



# Features of Arbitration in Islamic Law when Resolving Disputes in Muamalah

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The supreme law of Indonesia recognizes sharia arbitration that is compliant with Islamic doctrines. The prime importance of the integration of the arbitration in society is to provide mechanisms for dispute settlement of economic conflicts or muamalah. The aim of this research is to discover and analyze the implementation of the verdict of sharia arbitration in resolving disputes in Indonesia. The method that will be used is doctrinal legal research by using statute and conceptual approaches. The need for regulations to provide alternative conflict settlement frameworks has been necessitated by the rapid development of economic activities in the dominantly Muslim country of Indonesia. There is therefore the need for the establishment of sharia arbitration as an alternative dispute settlement mechanism to the religious court so that parties can amicably arrive at solutions. The results reveal that Indonesia has provisions for the implementation of sharia arbitration which are included in the constitution in the 30th Law of 1999 under the Arbitration and Alternative Dispute Resolution and the National Board of Arbitration. As a consequence, the sharia arbitration has affected the rules and operational patterns for financial disputes and resolutions within the Muslim community because they encourage its implementation in settlement of all forms of economic disagreements. The results and recommendation demonstrate that the National Sharia Arbitration Board of Indonesia will become an important institution that is independent of the courts and operates to resolve conflict and disseminate justice to the public in an effective manner.

**Key words:** *Islamic arbitration, disputes, settlement, Islamic court, economic conflicts.*



## Introduction

In order to understand the characteristics of arbitration in Islamic law, a comparison shall be made of the Islamic economic system with the contemporary social market economy. Modern economic systems have undergone numerous systematic advancements from the old-fashioned colonial frameworks which were modified after countries gained independence (Arifin, 2016). An attempt by the discipline of Islamic economics in institutions of learning to combine western economic theories and Islamic philosophies has gained tremendous acceptance by scholars even though it is a new phenomenon (Bukido, Rosdalina Rumkel, Nam Wekke, 2018). Since it is a new concept, the nature of dispute settlement as proposed under the sharia economic system may vary widely depending on the audience. Among the major areas of influence of arbitration in sharia finance is the business sector since it has a wide scope of economic activity that includes banking institutions and other business sector players (Abubakar et al., 2017; Romina, 2018). While addressing any concerns that arise, the law is designed from the initial stages upon the principle of sharia so that financial institutions understand dispute resolution mechanisms under the Islamic law.

In all financial disputes, conflict arises when contracts are not honoured despite the fact that they had been agreed upon by the parties involved and a consensual framework had been sought in principle (Masse & Rusli, 2018). In Islam, *fiqh* is deliberated upon when parties to a contract agree to conduct an activity with the intention of a positive outcome and which must be documented as a promise or the *wa'ad* which must be implemented (Arifin, 2016). In the contemporary world, the Islamic arbitration practices have gained acceptance across Muslim communities as well as secular societies in a bid to adopt the new economic wave of the 21<sup>st</sup> century (Israhadi, 2018). Countries in Europe and America have implemented different types of sharia-compliant economic applications in the financial sector which include sectors such as banking and insurance, inclusive of dominant Muslim countries across the globe (Forster & Neo, 2014). Despite the inconvenience that the system has brought to the Islamic financial sector, it came with the benefit of upholding the human value system that had previously been neglected by the conventional economic frameworks (Zada, 2018).

Sharia economics as an entity comprise a set of essential financial factors that can be implemented in totality (Al-abdullah, 2016). Application of Islamic arbitration does not only instil ethical and moral values but has changed the conventional financial systems which have coerced modern economists to integrate new patterns and behavior for the global economy and have directly impacted conventional outlook. A good example is the fact that sharia laws emphasize measures that are similar to modern economics thereby making the sharia bank follow similar legislation as do conventional banks (Oseni & Ahmad, 2015). Both Islamic and western banks aim at making a profit even though the definition of the terms vary. However,



when disputes arise, the nature of settlement differs during review and analysis due to various components of the business.

Theoretically, the concept of Muamalah may be considered effective if the dispute resolution mechanisms result in favorable outcomes while at the same time, not creating gaps (Kasim, 2016). Despite the fact that projects or programs may lack a systematic or predictable pattern, they are designed to achieve a certain target which when realized will reduce problems and eliminate obstacles that may be encountered (Rahouti, 2015). The dominance of the sharia economic systems is not only limited to Muslim countries but all regions of the world with the majority of the factors arising from shortcomings emanating from management (Nicholas, Foster, & Neo, 2014). Further to the evolutionary changes in management, Muamalah also serves to assure believers of Islam of Justice and mutual benefits to parties involved in disputes in accordance with the doctrines of Islam.

In traditional Islam, arbitration is assigned the word *tahkim* and has existed since the advent of the religion (Gemala Dewi, 2014). In the past, disputes were settled by a council of elders who were chosen by the tribes in advance. Selection of the arbitrators was not an easy task since a consideration was to be made of those individuals that possessed supernatural powers and were defined as the *kahin* (Kasim, 2016). Whenever an agreement was reached between disputing parties, the participants had to commit collateral in the form of property to symbolize acceptance of the decision. As a result, Islam is considered a religion that originated through arbitration and promotion of *tahkim* because of the positive outcomes and constructive values which encourage reconciliation and peace in the Muslim world (Setyowati, Purbasari, & Fauzan, 2018). The existence of arbitration is validated in the Koran in the 35<sup>th</sup> chapter of the Surah which states that two arbiters be appointed whenever there is a breach to mediate family disputes so that peace may be realized (Abdullah, 2017). One of the most respected prophets of Islam, Mohamed, acknowledged the existence of arbitration when he consented in one case to appoint an arbitrator and recognized the decision that had been deliberated upon by the tribes (Bukido, Rosdalina Rumkel, Nam Wekke, 2018). Prophet Mohamed further encouraged the tribes to be embroiled in activities that aimed to settle conflicts through arbitration.

Tahkim or arbitration in Islam is considered a settling of affairs that is made outside the court where disputes are generally settled. Since it is a voluntary activity, the objective of tahkim in the Islamic religion is to bring harmony and maintain good working relationships among conflicting partners so that cooperation is enhanced thereafter (Asni & Sulong, 2018). A big number of modern businesses and corporations have resorted to the use of arbitration since it is an approach that enhances economic welfare and social harmony. One of the main principles of contemporary firms is to maintain good business relationships that, as much as possible, strive to avoid conflict. In any business set-up, it is difficult to avoid disputes which, therefore,



necessitate the establishment of a mechanism for de-escalating economic disputes (Al-abdullah, 2016).

When there is emergence of a clash, business people follow an agreed framework without destroying their good relationship, in the shortest possible time, using minimal resources and avoiding public embarrassment. Unlike the western conventional methods of arbitration, the Islamic arbitration approaches discourage publication of disputes with a focus in the business domain. An example of a country that has implemented Islamic arbitration in the financial sector is Indonesia since its laws are based on Islamic law and institutionalized under the “National Sharia Arbitration Board.” Further to the description of arbitration, the competence of the arbitration board shall be investigated in this research as to whether it is able to resolve financial disputes with parties that have a binding agreement. From this background as discussed above, the focus questions that shall be answered include:

1. How are the verdicts of sharia arbitration implemented? and
2. How is the authority of the national arbitration board structured to resolve business conflicts?

This paper discusses the features of Islamic arbitration in resolution of disputes with reference to the Indonesian financial sector.

## **Literature**

### ***The Legitimacy of Muamalah in Indonesia***

The Islamic arbitration board (IAB) is recognized by the laws of Indonesia alongside other conventional arbitration legislation. The arbitration framework which is based on Islamic doctrines has been integrated into the Indonesian arbitration legal system unlike other countries in the world. In the Indonesian context, *tahkim* is considered a foundation for the formation of an arbitration board called the *Ramulyo* which is headed by religious leaders. Conflict resolution in Islam has existed since the religion was established and followers were encouraged to negotiate in the presence of religious scholars and acknowledged their judgment voluntarily (Al-Maqāl, 2017). In Indonesia, IAB is recognized and has the support of the country’s laws in the settlement of disputes with more focus on the financial and banking sector, and in compliance with Islamic law.

In the constitution, the Islamic arbitration board is backed by the 30<sup>th</sup> law of 1999 which elaborates on matters of arbitration and alternative dispute resolution (Arifin, 2016). Further amendments on the 48<sup>th</sup> law were effected in 2009 to recognize arbitration as a legal forum for solving disputes outside the court (Arifin, 2016). In the initial stages, Indonesia began by establishing the Indonesian Muamalat Arbitration Board (IMAB) that characterized the emergence of Islamic arbitration which was closely linked to socio-economic challenges associated with Islamic dominance in the society and the sudden growth of institutions like



banks, insurance firms, and capital markets which made a sharia arbitration mechanism necessary (Hassan & Hussain, 2014). As a result, business disputes are settled based on the doctrines of Islamic law.

When the IMAB was established, it created a platform under which the 175<sup>th</sup> Notarial Deed was designed to provide the correct and rapid resolution of the Muamalah in financial and industrial sectors and to collect insights from parties that did not experience conflict in order to draft ideas for contract adherence (Gemala Dewi, 2014). The Indonesian Muamalat Arbitration Board was not only restricted to religious guidance but was also intended to control secular life. Additionally, the IMAB led to the establishment of an institution that would be assigned the responsibilities of settling financial disputes among Muslim followers which relied on the Islamic teachings and the country's constitution (Dahlan, 2018). The concept of arbitration had existed as hakam since the establishment of Islam and IMAB aimed to enhance the spirit of conflict resolution so that disputes would be solved quickly and professionally at minimal cost (Effendi, 2018).

The National Sharia Arbitration Board (NSAB) was established in 2002 and acted as a legal framework under which the Indonesian Council of Ulama deliberated on disputes independently (Hamid, 2016). The National Sharia Arbitration Board was formed with the following primary responsibilities:

- Resolve disputes outside the Court.
- Encourage voluntary agreements between conflicting parties.
- Reassure disputing parties of independent judgement using autonomous third-party arbitrators or hakam.
- Promote the implementation of binding decisions (Nicholas et al., 2014).

The main emphasis of the NSAB was to focus on business disputes that arose and pass judgement on the basis of sharia laws which depend on Islamic doctrines. The financial sector has revolutionized to meet the demands of the conventional market and the only body that has been bestowed with the mandate to resolve disputes in Islamic financial sector is the National Sharia Arbitration Board. Despite its widespread acceptance by scholars, Islamic arbitration needs to increase its presence within and outside the country. NSAB in Indonesia offers an alternative dispute resolution mechanism in accordance with the 30<sup>th</sup> Law of 1999 of the constitution by providing a forum for settling muamalah outside the jurisdiction of the courts while at the same time offering independent legal opinions concerning disputed matters (Arwani, 2017). In that regard, the National Sharia Arbitration Board is the only institution that has the responsibility of acting as an arbitrator among Islamic disputing parties. The Indonesian NSAB was established with the following aims:



- Encourage use of reconciliation or inshlah to settle disagreements (which is a principle of civil law).
- Lead to amicable solutions in dispute resolution by using Islamic law and enforcing a sharia-based framework.
- Prevail and offer dispute resolution whenever disputes occur between sharia financial institutions and clients or service providers.
- Resolve disputes in a transparent and virtuous manner across all business sectors (Kurniawan, 2017).

It is anticipated that the concept of Islamic arbitration will gain influence in the coming years because of the high number of emerging sharia financial institutions within Indonesia and other parts of the world (Kröll, 2015). The beneficial outcomes of Islamic arbitration are its confidential nature and also the manner in which it restores the relationship between disputing parties. Therefore, disputes of muamalah can be resolved peacefully using Islamic arbitration and can be based on the foundations of Islamic law by assigning a third party the responsibility of offering an autonomous judgement that is compliant with the laws of the country (Machmud, 2017). The NSAB is deeply integrated into the legal systems of Indonesia which have become a popular avenue for gaining justice for business financial enterprises according to the teachings of Koran and Sunna.

### *An overview of the Sharia Economic System*

The sharia arbitration norms are systematic and practiced in totality from the perspectives of Muslim believers in addition to being characterized by firm hierarchical structures that are embedded in the legal system (Maksum, 2014). At the highest ranking is the divine value followed by principles, norms, and lastly by covenants that must be applied in sharia-compliant financial institutions (Maggi & Staiger, 2018). The purpose of setting up a hierarchy is to instil harmony and deviate from any vertical contradictions that may arise during the resolution of disputes. The consistency with which judgements are passed to disputing parties enables Islamic arbitration to have the legitimacy it requires, supported by legal backing that has positive consequences (Mandel & Shaham). The sharia economic system (SES) has undergone evolution in the conventional market with regard to how it approaches issues of dispute resolution in the business world. The SES can be described from three perspectives while it executes its hierarchical standing and includes the following:

- The economic composition consisting of foundation, pillars, and roof which depicts sharia businesses in a bottom-up hierarchy which is a characteristic in institutions such as banks and insurance firms.
- Sharia economics is characterized by Islamic law and conventional economics but with the elimination of wrongdoing that is strictly discouraged by Muslims.



- A depiction of sharia economic systems in the format of a pyramid building with the top-most point representing the divine value, the middle section representing high-value principles, and the base to signify the norms (Wahyudi, 2015).

From a historical perspective, modern economics existed in the times of the great Prophet Muhammad who engaged in a trade before becoming a messenger of Allah. As a result, the concept of arbitration as constituted today is a reflection of basic Islamic teaching and the development of science and technology due to civilization. From the description of sharia economic profile, the three forms have a characteristic that impacts the nature of the disputes in sharia-compliant businesses using the model of a three-tier building of divinity, a middle section and the base as a mixture of conventional economics so as to accommodate the relevant basic regulations.

The components of the sharia economic system comprise a typical description of original Islamic teachings sourced from the Qur'an and As-sunnah since they adopted the top-down hierarchy according to the provisions of Islamic Law. The National Sharia Arbitration is established on the premise of strong values and principles of Islam as well as government standards which are implemented in all operational departments (Silvia, Leksono, & Anand). Some of the exceptions of the sharia economic system have the majority of principles emanating from strategies and goals that are different from conventional and government systems. While aiming to resolve conflicts, Islamic sharia has some unique provisions that do not contradict Muslim law but dwell a lot on bringing harmony among community members. The Koran states that man is not justified to violate through action or behavior either explicitly or implicitly (Setyawati, 2014). As a result, if there are contrary actions on earth or in heaven which will result in dispute or conflict, the teachings of Islam demand that there will be demands for settlement and solution so that human beings can achieve their talent in accordance to Allah's will (Roeslani, 2014).

According to the Islamic teachings, man was created in the best form by God and is echoed by Aristotle as a potential animal (Peshkov, 2018). Therefore, the existentialism of man must be characterized by independence with the potential to govern self through nature effectively. This is enumerated in the verse which emphasizes on virtues and deviation from crime. In the 126<sup>th</sup> verse of Surat an-Nisa, there is an elaboration on the need to eradicate conflict and disputes between parties and encourages peaceful co-existence in men (Noorhidayati, 2017). While striving to bring order to human sanity, people are encouraged to make a comparison of their lives to the dual dimension of buildings and peace with God. Muamalah takes many dimensions in life that are governed by the sharia guidelines as per the scriptures of the Qur'an and the As-sunnah (Nainah, 2015). According to the muamalah, all disputes that arise are defined as sharia disputes and are administered in the dimensions of marriage, inheritance, economy, and business.



The focus of muamalah in solving sharia economic disputes happens from two perspectives that may involve technical disputes that emanate from parties with skewed interests or ideological conflicts and arise as a result of a misunderstanding of concepts of sharia economic system (Murtadho, 2013). The model of sharia financial legislation is not a stand-alone in the regulation of enterprises especially when preparing for business success but the Muslim faith emphasizes the need to develop good intentions before pursuing a cause of action even for people that do not believe in Islam. The objective of sharia economic disputes is to harmonize the dynamics of modern financial transactions that require that conflicts are settled with perfection and effectively in order to bring harmony among the parties that are involved. Owing to the wide scope of the implementation of Islamic arbitration, muamalah empowers organizations to enhance profitability, increase property acquisition, and solve issues that will arise during enactment (Munib, 2018).

According to the teachings of Islam, all human beings when created are given the potential to plan, execute, and evaluate their activities while they are alive but it is only Allah that determines the future outcome of an individual (Muheramtohad, 2018). It is in this regard that an outcome cannot be ascertained at the beginning of an event since disputes are not planned as they happen randomly. Therefore, the sharia economic law brings the assurance of trustworthiness, honesty, and responsibility by declaring what is right and wrong as per the teachings of the Qur'an. When a dispute arises, the Islamic arbitration legislation guarantees the victims the feature of trust which are essential for the establishment of an honest attitude and for the truth to prevail. In resolution of conflicts, the sharia laws are complimentary with contemporary law in the focus on the need for justice (Jan H, 2015). The sharia economic system is created in a manner that when conflicts are resolved, it does not establish the possibility of the emergence of other disputes since it is based on the following:

- Allah has provisions for solving disputes that surpass egoism and dictatorial attitudes.
- Promotion of peaceful coexistence during the implementation of the muamalah
- People are responsible for their actions and consequences while fulfilling the requirements of a contract.
- An economic dispute in sharia is part of an entire model and is supported by principles established in accordance with the Islamic teachings.
- While resolving disputes, the aim of Islamic arbitration is not to exploit the weakness of one of the parties but to provide a harmonized solution (Jaballah, Peillex, & Weill, 2018).

## **Methods**

The method used in the research is the normative legal approach or doctrinal legal research. During the study, the statue approach was used to examine laws and regulations that are applicable to the legal issues. In addition, a conceptual perspective was undertaken to explore



the views and doctrines that led to the establishment of jurisprudence associated with the legal issues and creation of the problem of study.

The focus of the study was doctrinal research using philosophical, juridical, and practical approaches since there is a need to discuss new concepts and theories to examine the gaps and their practical applications. The study will explore the relationship between spiritual rights in Islam and the settlement of financial disputes. Additionally, the position of Islamic arbitration in resolving business financial disputes shall be evaluated as well as the role of Islamic arbitration board integration with the Muslim faith.

The manner in which the doctrinal research was conducted was a library study. The main sources of information that provided data were extracted from the Indonesian financial services sector specific to the subject of muamalah. Deductive analysis was used to assess the concepts, theories, and norms that empower arbitration authorities to establish regulations and the characteristics of dispute resolution in Islamic financial services while focusing on spiritual well-being. Underlying the laws is the concept of determining gaps in theories and religious practices in alternative dispute resolution. As a result, the analysis provides room for prescriptive conclusions and recommendations.

## **Results and Discussion**

### ***Pillars of Islamic Arbitration***

In the Indonesian context, the establishment of the National Sharia Arbitration Board represents a permanent requirement for settling muamalah disputes since it has the legal support that is based on the progressive laws of the country. According to Herlinawati and Machmud (2017), the NSAB provides procedures under which financial disputes must be settled in accordance with the 30<sup>th</sup> law of 1999 which stipulates that all elements of sharia must be followed.

### ***Arbitration Agreement***

While settling disputes, the focus of the arbitrators is to identify the contentions of the disputing parties from the arbitration agreement since it is the binding covenant. Before arbitration is undertaken, there must be elements of issues that have been agreed upon. In the sharia economic system, the arbitration agreement acts as the principal document that is intended to settle disputes between conflicting parties since it is standard evidence. An agreement is a symbol of freedom which is exercised by the members of the conflicting parties and must, therefore, meet all the legal and regulatory frameworks of the country's constitution. The document must also contain future projections in settling possible disputes that may arise and entails the key functions of yielding obligatory consequences, prevention of court proceedings, empowerment of the arbitrator, and creation of procedures for conflict resolution.



In Indonesia, the National Arbitration Board has two models that proactively resolve disputes that may arise in the arbitration agreement and include incorporating an arbitration clause prior to the occurrence of a dispute and the existence of the arbitration agreement which is binding (Harahap, 2019). The differences between the two approaches are due to the timing of their creation and their influence is similar. The two elements are subject to interpretation by the arbitration board and not the court since it does not have the jurisdiction to pronounce judgement based on the contents of the arbitration agreement (Huala, 2017). The consequence of the stipulation implies that disputing parties can claim justice, not through the Court for settlement of conflict, but through an arbitration process.

The parties to a dispute are bound to adhere to the contents of an arbitration agreement from the time they consent and this is an obligatory requirement stipulated by the Koran that requires believers to fulfil their obligations (Golden, 2015). The verses on akad indicate that conflicting parties must obey the contents of an arbitration agreement since it is justified by Allah. There is a distinction between an arbitration agreement and principal agreement in terms of autonomy. An arbitration agreement is independent and can be enforced when the principal agreement is nullified and the parties to a contract are in dispute.

### ***Jurisdiction***

One of the noticeable roles of the Koran is the settlement of disputes between a wife and husband popularly known as the hakam. However, there are variations in interpretation in the resolution of conflict outside the family setting with regard to arbitration jurisdiction and application to Islamic law (Gerard & Richard, 2015). A conflict that can be resolved and classified as hakam is one which is related to property and individual right within a household. The jurisdiction of tahkim was initially meant to settle disputes in civil law in areas of divorce and marriage (Cosgel & Ergene, 2017). Some scholars hold a contrary opinion since the concept of arbitration is limited in scope since it cannot be applied in all conflict resolution like criminal proceedings and offenses with lesser punishment as prescribed by the Islamic law. Therefore, Islamic arbitration in cases of muamalah is restricted to the sectors of civil cases that are applicable in the financial sector. However, there is a lot of emphasis on the part of the arbitrator to possess the characteristics of righteousness which empower them to issue judgements with impartiality.

### ***Applied Law***

The Islamic law as constituted applies its principles based on procedures that are stipulated under the state law except that it has the spirit of reconciliation and mutual agreement between disputing parties (Boog, 2018). The regulations are applied based on the doctrines of Islam and consolidated to settle conflicts through the sharia arbitration framework. As a result, the Islamic



law is applied to settle disputes through the process of sharia arbitration and is in agreement with the teachings of Koran which demands that Muslim followers must be faithful and respectful to Allah, Prophet Mohamed, and people in authority which comprise the arbitrators (Bhatti, 2018). The essence of resolving disputes using the pronouncements of the Koran and teachings by the Great Prophet implies continuous efforts to put the law into practice using reasoning and judgment of the Islamic teachings which legitimizes the Koran, Sunna, and Ijtihad.

The books that form the basis of Islamic law are the Koran, Sunna, and Ijtihad. In one of the scenes where there is a dialogue between the Prophet and Muadz, Jabal, the latter is instructed to judge in Yaman, and the three religious sources act as a foundation of reasoning (William & Hakeem). Among the three sacred books of Islam, the Koran is the primary source followed by the Sunna and the Ijtihad which form the foundation for critical analysis in decision making. From the sharia economic perspective, Islamic law is a critical component for forming legislation that governs arbitration in business enterprises. The parties to a case may select the sectors which they feel they are comfortable to work with but this must be within the confines of the sharia regulation. The muamalah applies even to non-Muslims as long as they transact business with believers of Islam when considering the context of a dispute (Utami, Cakhyaneu, & Rohmana, 2017). In the Indonesian context, the regulatory framework that establishes the arbitration board outlines the fact that Islamic law forms the foundation for settling conflicts. As a result, the NSAB requires that all decisions made during arbitration strictly adhere to the sharia provisions and the arbitrator's righteousness and compatibility.

### ***The Award***

The concept of arbitration as perceived in Islamic law has received some divergent views from various scholars as to whether it is binding or not. In some instances, arbitrators issue judgement without seeking a pact from the disputing factions. A decision that is binding originates from the contents of the arbitration agreement and the choices of the victims of the conflict (Peshkov, 2018). The contenders in a conflict are expected to abide by the regulations of their covenant and implement them in good faith. Some scholars argue that the arbitral award of judgements may not be binding if it has not been agreed upon by the parties in the conflict. When awarding verdicts, if the parties are offered a chance to choose their own arbitrators, it will not automatically mean that they shall be satisfied with the process. A documented agreement between the parties is needed to confirm that the parties contend (Peshkov, 2018). In the event that a judgement is issued without the approval of the contenders, it may result in dissatisfaction and resentment which are contrary to the objectives of Islamic arbitration to eliminate bitterness and promote harmony.



In Indonesia, the ruling by the independent sharia arbitration establishments is final and compulsory for the parties in a dispute to abide and implement voluntarily. The manner in which the verdict is executed implies that the contenders are not given alternative channels to legally challenge the verdicts in courts which means that it is compulsory. After a ruling has been passed by the sharia arbitration establishments by thoroughly examining evidence in presence of witnesses, execution is not done immediately since it is registered as an arbitral award at the District Court so that implementation of the verdict can be effected. Therefore, it is implicit that for the directives of the judgements to be realized, they must be issued by the Head of the District Court. The arbitrators of the cases are empowered to enforce their verdicts since it requires the intervention of the judge. All verdicts of sharia arbitration are preceded by the phrase Basmalah that signify “in the name of God” and other Islamic loyalty pledges (Peshkov, 2018). The word Basmalah distinguishes the sharia arbitration decisions and those of non-sharia and is stipulated in the 54<sup>th</sup> article of the constitution of 1999 (Peshkov, 2018).

The power that is given to the sharia arbitration comes to an end when one arbitrator or a council make a ruling. An evaluation is conducted after authority is issued by the NSAB that takes a period of 180 days at which time, a new arbitrator is chosen. An extension for examination is only possible when one of the conflicting parties submits a specific case or section of provisional ruling that is deemed necessary for evaluation of evidence (Peshkov, 2018). A verdict is issued by an arbitrator depending on the mutual agreement between disputing parties but other alternatives are sought in case a consensus is not reached. Among the alternatives that are undertaken is a vote by the council of arbitrators and the majority side is awarded but, in the event there is a tie or overhaul, the head of the council of arbitration has the mandate to issue a decision that is binding to all the members.

### **Conclusions and Recommendations**

Islamic arbitration is validly backed by the theorems extracted from the Koran, Sunna, and Idjma. Indonesia is a country that recognizes the presence of sharia arbitration as well as conventional mediation. Islamic arbitration has the capability to settle muamalah disputes in the services and financial sector. Sharia arbitration is based on the doctrines of Islamic religion and provides an alternative for conflict resolution other than the Religious Court. There was a need to establish an institution which provided guidance to Muslim followers so that they could adhere to the Islamic canon laws leading to the creation of the National Sharia Arbitration Board. The NSAB provided the mechanisms through which the business community can resolve disputes in the dominant sharia economy. Sharia arbitration gives Muslim followers an alternative conflict resolution framework to the Religious Court.



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