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Mapping and Harmonizing *Qanun* on *Sharia* Financial Institutions

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Article	Abstract
<p>Keywords: Aceh Qanun; Legal Issues; Mapping and Harmonizing; Sharia Financial Institutions.</p> <p>Article History Received: Dec 13, 2022; Reviewed: Jul 31, 2023; Accepted: Jan 30, 2024; Published: Jan 31, 2024.</p> <p>DOI: 10.28946/slrev.Vol8.Iss1.2513.pp20-37</p>	<p>Law No. 11/2006 on the Government of Aceh (Aceh Government Law) has mandated Aceh Qanun No. 11/2018 on <i>Sharia</i> Financial Institutions. A thorough and integrated regulatory infrastructure must support the Qanun on <i>Sharia</i> Financial Institutions. The Qanun on <i>Sharia</i> Financial Institutions regulates that all <i>Sharia</i> Financial Institutions operating in Aceh must transition from the conventional to the <i>Sharia</i> system. However, in reality, many norms still need to be synchronised with national rules so that <i>Sharia</i> Financial Institutions do not run optimally. This study aims to map and harmonise legal issues and purification of Qanun on <i>Sharia</i> Financial Institutions in the future. The method used is normative juridical with a qualitative approach and uses secondary data. The study found that first, the mapping of Qanun on <i>Sharia</i> Financial Institutions still has articles that overlap and need to be more technical with the inclusion of the year that has passed. In addition, an article includes administrative sanctions that are not implemented. Then, there are ambiguous norms that cause multiple interpretations. Second, Qanun on <i>Sharia</i> Financial Institutions needs harmonisation with higher laws and regulations. In addition, several Governor and Regent Regulations and other technical rules are required to maximise the implementation. Third, purification is needed by revising articles that overlap with the rules above and harmonising them with national regulations in Islamic finance.</p>

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INTRODUCTION

Indonesia is a state of law with characteristics that differ from the rule of law applied in various countries.¹ The vertical division of power arises due to the implementation of the principle of decentralisation in the Unitary State of the Republic of Indonesia. With this principle, the Central Government handed over government authority to autonomous regional governments

¹ H Siallagan, "Penerapan Prinsip Negara Hukum Di Indonesia," *Sosiohumaniora* 18(2) (2016): 122–28, <https://doi.org/DOI> : <https://doi.org/10.24198/sosiohumaniora.v18i2.9947>.

to manage and regulate government affairs in their regions.² Aceh is a region granted special authority under Law No. 11/2006 on the Government of Aceh (Aceh Government Law).³ Aceh Qanun No. 11/2018 on *Sharia* Financial Institutions, enacted on December 31, 2018, is an essential breakthrough in developing the Islamic economy.⁴ This significant breakthrough is because the development of Islamic economics impacts not only the people of Aceh but also national economic growth and follows the story of Islamic economics globally.

Sharia Financial Institutions that are substantively "capable" of creating a just, noble, dignified, and economic society *rahmatan lil'alam*.⁵ This ability is due to the Islamic economy having concepts derived from the primary source of the Qur'an and Hadith. These concepts are then realised by the nature of people's lives to create an economy that is just, noble, dignified, and beneficial to all wildlife. In addition, the ability of the *Sharia* financial sector as a source of capital and strengthening the *halal* value chain and *halal* industry can increase and make a significant contribution to the regional economy and national economic growth and resilience.⁶ Regional autonomy also impacts the increase in regional legal products formed. However, it does not rule out the possibility that the resulting regional regulations do not align with national policies and Central Government programs.⁷ The resulting regional legal products contradict the laws and regulations above. The incompatibility between a rule and a regulation will cause contradictions, which result in legal uncertainty.⁸ Thus, synchronisation is needed between regulations made by the Regional Government and regulations made by the Central Government. This synchronisation will impact its implementation so that there is no stagnation or obstacles. This also applies to regulations related to the *sharia* economy, including *sharia* financial institutions in Aceh.

The establishment of a strong *Sharia* financial system necessitates the implementation of a comprehensive and integrated regulatory framework. According to Article 65 of the Aceh Qanun, the transition period of three years from the promulgation must be completed promptly. Therefore, *Sharia* Financial Institutions in Aceh have gradually transitioned from conventional to *sharia* systems. During the Qanun transition, several challenges were encountered. These challenges included a need for more understanding of product knowledge among actors and stakeholders of *Sharia* Financial Institutions. There were also issues of disharmony and overlap

² H. Hariyanto, "Hubungan Kewenangan Antara Pemerintah Pusat Dan Pemerintah Daerah Berdasarkan Negara Kesatuan Republik Indonesia," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 3(2) (2020): 99–115.

³ M.D Jahlil, H., Yani, T.A., & Yoesoef, "Implementasi Otonom Khusus Di Provinsi Aceh Berdasarkan Undang-Undang Nomor 1 Tahun 2006," *Kanun Jurnal Ilmu Hukum* 12(2) (2010): 206–34.

⁴ Safriadi M Yunus AKS, Dharma Tintri Ediraras, and Toto Sugiharto, "Moderating Influence That Islamic Law Intensity Of Causal Relationship Between Regional Economic Growth And Determinant: Study Empirical on District / City In The Province Nanggroe Aceh Darussalam (Nad)," *International Journal of Science, Technology & Management* 2, no. 6 (2021): 2290–96, <https://doi.org/10.46729/ijstm.v2i6.410>.

⁵ J. Syamsuri, S., Fadillah, N.H., Kusuma, A.R., & Jamal, "Analisis Qanun (Lembaga Keuangan Syariah) Dalam Penerapan Ekonomi Islam Melalui Perbankan Syariah Di Aceh," *Ilmiah Ekonomi Islam* 7(3) (2021): 1705–16.

⁶ U. Halal, "Strategi Percepatan Ekspor Halal Usaha Kecil Dan Menengah IndonesiaH," n.d.

⁷ S. Supriyadi, "Peraturan Daerah, Antara Kepentingan Pemerintah Pusat Dan Pemerintah Daerah. Jurnal Cakrawala Hukum," *Jurnal Cakrawala Hukum* 7(1) (2016): 135–46, <https://doi.org/DOI:10.26905/idjch.v7i1.1788>.

⁸ R. Marlina, "Harmonisasi Peraturan Perundang-Undangan Untuk Mewujudkan Prinsip Legalitas (Studi Terhadap Peran Kantor Wilayah Kementerian Hukum Dan Hak Asasi Manusia Jawa Tengah Dalam Harmonisasi Rancangan Peraturan Daerah)," *Doctoral Dissertation, Fakultas Hukum UNISSULA*, 2018.

with laws and regulations about Sharia Financial Institutions. For instance, mortgage rights, cession, subrogation, and dispute resolution regulations were not aligned.

Additionally, there were concerns about the completeness of legal instruments, such as the transfer of contracts and assets, including the transfer of credit from conventional banks to Islamic banks. These revisions are necessary to align the norms stated in the Qanun on Sharia Financial Institutions with the implementing provisions, specifically the Governor's regulations. Similarly, the Qanun on Sharia Financial Institutions should not contradict the regulations, including laws and regulations about Islamic economics or other implementing regulations.

The Indonesian Banking Architecture framework offers a comprehensive range of banking services to the people of Indonesia by implementing a dual-banking system. The Islamic banking system in Indonesia is developed within the framework of a dual-banking system, which is part of the Indonesian Banking Architecture. This system aims to provide the people of Indonesia with a wide range of alternative banking services. Implementing the dual Islamic banking system has shown to be successful in other nations, including Malaysia. The fundamental approach to implementing Islamic banking in Malaysia was to duplicate the range of products and services provided by traditional banks. Malaysia has achieved a genuine dual banking system through the successful implementation of its strategy. Islamic banks in Malaysia offer comparable financial products to conventional banks and operate within the same broader economic landscape and consumer demographic.⁹

Islamic *Sharia* has laid the foundations of *Sharia* in a broad sense, which is the teachings of Islam. It contains creed and *Sharia* (narrow sense). *Sharia*, in the narrow sense, among others, are morals, worship, and *muamalah* (broad sense). *Muamalah*, in a broad sense, is *muamalat* law (narrow sense), family law, criminal law, constitutional law, and international law. It is intended that Muslims can carry out various activities in community life, especially in *muamalat* agreements contained in Islamic banking law in Indonesia, by carrying out *sharia* principles.¹⁰ *Sharia* principles are those formulated by authoritative institutions authorised to do so in the domain of *Sharia* economics and originating from Islamic law, specifically the Qur'an and Hadith.

Islamic banks are not only not allowed to use the interest system but also actively participate in achieving the goals and objectives of the Islamic economy oriented towards social welfare.¹¹ *Sharia* principles in banking activities have also been reaffirmed in Bank Indonesia Regulation Number 11/33/PBI/2009 concerning implementing Good Corporate Governance for *Sharia* Commercial Banks and *Sharia* Business Units. This is stated in Article 1 Paragraph (5): "*Sharia* principles are the principles of Islamic Law in the field of Islamic banking as stated in the form of fatwas of the National *Sharia* Council-Majelis Ulama Indonesia".¹² *Sharia* principles outlined in the fatwa of the National *Sharia* Council-Majelis

⁹ Obiyathulla Ismath Bacha, "Dual Banking Systems and Interest Rate Risk for Islamic Banks," *The Journal of Accounting, Commerce & Finance – Islamic Perspective* 8, no. 1 (2004): 1–42.

¹⁰ Faisal, "Prinsip-Prinsip Perjanjian Muamalat Dalam Hukum Perbankan Di Indonesia," *Reusam Jurnal Ilmu Hukum* 3(1) (2015): 1–19, <https://doi.org/DOI:https://doi.org/10.29103/reusam.v3i1.1947>.

¹¹ M. Zulfiyanda, Z., Faisal, F., & Manfarisah, "Akad Pembiayaan Murabahah Bil Wakalah Pada Pt. Bank Rakyat Indonesia Syariah Lhokseumawe," *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh* 8(1) (2020): 12–28, <https://doi.org/DOI:https://doi.org/10.29103/sjp.v8i1.2485>.

¹² Zulfiyanda, Z., Faisal, F., & Manfarisah.

Ulama must be implemented by all *Sharia* Financial Institutions in Indonesia, both Bank and Non-Bank Financial Institutions. The *fatwa* will be supervised in its implementation by the *Sharia* Supervisory Board.

The characteristics of the banking system that carries out business activities with profit-sharing principles provide an alternative banking system mutually beneficial for the community as bank customers and emphasise aspects of justice in transactions and ethical investing. Khalifa also describes Islamic economics as Godly, ethical, human, moderate, and balanced. Therefore, all forms of exploitation are prohibited in the Islamic business system and should be underpinned by the ethical rules of *Sharia*.¹³ In addition, Islamic economic principles prioritise the values of togetherness and brotherhood in production and avoid speculative activities in financial transactions. Such Islamic economic principles are used in *Sharia* financial institutions, which offer various services and products based on *Sharia* principles. *Sharia* principles include, among others, the principle of non-usury banking, the principle of *halal* and non-*haram* commerce, the principle of the willingness of the parties to make contracts or agreements, and the principle of trustworthy, honest, and responsible fund management. These principles are then known as the principles of Islamic economics.¹⁴

Aceh Qanun Number 11 of 2018, also known as the *Sharia* Financial Institutions regulation, is a local law that governs the operations of financial institutions. Its purpose is to promote a fair and prospering economy in Aceh in accordance with Islamic principles. The establishment of the Qanun *Sharia* Financial Institutions is supported by the strong sociological condition of the Acehnese community, which has a robust relationship with Islamic beliefs.¹⁵ This Qanun is a follow-up to Aceh's Qanun No. 8/2014 on the Principles of Islamic *Sharia*. This goes hand in hand with Aceh's privileges in implementing Islamic law as stipulated in the Aceh Qanun Number 8 of 2014 concerning Principles of Islamic *Sharia*.¹⁶ In Aceh, the Qanun mandates that all regional financial firms strictly adhere to *Sharia* standards. The Qanun about *Sharia* financial institutions was implemented on January 4, 2019. All financial institutions in Aceh are required to conform to the Qanun within three years of its adoption. The Qanun applies to all Muslim individuals residing in Aceh or legal entities engaging in financial transactions in Aceh. Additionally, it applies to non-Muslim individuals and business entities conducting financial transactions with the Aceh and district/city governments, as well as financial institutions operating in Aceh or headquartered in Aceh.

The intended *Sharia* financial institutions are Islamic banks and non-bank financial institutions. Non-bank financial institutions are all entities that carry out activities in the financial sector. They directly or indirectly raise funds, especially by issuing securities and distributing them in the community, especially to finance corporate investment to obtain public

¹³ Abdussalam Mahmoud Abu-Tapanjeh, "Corporate Governance from the Islamic Perspective: A Comparative Analysis with OECD Principles," *Critical Perspectives on Accounting* 20, no. 5 (2009): 556–67, <https://doi.org/10.1016/j.cpa.2007.12.004>.

¹⁴ Faisal, "Prinsip-Prinsip Perjanjian Muamalat Dalam Hukum Perbankan Di Indonesia."

¹⁵ Luthfiyah Trini Hastuti, Pujiyono, and Burhanudin Harahap, "Qanun *Sharia* Financial Institutions and Social Change Engineering Effort in Aceh Community," *Proceedings of the 2nd Riau Annual Meeting on Law and Social Sciences (RAMLAS 2021)* 659, no. 11 (2022): 7–13, <https://doi.org/10.2991/assehr.k.220406.002>.

¹⁶ Azhari Yahya et al., "Legal Study of Building *Sharia*-Based Investment in Aceh: The Challenges After the Enactment of the Qanun of *Sharia* Financial Institution," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (2023): 959, <https://doi.org/10.22373/sjhk.v7i2.17653>.

prosperity and justice.¹⁷ Non-bank financial institutions include insurance, pawnshops, securities companies, and other financing institutions, including *basturma wat Tamil (BMT)*, also called Independent Integrated Enterprises, which is a non-bank financial institution which is a Microfinance Institution that operates based on *Sharia* principles.¹⁸

The implementation of the Qanun on *Sharia* financial institutions has given a time limit of three years since it was enacted, so every person, business entity and legal entity in Aceh must immediately make changes to financial transactions in *Sharia* financial institutions. This *Sharia* Financial Institutions is a strong foundation for developing Aceh's Islamic economy. This is in line with the privileges granted to Aceh in the implementation of Islamic *Sharia*. Law No. 21/2008 on Islamic Banking explicitly states that banks can conduct business activities based on *Sharia* principles.¹⁹ All *Sharia* Financial Institutions located in Aceh or opening their offices in the Aceh region must carry out business activities based on *Sharia* principles.

The feasibility study of this research is justified by the existing issues surrounding the implementation of the Qanun on *Sharia* Financial Institutions in Aceh, as mentioned earlier. Therefore, it is worthwhile to undertake additional research on mapping legal issues, achieving harmonisation, and addressing the pressing need for harmonising and refining Aceh Qanun No. 11 of 2018, which pertains to *Sharia* Financial Institutions, to enhance its practical implementation.

RESEARCH METHODS

This study employs an empirical legal research methodology combining quantitative and qualitative approaches. A thorough examination of existing literature is carried out to collect secondary data. Primary data collection is sourced from several entities, such as *Sharia* Financial Institutions, the Financial Services Authority, and the *Sharia* Supervisory Board in Aceh. The research is carried out in three locations: Banda Aceh City in the Western region, Takengon in the Central region, and Langsa, Tamiang, and Kuala Simpang in the Eastern region.

Data collection involves structured interviews with respondents and informants, with participants chosen through purposeful sampling. Surveys are disseminated to individuals in the designated areas. The data obtained from interviews and questionnaires are subjected to numerical analysis techniques. In addition, qualitative methods are utilised to investigate research inquiries, incorporating insights from data gathering and literature analysis. Examination entails the use of inductive reasoning to verify newly established societal facts. This approach categorises primary data into a taxonomy framework to map and align Qanun

¹⁷ Jamal Wiwoho, "Peran Lembaga Keuangan Bank Dan Lembaga Keuangan Bukan Bank Dalam Memberikan Distribusi Keadilan Bagi Masyarakat," *MMH* 43, no. 1 (2014): 87–97.

¹⁸ Erisa Ardika Prasada, Joni Emirzon, and K. N. Sofyan Hasan, "Philosophy to Strengthen Baitul Maal Wat Tamwil Law in Indonesia," *Sriwijaya Law Review* 4, no. 2 (2020): 270–84, <https://doi.org/10.28946/slrev.Vol4.Iss2.432.pp270-284>.

¹⁹ A. F. Muhlizi, "Penataan Regulasi Dalam Mendukung Pembangunan Ekonomi Nasional," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 6(3) (2017): 394–368, <https://doi.org/http://dx.doi.org/10.33331/rechtsvinding.v6i3.191>.

systematically. We ensure clarity and accessibility by simplifying complicated language and guaranteeing a logical flow of information.

ANALYSIS AND DISCUSSION

Mapping Legal Issues in the Qanun on *Sharia* Financial Institutions

Aceh Qanun No. 11/2018 on *Sharia* Financial Institutions was officially enacted on January 4, 2019. This is an important breakthrough for financial transactions in Aceh. Along with Aceh's special status, the regulation issuance was implemented as a follow-up to Aceh Qanun No. 8/2014 on the Principles of Islamic *Sharia*, where every financial institution conducting business in Aceh must be based on *Sharia* principles. In Islam, *sharia* principles are known as the *halal haram* concept. This concept is currently developing into a global *halal* industry. In the teachings of Judaism, there is a similar concept called those. Likewise, in Hinduism, there is a prohibition on eating beef. The value of this belief is a spiritual aspect inherent in everyone. One of the sources of human spirituality comes from religious values or beliefs. It shows that the spiritual aspect is inherent in everyone.²⁰

Analysing the legal concerns outlined in the Qanun on *Sharia* Financial Institutions is crucial as it necessitates a thorough examination of the articles to ensure the smooth execution of the Qanun. Mapping involves gathering data as the initial stage of mapping the articles found in the Qanun on *Sharia* financial institutions. This is conducted to ascertain the disparity between the application of the Qanun and the execution of Aceh Qanun Number 11 of 2018, which pertains to *Sharia* Financial Institutions. In order to overcome these barriers, the local government must devise and revise the regulations outlined in the Qanun on *Sharia* Financial Institutions, ensuring that they align harmoniously with the regulations set by the Central Government. The regional legislative program, known as *Prolegda*, is designed to align with the community's aspirations and facilitate a shared vision and comprehension of the development program and necessary regulatory framework. Its purpose is to generate Regional Regulations or Qanuns that are genuinely responsive to the development requirements of the specific region and result in planned and coordinated Regional Regulations/Qanuns that are in harmony with overall regional development programs.²¹

The norms outlined in the Qanun on *Sharia* Financial Institutions are presented in a table format, revealing certain suboptimal art could be more in terms of their narrative and explanatory requirements. Additionally, the absence of implementing regulations necessitates a review of the interpretation of this Qanun. The mapping is stated specifically in table 1.

Table 1: Mapping of Qanun Articles on Islamic Financial Institutions

No	Article	Article content	Explanations
1	Article 14 Paragraph (4)	The financing ratio, as referred to in paragraph (3), is determined in stages as follows: a. at least 30% (thirty per cent) by 2020; and b. at least 40% (forty per cent) by 2022.	Article 14, paragraph (4) contains "in 2020 and 2022". The inclusion of these years has limited the enactment of this Qanun

²⁰ Ro'fah Setyowati and Bagya Agung Prabowo, "Sharia Principles in the Financial Services Authority Regulation on Dispute Settlement Alternatives," *Sriwijaya Law Review* 5, no. 1 (January 31, 2021): 56–70, <https://doi.org/10.28946/slrev.Vol5.Iss1.864.pp56-70>.

²¹ Ahmad Saleh, "Peran Serta Masyarakat Di Dprd Dalam Pembentukan Peraturan Daerah," *FIAT JUSTISIA: Jurnal Ilmu Hukum* 7, no. 2 (2015), <https://doi.org/10.25041/flatjustisia.v7no2.381>.

2	Article 14 Paragraph (7)	The profit-sharing-based account in paragraph (5) is carried out in stages: a. 2020 at least 10% (ten per cent); b. 2022 at least 20% (twenty per cent); and c. 2024 at least 40% (forty per cent);	This Article also lists the years (2020, 2022, 2024) that will limit its implementation so that this Qanun will later need to be revised because it has passed that year. In addition, there is a certain percentage when each bank has its main program.
3	Article 15, paragraph (1)	<i>Sharia</i> Bank functions a. to collect and distribute funds from customers and other business activities by Shari'ah Principles, and b. to carry out social functions in the form of receiving funds from 1. <i>zakatDS</i> and <i>infaq</i> on behalf of <i>Aceh Baitul Maal wat Tamwil (BMA or BMK)</i> ; and 2. <i>sadaqah</i> , grants, <i>waqf</i> money or social funds for the benefit of Muslims.	This Article does not include other financial services functions as listed in Article 13, paragraph (1).
4	Article 15, paragraph (3)	In collecting cash <i>waqf</i> funds as referred to in paragraph (1) letter b, <i>Sharia</i> Financial Institutions must be registered as cash <i>waqf</i> receiving <i>Sharia</i> Financial Institutions with the of <i>Aceh Baitul Maal wat Tamwil (BMA)</i>	This Article requires further explanation of the procedure for registration as a <i>Sharia</i> Financial Institution.
5	Article 23, paragraph (3)	<i>Sharia</i> capital market instruments consist of a. <i>Sharia</i> shares; b. Shari'ah mutual funds; and c. <i>Sharia</i> bonds or <i>sukuk</i> .	This Article requires further regulation
6	Article 23, paragraph (7)	In the event of accelerating development or requiring a source of funds, the Government of Aceh or district/city governments may issue <i>Sharia</i> bonds or regional <i>sukuk</i> by the provisions of laws and regulations.	This Article requires further arrangements related to regional <i>sukuk</i> , and until now, regional <i>sukuk</i> has not been able to be implemented.
7	Article 23, paragraph (8)	The issuance of regional <i>sukuk</i> , as referred to in paragraph (8), must be approved by the Aceh People's Representative Assembly (<i>DPRA/DPRK</i>).	The paragraph referred to in this Article should be paragraph (7). In addition, further rules are needed related to Aceh People's Representative Assembly <i>DPRA/DPRK</i> approval.
8	Article 44, paragraph (1)	To conduct business activities based on <i>Sharia</i> principles, <i>Sharia</i> Financial Institutions must establish a <i>DPS</i> .	This Article only explains what has been regulated by the previous regulation; it should regulate the Aceh <i>Sharia</i> Council and District <i>Sharia</i> Council.
9	Article 46(3)	Aceh <i>Sharia</i> Council, as referred to in paragraph (1), shall be established by governor regulation	The Aceh <i>Sharia</i> Council that has been established has yet to be maximised in carrying out its functions because each national <i>Sharia</i> has its section in which it becomes an internal supervisor (<i>Sharia</i> Compliance).
10	Article 64	Every <i>Sharia</i> Financial Institution and partner that violates the provisions referred to in Article 61, Article 62 and Article 63 shall be subject to administrative sanctions in the form of: a. monetary fines; b. written warnings; c. suspension of business activities; d. dismissal of directors and/or management of the <i>Sharia</i> Financial Institution; and e. revocation of business license.	Arrangements related to sanctions given by this Qanun conflict with the rules above because <i>national Sharia</i> banks are regulated and supervised by the Financial Services Authority. Therefore, the authority to impose sanctions must be clearer.

The analysis of legal matters addressed in Qanun Aceh No. 11/2018 articles about *Sharia* Financial Institutions reveals the necessity for revising certain articles to enhance their operational effectiveness. An instance of this is administrative penalties on *Sharia* Financial Institutions in Aceh, as specified in Article 64, which serve as consequences for breaching the Aceh Qanun. *Sharia* Financial Institutions and Other Financial Institutions across the country are subject to regulation by the Financial Services Authority (OJK) in Indonesia. Consequently, the OJK imposes fines for any breaches stipulated, as it is responsible for overseeing and controlling financial services operations in the banking sector, the Capital Market sector, and other Non-Bank Financial Industry sectors.²² Furthermore, it is necessary to eliminate some articles that have been subjected to regulation by higher laws and regulations, resulting in the presence of redundant rules. Specific matters requiring regulation should be addressed in the Qanun on *Sharia* Financial Institutions. However, if these matters are already covered in the regulations preceding it, reference should be made to the higher regulations to avoid any conflicts.

Harmonisation of Qanun on *Sharia* Financial Institutions in the Islamic Financial Sector

In recent decades, Islamic banking has experienced considerable development into a major industry.²³ These developments need to be supported by adequate and well-integrated infrastructure and regulations. The integration process will entail allowing Islamic institutions to operate, providing a comprehensive regulatory framework, and developing a supportive financial infrastructure.²⁴ This development needs to be supported by infrastructure and rules that go hand in hand with the development and regulations of the central government so that harmonisation with regulations in the regions is needed. Harmonisation is a process or effort to harmonise, harmonise, or adjust something that is considered not or less appropriate, less inappropriate or incompatible to produce something good or harmonious in various ways. Legal issues include regulations that must be harmonious, legal vacuum and overlapping regulations. The regulations contained in the Qanun on *Sharia* Financial Institutions still have rules that need to be in harmony with existing regulations in the Islamic financial sector, so it is necessary to harmonise regulations in the Islamic financial sector and well-integrated.

Harmonisation of legal issues required in the Qanun on *Sharia* Financial Institutions due to the inclusion of years (2020, 2022, 2024). This year's inclusion has limited its implementation, so the Qanun must be revised yearly because it has passed the year limit. In addition, there is a certain percentage (%), whereas each Islamic bank has its products and characteristics. Technical arrangements can be regulated in the implementing regulations so that they do not need to be regulated in the Aceh Qanun. For example, the percentage (%) of financing based on profit sharing and the principle of sale and purchase is determined in more technical rules, either in operational standards or local government policies, not regulated in the Qanun.

²² Moishé Sofyan A Sagir, "Wawancara Kasubag OJK" (2022).

²³ M. N Alam, "Islamic Banking in Bangladesh: A Case Study of IBBL," *International Journal of Islamic Financial Services* 1, no. 4 (2000): 10–29, <https://doi.org/https://doi.org/10.1016/j.econmod.2016.08.004>.

²⁴ Juan Sole, "Introducing Islamic Banks into Conventional Banking Systems," *IMF* 07, no. 175 (2007): 23.

Other legal issues, for example, the content of Article 25 of the Aceh Qanun, which regulates *Sharia* venture capital in Aceh, is not yet active, so harmonisation is needed to maximise the Qanun on *Sharia* Financial Institutions in Aceh with the Financial Services Authority Regulation No. 34/PJOK.05/2015 on Business Licensing and Institutionalization of Venture Capital Companies and Financial Services Authority Regulation No. 35/PJOK.05/2015 on Business Implementation of Venture Capital Companies and other regulations so that they are by the Aceh Qanun. Of course, the rules regulated in the Aceh Qanun must be in accordance with higher regulations so that the Qanun can run well and not experience stagnation in its implementation in Aceh.

There is already a branch of the Indonesia Stock Exchange in Aceh concerning *Sharia* Financial Technology. Its purpose is to enhance public knowledge and awareness of proper and accurate capital market investments. This includes increasing the participation of local investors and their activity in conducting transactions, as well as promoting the involvement of local companies in the capital market through the process of going public. If there is a need for expedited development or a requirement for more finances, the Government of Aceh or local governments can issue *sharia* bonds or regional *sukuk*. The absence of regulations for this regional *sukuk*, particularly in Aceh, hinders its utilisation despite its potential as an effective tool for local governments needing more budgetary resources. Regional *sukuk* offers the opportunity to engage the population in regional development. However, the Aceh government has been unable to implement this regional *sukuk* successfully using community donations. Moreover, deploying regional *sukuk* funds can catalyse the community to actively participate in regional development actively, fostering a mutually beneficial and synergistic relationship between the community and the government.

Furthermore, the regulations of the Aceh *Sharia* Council have been established and enforced by Governor Regulation No. 56/2020 on the Aceh *Sharia* Council. The Aceh *Sharia* Council supervises the adherence to *Sharia* standards in all Islamic financial institutions functioning in Aceh. The Aceh government has established the Aceh *Sharia* Council to bolster the operations of Islamic Financial Institutions in Aceh. However, this raises issues because the implementation has yet to undergo performance evaluation and needs clear guidelines for supervision. Furthermore, the Qanun *Sharia* Financial Institutions also encompasses regulations on forming District/City *Sharia* Councils. In order to fully execute the activities and responsibilities of the Regency/City *Sharia* Council, it is necessary to have an implementing rule. The formation of the Regency/City *Sharia* Council in every district and city has yet to be implemented. There are still challenges in terms of further technical regulations and in relation to the funding and operational processes of the District/City *Sharia* Council.

Certain Islamic banks have collaborated with the Indonesian Ulema Council in specific locations regarding *Sharia* compliance. However, within the Islamic banks themselves, dedicated units are already responsible for ensuring adherence to *Sharia* principles known as *Sharia* compliance units. *Shariah* governance refers to the mechanism by which *Sharia* financial institutions guarantee the presence of robust and autonomous supervision of the *Shariah* compliance process. In order to enhance the growth of Islamic banks in the regions, it is crucial to establish effective coordination between the Aceh *Sharia* Council and the City *Sharia* Council in the districts. Furthermore, there is a pressing need to implement a government

initiative known as the People's Business Credit (KUR in Indonesia) in Aceh. This program aims to provide farmers with financial security in crop failure by offering guarantees. Currently, there is a warehouse receipt available for storing coffee. This receipt grants the coffee a certificate, which a bank guarantee can back. The coffee certificate guarantee is a substitute for the bank in assisting coffee farmers seeking financial support—one potential strategy for fostering economic growth, particularly in regions that rely on coffee production like Tekengon.

Factors of Disharmony in the Qanun on Islamic Financial Institutions

Various elements contribute to the disharmony among legislative provisions, including a). Diverse Institutions and Timelines: Different institutions create legislation, often done at different times. B). Rotation of Authorised Officials: Due to the term limits, assignments, or replacements, officials in charge of developing regulations may change. c). Sectoral Dominance: Regarding regulation formation, the sectoral approach usually wins out over the system approach. d). Poor Coordination: There needs to be more coordination in the formulation process, which involves many bodies and legal specialities. e). Limited Public Participation: The public's ability to engage in the legislative process remains restricted, and f). Lack of Standardisation: There are no defined, specific, or standardised ways that all institutions with the authority to draft laws and regulations must follow.²⁵

This study discovered that the subsequent factors influence the lack of agreement over the Qanun on Islamic Financial Institutions: *First*, the Qanun on *Sharia* Financial Institutions is an order from Article 2 of Law 44 of 1999 concerning the Implementation of the Specialty of the Special Province of Aceh and Article 125, Article 126, Article 127, and Article 154 of Law Number 11 of 2006 concerning the Government of Aceh (*UU-PA*), where in these provisions Aceh is given the authority to develop and regulate the implementation of Islamic *Sharia*. These articles grant Aceh the authority to design and oversee the application of Islamic *Sharia*. According to Article 21 of Aceh Qanun No. 8/2014, the implementation of Shari'a financial institutions and transactions must comply with the laws and regulations specified by Qanun. The Qanun on *Sharia* Financial Institutions is both a legal requirement and an implementing regulation that holds the same level of authority as the Qanun on the implementation of *Sharia*. In other words, the Qanun on implementing *Sharia* supersedes the Qanun on *Sharia* Financial Institutions.

Second, officials authorised to form Qanuns under the Office of Islamic Shari'a were replaced due to term limits or transfers of duties or replacements. *Third*, the sectoral approach in forming Qanuns was stronger than the system approach because the Qanun on *Sharia* Financial Institutions was the impetus of the people who wanted to implement *Sharia* bank and non-bank *Sharia* financial institutions comprehensively in Aceh. *Fourth*, the lack of coordination in the Qanun formation process was due to the lack of involvement of various agencies and legal disciplines that have expertise in *Sharia* economic law, especially academics

²⁵ Wasis Susetio, "Disharmoni Peraturan Perundang-Undangan Di Bidang Agraria," *Bidang Agraria Lex Jurnalica* 10 (2013): 135–47.

who are experts in *Sharia* banking law and other regulations in the Islamic financial sector. *Fifth*, the lack of public access to participate in forming a Qanun in Islamic Financial Institutions still needs to be improved.

Sixth, implementing a Qanun on Sharia Financial Institutions needs a clearer and universally accepted framework to regulate interconnected institutions effectively. The limited authority of the Qanun prevents it from exerting influence over other vertical institutions. Vertical institutions refer to governmental bodies, such as ministries and non-ministerial government organisations, that handle government affairs not assigned to autonomous regions in specific areas within the framework of de-concentration.²⁶ Vertical institutions encompass economic institutions such as sharia banking and other sharia non-bank financial institutions. These institutions are bound by the regulations established by the federal government. Hence, it is imperative to establish coordination and harmony in developing the Qanun on Sharia Financial Institutions.

Seventh, The Qanun on Islamic Financial Institutions has numerous untested notions that have yet to be implemented in communal life, resulting in suboptimal implementation. Therefore, there is disharmony between the rules specified in the Qanun on Islamic Financial Institutions, which are theoretical in character and the norms found in the reality of society. The legal argument posits that the law must align with society's evolving and advancing nature, which progresses in tandem with the growth of communal existence. *In pameo ubi, Societas ibi ius* means "where there is society, there is law". A society exists and creates law; society changes and the law also change.²⁷ Therefore, the explanation above demonstrates that multiple variables contribute to disharmony in the establishment of Qanun Sharia Financial Institutions. Disharmonization necessitates readjustment endeavours to ensure that the Qanun's norms are optimal and implemented by the aspirational community.

The Urgency of Harmonizing Qanun on Islamic Financial Institutions

The urgency of harmonising the Qanun on *Sharia* Financial Institutions is because there are still articles that have been regulated in it that require adjustments to the laws and regulations in the *Sharia* financial sector. The existence of articles that conflict with other regulations is related to the absence of implementing regulations from several articles in question so that the application of the Qanun on *Sharia* Financial Institutions can only partially be implemented to the fullest. In addition, harmonisation is also needed to strengthen the Qanun on *Sharia* Financial Institutions so that its implementation will be more authoritative in society.

The following questions related to the harmonisation of the Qanun on *Sharia* Financial Institutions are presented in table 2.

Table 2: Questionnaire on the Implementation of Qanun on Sharia Financial Institutions

Questions	Required	Not Required	Neutral
Is there a need to harmonise the Qanun on <i>Sharia</i> Financial Institutions in Aceh with other laws and regulations?	52	1	-
Has implementing the Qanun on <i>Sharia</i> Financial Institutions	29	25	2

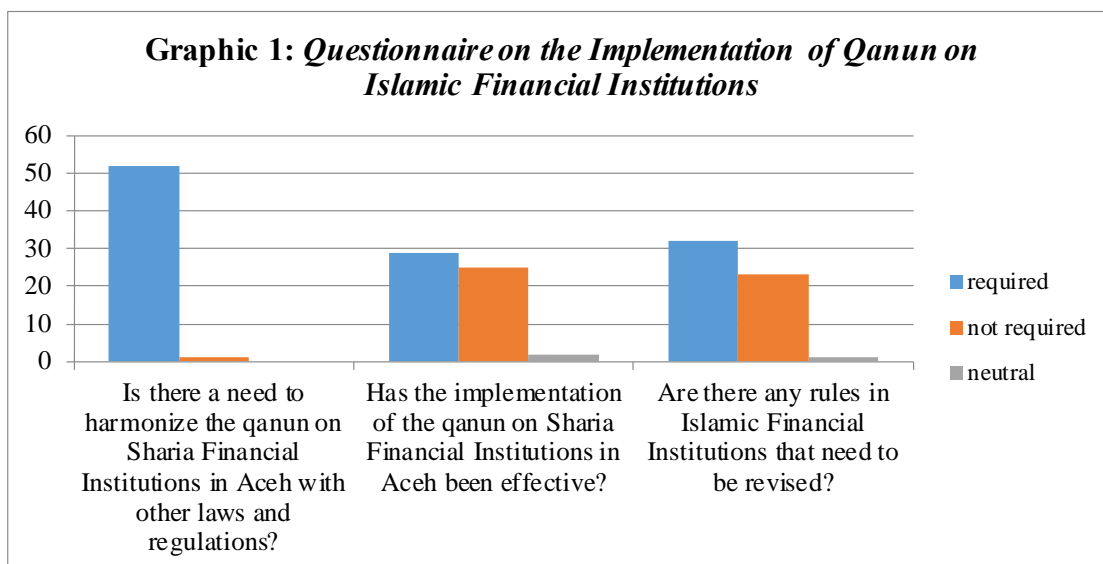
²⁶ Indonesia, "Tambahan Lembaran Negara RI No.5587 Pasal 1 Angka 9, Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintah Daerah," no. 5587 (2014): 1–107.

²⁷ Harpani Matnuh, "Law as a Tool of Social Engineering" 147, no. Icsse 2017 (2018): 118–20, <https://doi.org/10.2991/icsse-17.2018.28>.

in Aceh been effective?

Are there any rules in Islamic Financial Institutions that need to be revised?	32	23	1
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Table 2 and Graphic 1 provide fifty-two individuals from the western (Banda Aceh), central (Takengon), and eastern (Kuala Simpang, Langsa, and Idi) regions believe that it is necessary to harmonise the Aceh Qanun on *Sharia* Financial Institutions with other laws and regulations. Only one person believes that it is not necessary. This indicates that there is a wide range of perspectives regarding the necessity of aligning the Aceh Qanun with the legal framework governing the *Sharia* financial services industry. The necessity for harmonisation arises due to the suboptimal implementation of the Qanun on *Sharia* Financial Institutions. Furthermore, the regulations outlined in the Qanun on *Sharia* Financial Institutions solely pertain to inclusion and need more comprehensive research or analysis, rendering them incapable of being flawlessly applied in the community's economic activities.



The profit-sharing-based account, as referred to in 2020, is at least 10%, in 2022, at least 20%, and in 2024, at least 40%. Regulating the achievement of years and percentages is rather difficult because each *Sharia* bank has its own core or main program that is not the same as other *Sharia* banks, so it is feared that it will not be achieved later by the years and percentages set out in the Aceh Qanun on *Sharia* Financial Institutions *Sharia* bank products are indeed encouraged to prioritise the principle of profit sharing, including based on *aqad mudharabah* and *aqad musyarakah*. *Akad musyarakah* is contract cooperation between the bank and the customer to bind themselves in a capital union in the same or different amount as agreed. The mixing of capital is used for proper business management and in accordance with *sharia* principles.²⁸ However, it also depends on customer needs. In addition, each bank also has products that are its mainstay so that the product is the target in achieving performance so as to

²⁸ Juli Andria, Darmawan Darmawan, and Azhari Azhari, “The Implementation of Musyarakah by PT Bank Aceh Branch of Banda Aceh, Indonesia,” *Sriwijaya Law Review* 3, no. 1 (2019): 99, <https://doi.org/10.28946/slrev.vol3.iss1.195.pp99-110>.

maximise financing to customers.²⁹ Anwar Abdullah also conveyed the same thing, that BSI was given a certain program, for example, only for the program of raising funds for the community.

This program is mostly for profit-sharing contracts for the community, while the financing program is directed to other Islamic bank branches.³⁰ Article 14 Paragraph (7) of the Qanun on *Sharia* Financial Institutions is different from the development of community needs. This is due to the inclusion of the year of enactment so that the norms regulated are very binding with the year listed, and the year has a limitation on its enactment. In addition, there are even years that have passed its enactment. Likewise, there is a certain percentage of financing to customers. This is an obstacle for customers because the dominant financing, according to customer needs to date, is sale and purchase or *Murabaha* financing. *Murabaha* financing, since the establishment of Islamic banks until now, has been the dominant financing method for Islamic bank products.³¹ If the customer's wishes or needs are not met with the financing offered, the customer does not carry out financing with the bank, so the rules set are not effective to run optimally.

They are concerning the effectiveness of the Aceh Qanun on Sharia Financial Institutions in Aceh implementation. According to the results of the interviews, 29 individuals reported that the Qanun had been effective, 25 individuals reported that it had not been effective, and two individuals provided neutral responses. This demonstrates that while numerous viewpoints assert its efficacy, an equal number of opinions contend its lack of effectiveness. It is important to acknowledge that further reflection and recommendations are required to enhance the implementation of the Aceh Qanun. The efficacy of a regulation can be assessed along three dimensions: initially, the substantive aspect, which pertains to the extent to which the regulations governing Sharia Financial Institutions (SFIs), including both banks and non-banks operating on Sharia principles, are flawlessly enforced. Furthermore, the law enforcement aspect should be considered, whereby stringent penalties are imposed on Islamic financial institutions that fail to implement the regulations established in the Qanun. Third, community cultural factors entail that members are well-informed about conducting business and financing per Sharia principles to establish the requirements of the parties (*anta-radhi minkum*) between Islamic institutions and their clients.

Purification of Qanun on *Sharia* Financial Institutions

Revision is necessary to purify the Qanun on Sharia Financial Institutions so that it is more comprehensive in implementation and purer in principle. According to the research findings (see table provided above), it is evident that thirty-two individuals believe that the Qanun requires revision. A neutral individual believed no revision was necessary, while 23 individuals stated otherwise. This indicates that many respondents felt that the Qanun required revisions. Revisions to the Qanun consist of amending the articles' regulations or completing the articles

²⁹ Cut Lini Afrina, "Wawancara Branch Manager KC Bank Syariah Indonesia Langsa" (2022).

³⁰ Cut Lini Afrina.

³¹ B. J. Samad, A., Gardner, N. D., & Cook, "Islamic Banking and Finance in Theory and Practice: The Experience of Malaysia and Bahrain," *The American Journal of Islamic Social Sciences* 22, no. 2 (2005): 69–86.

themselves. Furthermore, supplementary standards exist that govern the execution of additional regulations. For the Qanun on *Sharia* Financial Institutions to be deemed responsive and in line with the community's requirements, it must be revised to reflect the times. Furthermore, it is imperative to conform to the regulations that emerge within the Islamic financial industry and maintain consistency with more stringent regulations.

Purification of the Qanun on *Sharia* Financial Institutions by revising it in principle must be in accordance with *Sharia* principles (single banking system). Applying *Sharia* principles through a single banking system will better ensure their implementation. This eliminates customer doubts about mixing *Sharia* principles with conventional principles that use the interest system. Bank interest in the fatwa of the Indonesian Ulema Council is equal to usury and is *haram*.³² In various other studies related to bank interest, there are differences of opinion; the opinion of the majority of scholars is that bank interest is not allowed (*haram*), while some scholars, including Abdullah Yusuf Ali and Muhammad Asad, argue that the interest that is forbidden is usury that is multiplied (unnatural), while interest that is not multiplied is allowed, including in this category bank interest practised at this time. However, the majority of scholars generally agree that interest is the same as usury and is *haram*. *Riba* is the excess (over the principal debt) taken by the creditor (the one who gives the debt) from the debtor (the one who owes) in return for the period of payment of the debt.

The purification drive of Islamic banks is better in several aspects than conventional banks. This includes, among others, managing financing risks and maintaining solvency in Islamic banking. This is because the driving factor for Islamic banking customers is due to location and *Sharia* compliance.³³ Purification of Qanun also needs to be done by perfecting various rules so there are no conflicts and ensure certainty in its implementation—for example, the regulation related to collateral institutions in customer financing (insurance). Insurance in customer financing should not use conventional insurance or be based on interest principles but must use *Sharia* principles. The use of *Sharia* insurance principles is in line with Islamic banks that carry out their business activities based on *Sharia* principles, which are then known as *Sharia* insurance. Based on the DSN MUI Fatwa on *Sharia* Insurance Number 21/DSN-MUI/X/2001, *Sharia* insurance is an effort to protect and help each other among several people or parties through investments in the form of assets or *tabarru* that provide a pattern of returns to face certain risks through contracts *under Sharia*.³⁴ *Sharia* insurance is often known as *Takaful*, which has become an alternative method of providing insurance services that is considered acceptable.³⁵

In addition, the refinement of the Qanun on *Sharia* Financial Institutions must also be in line with other *Sharia* non-bank financial institutions, such as the *Sharia* capital market, *Sharia* pension funds, *Sharia* venture capital, *sharia* financing cooperatives, *sharia* financing institutions (*sharia* leasing), *sharia* pawnshops, *sharia* factoring, *sharia* microfinance

³² “Lihat Fatwa Majelis Ulama Indonesia (MUI), Nomor 1 Tahun 2004 Tentang Bunga (Interest/Fa’idah),” 2004.

³³ Muhammad Hanif et al., “Comparative Performance Study of Conventional and Islamic Banking in Pakistan,” *International Research Journal of Finance and Economics* 83, no. 83 (2012): 62–72.

³⁴ Fatwa Dewan Syariah Nasional-Majelis Ulama Indonesia Nomor 21/DSN-MUI/X/2001, “Tentang Asuransi Syariah,” n.d.

³⁵ M. Dikko, “An Analysis of Issues in Takaful (Islamic Insurance),” *European Journal of Business and Management* 6, no. 15 (2014): 1–5.

institutions, *sharia* financial technology, and other *sharia* non-bank financial institutions. *Sharia* non-bank financial institutions are found in Article 7, paragraph (3) of the Qanun on *Sharia* Financial Institutions. Therefore, the Qanun on *Sharia* Financial Institutions must always synergise with the regulations of other related institutions, such as Bank Indonesia, the Financial Services Authority, the Ministry of Finance, and other financial sector regulations. The regulation of Islamic Financial Institutions is increasingly required to adjust regulations related to changes in regulations in the increasingly innovative Islamic financial industry sector.³⁶ Regulatory harmony between sectors of the Islamic finance industry will accelerate the refinement of the Qanun on Islamic Financial Institutions and run more optimally in Aceh.

Regarding non-bank *Sharia* financial institutions, the Qanun on *Sharia* Financial Institutions is not specifically regulated, but other financial institutions are specifically regulated through a Governor's regulation. Until now, there has been no follow-up to the Governor's regulation related to the above, so the implementation of the Qanun on *Sharia* Financial Institutions has not been running properly. It is also necessary to refine the Qanun on *Sharia* Financial Institutions to harmonise the above regulations with the implementing regulations. If the implementing regulations have not been carried out, the Qanun on Islamic Financial Institutions must be running properly.

Therefore, the improvement of the Qanun on *Sharia* Financial Institutions does not mean reopening the opportunity for conventional banking to return to operate or conduct business activities in Aceh, but rather strengthening the Qanun on *Sharia* Financial Institutions to conduct business activities based on *Sharia* principles without being confused with the principle of interest. Thus, only banks that do business based on *Sharia* principles of ten, known as a single banking system, apply in Aceh. This is in line with the special law that has been given to Aceh through Law No. 11/2006 on the Government of Aceh.

The Qanun on *Sharia* financial institutions also stipulate the role of the Aceh Government, which is obliged to facilitate the basic infrastructure of *Sharia* banks, including facilitating the establishment of *Sharia* banks in districts/cities. In addition, the Aceh Government, the financial services authority, and the Aceh *Sharia* Council conduct a joint assessment to assess the performance and role of Islamic banking in Aceh. After conducting a joint assessment, an announcement will be made at the end of the current year. Thus, the Qanun on *Sharia* financial institutions continues to be improved to ensure harmony and purity in implementing *Sharia* principles without banks based on interest.

CONCLUSION

Ultimately, the analysis of legal matters about the Aceh *qanun* on *Sharia* financial institutions uncovers specific obstacles in conforming to regulations within the *sharia* financial services industry, which are vital for strengthening the country's economy. The implementation of the *qanun* reveals the presence of overlapping articles, intricate technical aspects with features that require timely modifications, and the incorporation of administrative sanctions without clear identification of the enforcer. The *qanun* on *Sharia* financial institutions is affected by several

³⁶ Luqman Nurhisam, "Kepatuhan Syari'Ah (Sharia Compliance) Dalam Industri Keuangan Syari'Ah," *Ar-Raniry, International Journal of Islamic Studies* 3, no. 1 (2016): 23, <https://doi.org/10.20859/jar.v3i1.75>.

factors that contribute to disharmony. These factors include the frequent changes in officials responsible for formulating the qanun, a sectoral approach that is stronger than a systemic one, weak coordination in the qanun formation process, the absence of a defined way and method, and the presence of numerous untested theoretical norms within the qanun on sharia financial institutions. Harmonisation of the *qanun* on financial institutions is crucial to confront these challenges. Consequently, modifications are required to bring it into conformity with more advanced legislation. Furthermore, it is crucial to develop governor regulations, regency regulations, and other technical rules to enhance the technical execution of the qanun. moreover, it is imperative to purify the qanun on sharia financial institutions by making principled revisions. This will guarantee compliance with sharia principles, including the establishment of a unified banking system and the refinement of various regulations to foster harmony, prevent conflicts, and ensure a definite implementation process.

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