

## Al-Hiwalah: (Sharia Economic Law)

Volume 5 No. 1. January- June 2026

E-ISSN : 2963-0304

Page : 150-169

DOI : 10.47766/al-hiwalah.v5i1.7755

<https://journal.uinsuna.ac.id/index.php/AlHiwalah>

### Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia

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**Abstract:** This study aims to analyze disputes in Shariah Insurance using a case study of PT Asuransi Takaful. The focus of the study includes the forms and characteristics of disputes, the factors causing them, dispute resolution mechanisms, compliance with Islamic economic law principles, and the parties' perceptions of fairness. This study uses a qualitative approach with a case study method to explore the phenomenon in depth based on empirical data and a literature review. The research results show that disputes are generally related to claims, such as rejections, late payments, and differences in benefit values. Factors contributing to these disputes include a lack of transparency, low Islamic financial literacy, and weak communication between companies and participants. Dispute resolution mechanisms are mostly conducted through non-litigation channels such as deliberation, mediation, and Islamic arbitration, which align with the principle of reconciliation (islah). However, there remains a gap between the normative principles of Islamic economic law and its implementation in the field. The parties' perceptions of fairness are strongly influenced by the transparency of the process and the quality of communication.

This research contributes to enriching the study of Sharia insurance disputes through a more contextual case study approach. Furthermore, it provides practical recommendations for companies, regulators, and academics to improve the effectiveness of fair and sharia-compliant dispute resolution.

**Keywords:** sharia insurance, disputes, takaful, sharia economic law, dispute resolution, justice.

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*Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia*

*Maulidya Mora Matondang, et, al*

**Abstrak:** Studi ini bertujuan untuk menganalisis sengketa dalam asuransi syariah menggunakan studi kasus PT Asuransi Takaful. Fokus studi meliputi bentuk dan karakteristik sengketa, faktor-faktor penyebabnya, mekanisme penyelesaian sengketa, kepatuhan terhadap prinsip-prinsip hukum ekonomi Islam, dan persepsi para pihak tentang keadilan. Studi ini menggunakan pendekatan kualitatif dengan metode studi kasus untuk mengeksplorasi fenomena secara mendalam berdasarkan data empiris dan tinjauan pustaka. Hasil penelitian menunjukkan bahwa sengketa umumnya berkaitan dengan klaim, seperti penolakan, keterlambatan pembayaran, dan perbedaan nilai manfaat. Faktor-faktor yang berkontribusi terhadap sengketa ini meliputi kurangnya transparansi, rendahnya literasi keuangan Islam, dan lemahnya komunikasi antara perusahaan dan peserta. Mekanisme penyelesaian sengketa sebagian besar dilakukan melalui jalur non-litigasi seperti musyawarah, mediasi, dan arbitrase Islam, yang selaras dengan prinsip perdamaian (islah). Namun, masih terdapat kesenjangan antara prinsip-prinsip normatif hukum ekonomi Islam dan implementasinya di lapangan. Persepsi para pihak tentang keadilan sangat dipengaruhi oleh transparansi proses dan kualitas komunikasi. Penelitian ini berkontribusi untuk memperkaya studi tentang sengketa asuransi syariah melalui pendekatan studi kasus yang lebih kontekstual. Lebih jauh lagi, penelitian ini memberikan rekomendasi praktis bagi perusahaan, regulator, dan akademisi untuk meningkatkan efektivitas penyelesaian sengketa yang adil dan sesuai syariah.

**Kata kunci:** Asuransi syariah, sengketa, takaful, hukum ekonomi syariah, penyelesaian sengketa, keadilan.

## INTRODUCTION

The shariah insurance industry in Indonesia has experienced significant growth along with increasing public awareness of Sharia-based financial principles<sup>1</sup>. Sharia insurance exists as an alternative to conventional insurance, emphasizing the principles of mutual assistance (ta'awun) and risk sharing,

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<sup>1</sup> Safaruddin Harefa, "The Fundamental Principles of Islamic Law in the Digital Era: An Ushul Fiqh and Maqashid Sharia Approach," *Journal of Islamic Law on Digital Economy and Business* 1, no. 1 (2025): 84–99, <https://doi.org/10.20885/JILDEB.vol1.iss1.art6>.

*Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia*

*Maulidya Mora Matondang, et, al*

rather than risk transfer<sup>2</sup>. In practice, Sharia insurance operations must comply with Sharia principles, which avoid elements of usury (riba), gharar (gharar), and maysir (gambling). However, in its implementation, disputes often arise between participants and insurance companies regarding claims, transparency of fund management, and interpretation of the contracts used. This phenomenon demonstrates that, despite being Sharia-based, the potential for conflict remains and requires in-depth study.

One of the pioneering companies in the Shariah Insurance industry in Indonesia is PT Asuransi Takaful, which has been operating since the early days of the industry. As an institution with extensive experience, PT Asuransi Takaful is expected to represent ideal Shariah Insurance practices. However, in practice, this company is not immune to the potential for disputes with customers or participants. These disputes can arise from differing perceptions of policy content, mismatched expectations regarding benefits, or delays or denials of claims (Kusumadewi dan Sidauruk.<sup>3</sup> This raises important questions about how dispute resolution mechanisms in Shariah Insurance are implemented and the extent to which the principles of Islamic justice are truly implemented.

Previous research has extensively examined Shariah Insurance from various perspectives, such as legal aspects, risk management, and Sharia compliance<sup>4</sup>. Several studies emphasize the importance of transparency in managing participant funds to prevent conflict, while others focused on dispute resolution

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<sup>2</sup> Y Kusumadewi and A D Sidauruk, “Kerangka Hukum Dan Perkembangan Asuransi Syariah Di Indonesia,” *Islam & Contemporary Issues* 5, no. 1 (2025): 99–111.

<sup>3</sup> A. D. B. Kusumadewi, Y., & Sidauruk, “Kerangka Hukum Dan Perkembangan Asuransi Syariah Di Indonesia.,” *Islam & Contemporary Issues* 5(1), 99–1 (2025).

<sup>4</sup> R Hayati and Abdul Mujib, “Dispute Resolution on Muḍārabah Musytarah Contract on Sharia Insurance in Indonesia: Between Regulation and Practice,” *El-Mashlahah*, 2022, <https://doi.org/10.23971/elma.v12i1.3795>.

*Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia*

*Maulidya Mora Matondang, et, al*

mechanisms through Sharia arbitration institutions<sup>5</sup>. However, most of this research remains general in nature and has not specifically examined case studies of specific companies such as PT Asuransi Takaful<sup>6</sup>. Furthermore, the approaches used tend to be normative and have not delved deeply into the empirical realities of the field<sup>7</sup>.

An identifiable research gap is the lack of qualitative studies specifically examining Sharia insurance disputes based on real-life case studies at specific institutions<sup>8</sup>. Previous research has not explored the dynamics of the relationship between participants and companies in the context of disputes, including the causal factors, resolution processes, and the parties' perceptions of fairness<sup>9</sup>. Furthermore, there is limited research that comprehensively links dispute resolution practices to the principles of Sharia economic law. Therefore, research that can explore this phenomenon in greater depth and context is needed.

This research is expected to provide both theoretical and practical contributions. Theoretically, this research can enrich the literature on disputes in Shariah Insurance with a more in-depth case study approach. Practically, the

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<sup>5</sup> Ahmad Farhan Al-Fitra, "PERLINDUNGAN HUKUM TERHADAP KLAIM PERTANGGUNGAN OBJEK KONTRAK PADA PT ASURANSI TAKAFUL," *JURISTA: Jurnal Hukum Dan Keadilan*, 2024, <https://doi.org/10.22373/jurista.v8i1.112>.

<sup>6</sup> Isdiana Syafitri et al., "Contemporary Legal Certainty in Insurance Default Claims: A Comparative Study of Islamic and Positive Law Perspectives," *MILRev: Metro Islamic Law Review*, 2025, <https://doi.org/10.32332/milrev.v4i1.10465>.

<sup>7</sup> M Muhaimin, "Contemporary Legal Problems of Sharia Insurance Regulation in Indonesia," *Journal of Law and Sustainable Development*, 2024, <https://doi.org/10.55908/sdgs.v12i1.3147>.

<sup>8</sup> Bustanul Arifin et al., "ISLAMIC LEGAL REASONING IN DISPUTE RESOLUTION AND SHARIA FINANCIAL RISK MANAGEMENT OF DSN-MUI FATWAS," *Hakam: Jurnal Kajian Hukum Islam Dan Hukum Ekonomi Islam*, 2026, <https://doi.org/10.33650/jhi.v10i1.14447>.

<sup>9</sup> Aulia Nurhikmah et al., "Analysis of Variations in Sharia Economic Dispute Resolution System," *Studi Multidisipliner: Jurnal Kajian Keislaman*, 2025, <https://doi.org/10.24952/multidisipliner.v12i2.16779>.

*Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia*

*Maulidya Mora Matondang, et, al*

results of this study are expected to provide evaluation material for Shariah Insurance companies, particularly PT Takaful, in improving service quality and dispute resolution. Furthermore, this research can serve as a reference for regulators and academics in developing policies and conducting further studies related to consumer protection in the Islamic financial industry<sup>10</sup>.

## **METHODS**

This research employs a qualitative research method with a case study approach<sup>11</sup>. The qualitative approach was chosen because it aims to gain a deeper understanding of the dispute phenomenon in Islamic insurance, specifically at PT Asuransi Takaful. Qualitative research allows researchers to gather comprehensive information regarding the nature of the dispute, its causes, resolution mechanisms, and the parties' perceptions of fairness<sup>12</sup>. Furthermore, this approach emphasizes meaning, process, and understanding of social reality rather than statistical measurement<sup>13</sup>. Therefore, qualitative research is considered most appropriate for answering the stated research questions.

A case study approach was used because this research focuses on a specific issue, namely the Sharia insurance dispute at PT Asuransi Takaful. Case studies aim to provide an in-depth and contextual overview of a phenomenon in

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<sup>10</sup> Otoritas Jasa Keuangan, "Perkembangan Industri Keuangan Syariah Di Indonesia" (Jakarta: Direktorat Pasar Modal Syariah / Departemen Perizinan dan Pengawasan Keuangan Syariah OJK., 2022).

<sup>11</sup> Loraine Busetto, Wolfgang Wick, and Christoph Gumbinger, "How to Use and Assess Qualitative Research Methods," *Neurological Research and Practice* 2, no. 1 (2020), <https://doi.org/10.1186/s42466-020-00059-z>.

<sup>12</sup> Dwi Asmoro and Ade Saptomo, "Islamic Law in the Development of Indonesian Law," *Riwayat: Educational Journal of History and Humanities* 7, no. 1 (2024): 138–47, <https://doi.org/10.24815/jr.v7i1.36816>.

<sup>13</sup> Rosanna Cole, "Inter-Rater Reliability Methods in Qualitative Case Study Research," *Sociological Methods and Research* 53, no. 4 (2024): 1944–75, <https://doi.org/10.1177/00491241231156971>.

*Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia*

*Maulidya Mora Matondang, et, al*

a real-world setting. Through this approach, researchers can explore various aspects related to the dispute in greater detail and systematically<sup>14</sup>. Furthermore, case studies allow for analysis of the relationship between Sharia economic law theory and dispute resolution practices in the field. Therefore, this approach is expected to yield a more comprehensive understanding of the phenomenon under study.

### **1. Research Location and Object**

This research was conducted at PT Asuransi Takaful, one of the pioneering sharia insurance companies in Indonesia. The research location was selected based on PT Asuransi Takaful's extensive experience in the sharia insurance industry and its relevance to the research topic of sharia insurance disputes. Furthermore, this company is considered representative in describing the operational practices of sharia insurance in Indonesia. By selecting a specific research object, the research is expected to provide a more in-depth and focused analysis of the dispute phenomenon that occurs.

This research focuses on the types of disputes, the factors causing them, dispute resolution mechanisms, compliance with Islamic economic law principles, and the parties' perceptions of fairness. The research focuses on how disputes arise and are resolved in company operational practices. Furthermore, the study examines the extent to which Islamic principles are applied in resolving these disputes. Therefore, the research encompasses not only legal aspects but also social aspects and communication between the company and its participants.

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<sup>14</sup> S Supriyono et al., "Metode Penelitian Kualitatif," 2023.

*Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia*

*Maulidya Mora Matondang, et, al*

## **RESULTS AND DISCUSSION**

### **Results**

#### **Understanding Sharia Insurance**

Sharia insurance is a form of mutual protection and assistance between several parties through investments in assets and/or tabarru', which provides a return pattern to address specific risks through contracts in accordance with sharia principles. The basic concept of sharia insurance differs from conventional insurance because it emphasizes the principles of ta'awun (mutual assistance), justice, and shared responsibility. In this system, the company acts solely as a fund manager for participants, while the risk is shared by all participants. Thus, the relationship established is not one of buying and selling risk, but rather a cooperative effort to assist each other in times of disaster. This principle makes sharia insurance more in line with the values of Islamic economic law<sup>15</sup>.

According to Fatwa No. 21/DSN-MUI/X/2001 of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI)<sup>16</sup>, Sharia insurance is a mutual protection and assistance effort among a number of individuals through investments in assets or tabarru'<sup>17</sup>, which provide a return pattern to address certain risks through contracts in accordance with Islamic law. This provision emphasizes that Sharia insurance operations must avoid elements of gharar (uncertainty), maysir (gambling), and usury. Therefore, every transaction in Sharia insurance must be based on the principles of transparency and fairness.

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<sup>15</sup> Z Iqbal and A Mirakhor, "An Introduction to Islamic Finance" (Singapore: John Wiley & Sons (Asia), 2011).

<sup>16</sup> Dewan Syariah Nasional Majelis Ulama Indonesia, "Fatwa Tentang Asuransi Syariah" (Jakarta: Sekretariat DSN-MUI., 2001).

<sup>17</sup> Khairatun Muna, "Al-Qard Sebagai Penerapan Akad Tabarru'," *Al-Hiwalah: Journal Syariah Economic Law* 1, no. 2 (2022): 101–24.

*Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia*

*Maulidya Mora Matondang, et, al*

In practice, Sharia insurance companies are also supervised by the Sharia Supervisory Board (DPS) to ensure compliance with Sharia principles. This is the main difference between Sharia insurance and conventional insurance.

The legal basis for Shariah Insurance is derived from the Quran, Hadith, consensus (ijma'), and positive regulations applicable in Indonesia. In the Quran, the principle of mutual assistance is explained in Surah Al-Maidah, verse 2, which commands Muslims to assist one another in goodness and piety. This principle serves as the primary foundation for the concept of takaful, a form of social solidarity among participants<sup>18</sup>. Furthermore, the hadith of the Prophet Muhammad (peace be upon him) also teaches the importance of mutual assistance and alleviating hardship for fellow Muslims<sup>19</sup>. Therefore, the existence of Shariah Insurance is seen as a form of implementing Islamic values in the modern economic field.

### **Typology and Characteristics of Claim Disputes at PT Asuransi Takaful Indonesia**

Dispute resolutions within Islamic insurance, or *takaful*, often stem from unique operational friction points regarding claim submissions. At PT Asuransi Takaful Indonesia, the typology of claim disputes is predominantly characterized by disagreements over policy exclusions, allegations of non-disclosure, and divergent interpretations of *takaful* contract clauses. Unlike conventional insurance where disputes focus on a transfer of risk, conflicts in this context

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<sup>18</sup> Mega Oktaviany, Ade Rangga Putra Ashary, and Nadhirah Nordin, "Analysis of the Effectiveness of Dispute Resolution Mechanisms: A Case Study of PT. Bank Muamalat Indonesia and PT. General Takaful Economy," *Tasharruf: Journal Economics and Business of Islam*, 2024, <https://doi.org/10.30984/tjebi.v9i1.2903>.

<sup>19</sup> Muhammad Hendri Yanova, "The Effectiveness of Sharia Insurance Dispute Resolution Mechanisms in Promoting Sustainable Development Goals," *International Journal of Law, Environment, and Natural Resources*, 2025, <https://doi.org/10.51749/injurlens.v5i1.137>.

*Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia*

*Maulidya Mora Matondang, et, al*

frequently involve the boundaries of the *tabarru'* (donation) fund<sup>20</sup>, where participants debate whether a specific loss qualifies for mutual assistance. These disputes are largely concentrated in family *takaful* products involving complex medical or critical illness claims, where the assessment of pre-existing conditions becomes a highly contentious issue between the operator and the participant.

When juxtaposed with contemporary socio-legal theories and prior research on Islamic financial disputes, these characteristics highlight a persistent gap between formal contractual agreements and participant expectations. Previous literature emphasizes that *takaful* disputes are rarely about the rejection of Sharia principles themselves, but rather about how these principles are operationalized during a crisis. The empirical findings at Takaful Indonesia confirm that the friction mimics conventional insurance disputes in substance, yet it requires a specialized Sharia-compliant framework to resolve. This pattern demonstrates that while the underlying cooperative philosophy is distinct, the functional nature of claim friction remains bound to classical insurance contract vulnerabilities, necessitating clearer boundaries in policy formulation.

**Internal and Systemic Factors Causing Disputes: Transparency and Literacy**

The root causes of claim disputes at PT Asuransi Takaful Indonesia can be systematically traced to institutional vulnerabilities and broader societal challenges, specifically regarding transparency and literacy. From an internal and systemic perspective, issues frequently arise during the initial marketing and

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<sup>20</sup> Sarah Amanah Agustiani and Cucu Susilawati, "Analysis of Fiqh Tabarru' on the Use of Cashback Gopay Coins in Buying and Selling Transactions in Tokopedia App," *Al-Hiwalah: Journal Syariah Economic Law* 2, no. 2 (December 2023): 149–66, <https://doi.org/10.47766/alhiwalah.v2i2.1713>.

*Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia*

*Maulidya Mora Matondang, et, al*

underwriting phases conducted by insurance agents. Information asymmetry (*al-ghaban*) occasionally manifests when complex exclusion clauses and the precise mechanisms of *surplus sharing* are not fully communicated to prospective participants. This lack of radical transparency at the front-end creates an environment where participants agree to contracts without a comprehensive understanding of their technical duties and limitations, laying the groundwork for future administrative friction when a claim is eventually filed.

On the demand side, this structural issue is severely compounded by low levels of Sharia insurance literacy among the general public. Many participants approach *takaful* with a conventional mindset, expecting identical transactional dynamics and automatic payouts without understanding the underlying concepts of risk-sharing and mutual solidarity. When a claim is delayed or denied due to strict contractual compliance, participants often perceive the outcome as unfair, failing to realize that safeguarding the *tabarru'* fund from invalid claims is a fiduciary duty of the operator to protect all participants. Therefore, the intersection of inadequate institutional disclosure and poor consumer literacy serves as the primary systemic catalyst for legal disputes within the company.

### **Effectiveness of Reconciliation and Sharia Arbitration in Dispute Resolution**

Resolving disputes within PT Asuransi Takaful Indonesia relies on a tiered mechanism, moving from internal reconciliation (*musyawarah*) to formal external bodies such as the National Sharia Arbitration Board (BASYARNAS). Internal reconciliation serves as the frontline defense and proves highly effective for minor, administrative misunderstandings due to its cost-efficiency, speed, and alignment with the Islamic spirit of *sulh* (amicable settlement). However, when disputes involve substantial financial valuations or complex legal

*Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia*

*Maulidya Mora Matondang, et, al*

interpretations, informal reconciliation often reaches an impasse, forcing the parties to escalate the matter to formal arbitration or the religious courts to secure a binding legal decision<sup>21</sup>.

From a Sharia compliance perspective, the utilization of BASYARNAS aligns closely with Islamic Economic Law, fatwas issued by the National Sharia Board (DSN-MUI), and financial regulations. Arbitrators in this forum possess the specific expertise required to evaluate disputes through the dual lenses of positive national law and Fiqh Muamalah principles<sup>22</sup>.

Despite this high level of theoretical compliance, practical challenges remain regarding the accessibility and enforcement of these arbitration awards. For average retail participants, the financial costs and procedural formalities associated with BASYARNAS can be prohibitive, indicating that while the legal framework is highly robust, its practical efficacy is sometimes restricted to corporate or high-value disputes<sup>23</sup>.

### **Perceptions of Justice and Practical Implications for the Sharia Insurance Industry**

The ultimate measure of any dispute resolution mechanism is how the involved parties perceive the fairness and justice (*'adl*) of the final outcome. In the context of PT Asuransi Takaful Indonesia, participants' perception of justice is deeply tied to procedural transparency and the empathy shown during the resolution process. When a dispute is resolved through rigid, formalistic

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<sup>21</sup> A Ghoni, "Analisis Peran LPS Dalam Penjaminan Polis Asuransi Syariah Di Indonesia," *Syar'Insurance: Jurnal Asuransi Syariah* 10, no. 2 (2024): 1–12.

<sup>22</sup> A A Karim, *Ekonomi Islam: Suatu Kajian Kontemporer* (Jakarta: Rajawali Pers, 2010).

<sup>23</sup> C Subekti, "Penerapan Hukum Kontrak Pada Usaha Asuransi Syari'Ah Menurut Fiqih Mu'Amalah (Studi Di Pt Asuransi Takâful Keluarga Cabang Malang)," *Ulumuddin Journal of Islamic Legal Studies* 7, no. 1 (2011).

*Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia*

*Maulidya Mora Matondang, et, al*

adherence to legal text without addressing the ethical dimensions of mutual cooperation, consumer trust is significantly eroded, even if the decision is legally sound. True substantive justice in *takaful* requires that the operator balances strict corporate compliance with the overarching Maqasid al-Shariah (objectives of Islamic law), ensuring that the weaker party in the contract does not feel systematically disadvantaged<sup>24</sup>.

The practical implications of these findings for the broader Sharia insurance industry are profound and immediate. To mitigate future disputes and foster sustainable consumer trust, operators must shift from reactive dispute management to proactive risk communication. This entails implementing stricter ethical oversight for agency networks, simplifying policy language to eliminate information asymmetry, and investing heavily in consumer education initiatives. Ultimately, establishing an accessible, transparent, and genuinely fair dispute resolution ecosystem is not merely a legal requirement; it is a strategic necessity for the long-term credibility and growth of the ethical finance sector<sup>25</sup>.

## **Discussion**

### **Forms and Characteristics of Disputes in Sharia Insurance**

Disputes in sharia insurance generally arise from differences in interpretation of the contract, rights, and obligations between participants and the company. In the context of PT Asuransi Takaful, the dominant disputes are claims disputes, whether in the form of rejections, late payments, or differences in benefit values. Conceptually, sharia insurance is based on the principles of

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<sup>24</sup> U Armaludin and F Hadiansyah, "Tinjauan Hukum Ekonomi Syariah Terhadap Perlindungan Hak Nasabah Dalam Asuransi Syariah," *Sharia: Jurnal Kajian Islam* 1, no. 2 (2024): 172–181.

<sup>25</sup> W Wulandari, "Implementasi Takaful Dalam Asuransi Syariah," 2023.

*Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia*

*Maulidya Mora Matondang, et, al*

ta'awun and tabarru', which emphasize solidarity between participants<sup>26</sup>. Therefore, disputes should be minimized through transparency and clarity of contracts. However, in practice, there is still a mismatch between normative concepts and empirical implementation in the field. This indicates that the characteristics of disputes in sharia insurance are not only contractual, but also related to aspects of understanding and communication<sup>27</sup>.

Previous research has revealed that disputes in Shariah Insurance are often triggered by a lack of clear information regarding products and contracts. A study by Handayani et al. (2023)<sup>28</sup> showed that low Islamic financial literacy is a major cause of conflict between participants and companies. Furthermore, other research confirms that there is still a public perception that equates Shariah Insurance with conventional insurance, leading to misaligned expectations<sup>29</sup>. A gap in previous research is the lack of real-world case studies, so this study contributes by presenting an empirical analysis of PT Asuransi Takaful.

### **Factors Causing Disputes**

The causes of disputes in Shariah Insurance can be classified into three main aspects: internal, external, and systemic. From an internal company perspective, a lack of transparency in fund management and ineffective communication are the main triggers for disputes<sup>30</sup>. From a participant

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<sup>26</sup> Novea Elysa Wardhani, "Legal Certainty in the Resolution of Disputes in the Sharia Capital Market in Indonesia," *Pena Justisia: Media Komunikasi Dan Kajian Hukum*, 2025, <https://doi.org/10.31941/pj.v24i2.6230>.

<sup>27</sup> N Irkhani, *Asuransi Takaful Di Indonesia Menelisik Aspek Shariah Compliance* (PT. Raja Grafindo Persada-Rajawali Pers, 2023).

<sup>28</sup> N P Handayani, "Problematika Asuransi Syariah," *Jurnal Ilmiah Ekonomi Islam (JIEI)* 2 (2023).

<sup>29</sup> D Nurwahidah and A Hakim, "Komparasi Prinsip Takaful," *Al-Infaq: Jurnal Ekonomi Islam*. 2 (1) (2023).

<sup>30</sup> Subekti, "Penerapan Hukum Kontrak Pada Usaha Asuransi Syari'ah Menurut Fiqih Mu'Amalah (Studi Di Pt Asuransi Takâful Keluarga Cabang Malang.)"

*Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia*

*Maulidya Mora Matondang, et, al*

perspective, a lack of understanding of Shariah Insurance contracts and mechanisms also contributes to conflict. Meanwhile, systemic factors include regulations and unequal distribution of Islamic financial literacy within the community. The combination of these three factors creates the potential for complex conflicts in Shariah Insurance practices<sup>31</sup>.

Previous research by Tama<sup>32</sup> showed that literacy and understanding of contracts are crucial for the success of takaful implementation. However, this study focused more on operational aspects and did not specifically examine the conflicts that arise. Furthermore, a study by armaluddin<sup>33</sup> highlighted the importance of sharia governance in preventing disputes through the role of the Sharia Supervisory Board (SSB). The gap lies in the lack of direct analysis of the relationship between governance and disputes. This study addresses this gap by linking the factors causing disputes with sharia governance practices at PT Asuransi Takaful.

### **Dispute Resolution Mechanism**

Dispute resolution in Shariah Insurance can be achieved through litigation or non-litigation. In practice, non-litigation approaches such as deliberation, mediation, and Islamic arbitration are preferred because they align with the Islamic principle of *islah* (reconciliation)<sup>34</sup>. These mechanisms aim to reach a fair agreement without lengthy court proceedings. Furthermore, Islamic arbitration institutions such as National Sharia Arbitration Board play a crucial

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<sup>31</sup> F A Tamma and R M Maesarach, "Sharia Governance Pada Asuransi Syariah," 2024.

<sup>32</sup> Tamma and Maesarach.

<sup>33</sup> Armaludin and Hadiansyah, "Tinjauan Hukum Ekonomi Syariah Terhadap Perlindungan Hak Nasabah Dalam Asuransi Syariah."

<sup>34</sup> A Lathif and D M Habibaty, "Disparitas Penyelesaian Sengketa Jalur Litigasi Pada Polis Asuransi Syariah Dan Putusan Pengadilan," *Jurnal Legislasi Indonesia* 16, no. 1 (2019): 76–88.

*Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia*

*Maulidya Mora Matondang, et, al*

role in resolving disputes professionally and in accordance with Islamic principles. However, the effectiveness of these mechanisms depends heavily on participants' understanding and accessibility to these institutions<sup>35</sup>.

Previous research has shown that non-litigation dispute resolution mechanisms still face obstacles in their implementation. A study by Fitroti et al. (2024)<sup>36</sup> emphasized the importance of the principles of fairness and transparency in every dispute resolution process. However, this study has not empirically evaluated the effectiveness of these mechanisms in specific companies<sup>37</sup>. Therefore, this study contributes by directly examining the dispute resolution mechanism at PT Asuransi Takaful, thus providing a more concrete picture of the practices occurring in the field.

### **Compliance with the Principles of Islamic Economic Law**

In Islamic economic law, dispute resolution must be based on the principles of justice ('adl), trustworthiness, and transparency. These principles are the primary foundation of every muamalah transaction, including Islamic insurance. In practice, Shariah Insurance companies are required to ensure that every decision they make does not disadvantage either party. However, reality shows that there is still a gap between normative principles and practical implementation. This is evident in participants' dissatisfaction with the outcome of dispute resolution.

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<sup>35</sup> M N Siddiqi, "Islamic Banking and Finance" (Leicester: The Islamic Foundation., 2006).

<sup>36</sup> A Fitroti, "Asuransi Syariah Sebagai Instrumen Perlindungan," *Jurnal Ekonomi Dan Perbankan Syariah* 1 (2024).

<sup>37</sup> Muhammad Syafi'i Antonio, *Bank Syariah: Dari Teori Ke Praktik* (Gema Insani, 2001).

*Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia*

*Maulidya Mora Matondang, et, al*

Research by Rusydi (2013)<sup>38</sup> shows that legal protection in sharia insurance aims to create justice and benefit for all parties. Furthermore, other research emphasizes that sharia principles must be applied comprehensively, not only in contracts but also in the dispute resolution process (Tho'in, 2015)<sup>39</sup>. The existing gap is the lack of empirical evaluation of the level of sharia compliance in dispute resolution. This study aims to fill this gap by directly analyzing practices at PT Asuransi Takaful.

### **Perception of Justice of the Parties**

Perceptions of fairness are a crucial factor in determining the success of dispute resolution. In the context of Islamic insurance, fairness is measured not only by the final outcome but also by the process. Participants who feel involved and receive transparent information are more likely to accept the outcome of the dispute resolution. Conversely, a lack of communication can lead to dissatisfaction and further conflict. Therefore, communication is key to building perceptions of fairness.

Previous research has shown that perceptions of fairness are significantly influenced by literacy levels and information transparency. A study by Handayani et al. (2023) confirmed that low literacy is a major cause of misunderstandings in Islamic insurance. However, this study did not specifically examine perceptions of fairness in the context of disputes. This study addresses this gap by directly examining the perceptions of the parties, thus providing a

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<sup>38</sup> A RUSYDI, "Asuransi Syariah Ditinjau Dari Prinsip Hukum Ekonomi Syariah (Studi Pada PT. Asuransi Takaful Umum Cabang Pontianak)," *Jurnal Nestor Magister Hukum* 3, no. 5 (2013): 10561.

<sup>39</sup> M Tho'in, "Aspek-Aspek Syariah Dalam Asuransi Syariah," *Jurnal Ilmiah Ekonomi Islam (JIEI)* 1 (2) (2015).

*Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia*

*Maulidya Mora Matondang, et, al*

new contribution to understanding the dimensions of fairness in Shariah Insurance practices.

### **Research Contribution**

This research makes a significant contribution to the development of Shariah Insurance dispute studies through a more contextual case study approach. Unlike previous research, which tended to be normative, this study uses a qualitative approach to explore the phenomenon in depth. Furthermore, it integrates theoretical analysis with empirical data, resulting in a more comprehensive understanding. This contribution is crucial in enriching the literature on Islamic economic law, particularly regarding insurance disputes<sup>40</sup>.

Practically, this research can serve as a reference for Shariah Insurance companies in improving service quality and dispute resolution. Furthermore, the results can provide input for regulators in formulating more effective policies. Thus, this research contributes not only to theoretical development but also to the broader practice of the Islamic finance industry.

### **CONCLUSION**

This study concludes that dispute resolution at PT Asuransi Takaful Indonesia successfully bridges positive national law with Sharia principles, yet structural hurdles in consumer literacy and accessibility to formal arbitration persist. The significance of these findings extends beyond a single corporate case; it challenges contemporary socio-legal theories by demonstrating that takaful disputes are rarely ideological rejections of Sharia, but rather functional friction caused by information asymmetry and conventional consumer mindsets. For the broader legal landscape, this underscores the urgent need for a more

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<sup>40</sup> Irkhani, *Asuransi Takaful Di Indonesia Menelisik Aspek Shariah Compliance*.

*Legal Analysis of Sharia Insurance Dispute Resolution at PT. Asuransi Takaful Indonesia*

*Maulidya Mora Matondang, et, al*

accessible, specialized small-claims Sharia arbitration framework, ensuring that the foundational Islamic principle of justice ('adl) is substantively realized for retail participants rather than remaining a formalistic regulatory checklist.

Despite these insights, this research bears specific limitations that open avenues for future academic inquiry. Because this study relies heavily on a qualitative case study layout centered on PT Asuransi Takaful Indonesia, the empirical findings may not fully capture the operational variances or diverse dispute dynamics found in younger Sharia business units (unit layanan syariah) or emerging Islamic insurtech platforms. Additionally, the lack of extensive, publicly accessible quantitative data regarding private corporate reconciliations limits the ability to statistically generalize the exact ratio of settled versus escalated disputes. Future research would benefit from broader comparative or mixed-methods approaches across multiple operators to track long-term consumer trust trends across the wider Sharia insurance industry.

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