) Hifz al-din (religious protection); (b) Hifz al-nafs (protection of the soul); (c) Hifz al-'aql (protection of reason); (d) Hifz al-nasl (protection of lineage); (e) Hifz al-mal (protection of property)

In the context of sharia fintech, these five principles can be used as parameters to assess whether a regulation truly reflects sharia values substantively, not just a formality.

3. Reflections on Sharia Maqashid in Sharia Fintech Regulations

a. Protection of Property (Hifz al-Mal)

This aspect is the most dominant dimension in the regulation of sharia fintech in Indonesia. OJK regulations have regulated various consumer protection mechanisms, such as information transparency, interest (or yield caps), and risk mitigation obligations. However, there are still weaknesses in implementation, especially related to online lending practices that have the potential to harm users.

Several studies show that existing regulations are not fully able to provide optimal protection against the risk of default, fraud, and misuse of personal data. This shows that the value of *hifz al-mal* has not been fully realized effectively in practice.

On the other hand, the existence of the DSN-MUI fatwa prohibiting *riba*, *gharar*, and *maisir* has provided a strong normative basis to maintain the integrity of financial transactions. However, because such fatwas do not have positive legally binding force, their implementation often depends on the voluntary compliance of industry players.

b. Religious Protection (*Hifz al-Din*)

Sharia fintech regulations in Indonesia have sought to maintain the aspect of *hifz al-din* through the obligation to comply with sharia principles. Every sharia fintech product must obtain a recommendation or fatwa from DSN-MUI before launching. Nevertheless, the main challenge lies in supervision. Not all practices in the field are fully in accordance with sharia principles, especially in terms of contract implementation. Some fintech business models still adopt a conventional structure that is formally "sharia" without any substantive changes. This shows that religious protection in regulations is still symbolic, not fully substantive.

c. Protection of Life (*Hifz al-Nafs*)

In the context of fintech, life protection can be interpreted as protection against the social and psychological impacts of digital financial services, such as debt pressure or inhumane billing practices. OJK regulations have regulated billing ethics and consumer protection, but their implementation still faces various obstacles. Cases of data misuse and intimidation in billing show that the value of *hifz al-nafs* has not been fully internalized in fintech practices. Thus, even though it has been normatively regulated, empirically there is still a gap between regulation and implementation.

d. Protection of Reason (*Hifz al-'Aql*)

Reason protection is concerned with efforts to prevent misleading or manipulative practices, such as non-transparent information or misleading promotions. Fintech regulations in Indonesia have regulated information transparency obligations, but people's financial literacy is still a challenge. Many fintech users do not understand the risks of the products used, making them vulnerable to exploitation. This shows that regulations are not fully able to ensure the protection of reason effectively, because they are not balanced with adequate education.

e. Protection of Lineage (*Hifz al-Nasl*)

This aspect has received relatively little attention in sharia fintech regulations. In fact, the economic impact of the use of fintech, such as uncontrolled debt, can affect the well-being of families and future generations. The absence of regulations that explicitly regulate the long-term impact of fintech use shows that the value of *hifz al-nasl* has not been a priority in policy formulation.

4. Gap between Regulation and Implementation

Although normatively sharia fintech regulations in Indonesia have accommodated the principles of sharia maqashid, in practice there are still various gaps. Some of the factors that cause this include:

- a. Regulatory fragmentation
The absence of special regulations for sharia fintech causes regulations to be scattered and less integrated.
- b. Dualism of authority
The relationship between OJK and DSN-MUI has not been fully harmonious, especially in terms of supervision and law enforcement.
- c. Limitations of supervision
Supervision of fintech players is still not optimal, especially on fast-growing platforms.
- d. Low Islamic financial literacy
The public has not fully understood the principles of sharia fintech, making it vulnerable to abuse.
- e. Dominance of formalistic approach
Sharia compliance is often only seen from the legal-formal aspect (akad), not from the substance of the value of maqashid.

5. Direction of Regulatory Reconstruction Based on Sharia Maqashid

To answer these challenges, it is necessary to reconstruct sharia fintech regulations that are more oriented towards sharia maqashid substantively. Some strategic steps that can be taken include:

- a. Establishment of special regulations for sharia fintech
This regulation must integrate positive legal aspects and sharia principles in one comprehensive framework.
- b. Strengthening the role of DSN-MUI
The DSN-MUI fatwa needs to be strengthened juridically in order to have a stronger binding force in the national legal system.
- c. Maqashid-based approach
Regulations not only regulate the technical aspects, but must also consider the social, economic, and moral impacts of fintech.
- d. Increase Islamic financial literacy
Public education is the key to ensuring that fintech users can make rational decisions and in accordance with sharia principles.
- e. Strengthening technology-based supervision
The use of regtech and suptech can help regulators in supervising fintech activities more effectively.

Conclusion and Recommendation

Based on the discussion, it can be concluded that sharia economic law basically has an adaptive nature to the development of sharia fintech through the mechanism of reinterpretation of muamalah principles and regulatory support that continues to develop. Normatively, existing regulations have accommodated basic sharia principles such as the prohibition of riba, gharar, and maisir, and seek to reflect the values of sharia maqashid, especially in the aspect of property protection. However, in practice, there are still various challenges, such as the interpretation of digital contracts, limited supervision, dualism of authority between OJK and DSN-MUI, and low public literacy. In addition, the implementation of sharia maqashid still tends to be formalistic and has not fully touched substantive aspects such as the protection of soul, intellect, and posterity. Therefore, a reconstruction of sharia economic law that is more comprehensive, adaptive, and oriented to the values of maqashid is needed in order to be able to respond to the dynamics of financial technology development in a sustainable manner.

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