

## BASYARNAS Institution and its Contribution to Sharia Dispute Resolution



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**ABSTRACT:** Resolving Sharia disputes is an essential aspect of the lives of those who follow Islamic teachings. The National Sharia Arbitration Board (BASYARNAS) is one institution that plays a significant role in Sharia dispute resolution. This article discusses the BASYARNAS institution's contribution to resolving Sharia disputes in Indonesia. Establishing BASYARNAS aims to provide a quick, accurate, and equitable alternative dispute resolution system based on Islamic law. Sharia Supervisory Board, Sharia Arbitration Court, and Secretariat constitute the BASYARNAS organizational structure. Disputes involving Sharia are resolved through BASYARNAS through deliberation and consensus; if these methods fail, the argument is resolved through arbitration. Through case studies, it was determined that BASYARNAS has successfully resolved some Sharia disputes. However, to enhance the effectiveness and efficiency of Sharia dispute resolution through BASYARNAS, some obstacles remain to be overcome. The BASYARNAS institution's role in resolving Sharia disputes in Indonesia should be better understood after reading this article, which is anticipated to contribute to the academic community and broader community positively.

**KEYWORDS:** BASYARNAS, Sengketa syariah, Prinsip-prinsip Penyelesaian sengketa

### A. INTRODUCTION

The National Sharia Arbitration Board, more often known as BASYARNAS, is an entity that plays a significant part in the process of settling Sharia disputes in Indonesia. It is essential because it can provide people involved in Sharia issues with an alternative method of conflict resolution that is quicker, simpler, and more equitable. This makes its existence very important. It is intended that the community would be able to bypass the traditional methods of conflict resolution, which typically involve a bit of time and expense and tend to lead to more extensive conflicts now that BASYARNAS is available. (Jauhari, 2018) In addition to this, the existence of BASYARNAS in Indonesia has the potential to enhance the quality of Sharia dispute settlement in the country. BASYARNAS is equipped with Sharia specialists and experts who are familiar with Islamic law and can make judgements following the principles of Sharia. In addition, the process of resolving Sharia issues through BASYARNAS is conducted in an open and accountable manner so as to offer the parties concerned with the disagreement a sense of legal certainty. This is done to satisfy the requirements of the BASYARNAS. As a result, the existence of BASYARNAS is vital for maintaining social order and justice in society, particularly in resolving Sharia disputes that are becoming increasingly complicated and diversified. It is believed that the community would gain legal clarity and justice by using BASYARNAS to address the Sharia conflicts they face. (Sulaiman, 2020)

People going through legal conflicts are provided with legal certainty and justice because BASYARNAS is an independent and professional organization in its approach to resolving Sharia disputes. In Muslim countries, Sharia conflicts frequently entail religious components that must be addressed following Islamic law. As a result of its extensive knowledge and experience in Sharia conflict resolution, BASYARNAS can offer solutions that agree with the fundamental precepts of Islamic law. In addition, BASYARNAS is skilled at mediating conflicts in a timely and satisfactory manner. Resolving disputes can be drawn out and expensive, resulting in the parties concerned losing both time and money. Arguments can be addressed in a way that is more efficient and effective when using BASYARNAS, which helps prevent more significant damage. The existence of BASYARNAS also offers the community a level of legal certainty when it comes to resolving Sharia conflicts. The decisions that BASYARNAS handed down are irrevocable and legally enforceable. This ensures that there will be fewer disagreements of a similar nature in the future. (Syarifuddin, 2017)

The objective of producing an essay about the contribution of the BASYARNAS institution in Sharia dispute resolution is to provide a better understanding of the role and relevance of this institution in Sharia dispute resolution by providing a better understanding of the role and value of this institution in sharia dispute resolution. This article aims to provide information on how to resolve ordinary Sharia disputes, the different types of Sharia disputes that can arise, and how the BASYARNAS institution can aid in doing so. In addition, the article details the Sharia conflict resolution concepts utilized by the BASYARNAS institution, the procedures that must be followed, the conditions that must be met, and the legal basis on which Sharia dispute resolution is founded

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through the BASYARNAS institution. It is intended that those members of the general public who are in need of aid in resolving conflicts based on Sharia can find this article to be a useful source of information.

An additional goal is to spread knowledge and awareness about the significance of the BASYARNAS Institution's function as a Sharia arbitration institution in the process of resolving Sharia disputes in Indonesia. This will be accomplished by providing education on the topic. In addition, this article aims to give instances of cases that have been effectively settled by the institution and examine the concepts, principles, and requirements for resolving Sharia disputes through BASYARNAS. The article will also discuss the procedures that must be followed. As a result, it is intended that this article will provide a more in-depth explanation of the function that BASYARNAS plays in resolving Sharia issues in Indonesia.

Because this is a topic that is always trending and expanding, new things that come out of this research are considered unique and contribute to the academic world. This is especially true in Indonesia, where most people adhere to the Islamic faith. This research will give a better knowledge of the role and contribution of BASYARNAS in Sharia dispute resolution and provide an overview of the importance of effective and efficient Sharia dispute settlement through this institution. Moreover, this research will provide a better understanding of the function and contribution of BASYARNAS in Sharia dispute resolution. As a result, it is believed that discoveries and solutions can be found in the area of Sharia dispute resolution due to this research. In particular, it is hoped that new findings and answers can be found in expediting and facilitating the settlement process, which will help minimize losses due to these conflicts. In addition, the findings of this study can be used to make recommendations or suggestions to relevant parties, such as BASYARNAS, the government, and the community, to improve the efficacy and productivity of Sharia dispute resolution. Therefore, research on the Contribution of the BASYARNAS Institution in the settlement of Sharia Disputes can contribute to advancing Islamic law and understanding of the Sharia justice system if conducted in an academic setting. Furthermore, this research can also be used as a reference for additional research and as instructional material for students and researchers in Islamic law. Both of these applications are possible thanks to the work that was done.

From the explanation above, the authors focus their research on several questions, including: What is the Contribution of BASYARNAS in the Settlement of Sharia Disputes? What is the Legal Review on Sharia Dispute Resolution through BASYARNAS? Finally, what is the case study of Sharia dispute resolution through BASYARNAS?

### **B. METHODS**

Research on the Contribution of the BASYARNAS Institute to the Settlement of Sharia Disputes utilized a qualitative research method with a literature and statutory approach. This methodology seeks to collect and analyze data from written sources such as books, articles, journals, documents, and literature about the BASYARNAS institution and Sharia dispute resolution. The literature approach is used to examine and comprehend the ideas and concepts associated with the BASYARNAS institution and Sharia dispute resolution, as well as the governing policies, laws, and regulations. In the meantime, the approach of statutory regulation is employed to comprehend the applicable legal framework in Sharia dispute resolution.

This study used qualitative analysis techniques such as content analysis, grounded theory, and thematic Analysis to comprehend the meaning and patterns of the collected data. Using this methodology, research can provide an in-depth comprehension of the BASYARNAS institution's contribution to Sharia dispute resolution and its operation within applicable laws and regulations.

### **C. RESULTS AND DISCUSSION**

#### **1. Position of the National Sharia Arbitration Board (BASYARNAS)**

Following Law Number 30 of 1999 about Arbitration and Alternative Dispute Resolution, the National Sharia Arbitration Board, also known as BASYARNAS, is an entity for resolving disputes by arbitration. In particular, BASYARNAS plays a part in determining problems with Sharia law, both in banking and trade, business, and inheritance. Because of this, the position of BASYARNAS as an arbitration organization is comparable to that of a judicial institution, which means that decisions issued by BASYARNAS have binding legal effects and must be implemented. In addition, BASYARNAS also has the role of a mediator in conflict resolution. In this capacity, the organization works toward easing the parties involved in the conflict into agreeing.

Arbitration is one way of resolving disputes recommended in Islamic law and is known as *tahkim*. The basis of the Qur'an regarding the recommendation to settle disputes by arbitration is: "And if you are worried that there is a dispute between the two, then send a judge from a male family and a judge from a female family. If the two *hakam* people intend to improve, surely Allah will give *taufik* to the husband and wife. Surely Allah is All-Knowing, All-Knowing." (Al-Qur'an Surah An-Nisa: 35)

People dealing with disagreements related to Sharia law now have access to an alternative form of dispute resolution intended to be both practical and efficient, thanks to the establishment of the National Sharia Arbitration Board (BASYARNAS). It is envisaged that the implementation of BASYARNAS will result in an improvement in the quality of sharia dispute resolution as well as instil public confidence in a transparent and fair process for the resolution of disputes. (PP No.33/1999)

The National Sharia Arbitration Board (BASYARNAS) has several functions, including: 1). Resolving Sharia disputes quickly and precisely, as well as encouraging the public to avoid conventional dispute resolution (outside the applicable legal

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mechanisms). 2). Providing consulting and educational services regarding Sharia law and Sharia dispute resolution to the public, both individuals and institutions. 3). Improving the quality of decisions in Sharia dispute resolution by applying the principles of justice and partiality to the disputing parties. 4). Establish cooperation with other institutions, both inside and outside the country, to enhance the development and application of Sharia law. (UU No.30/1999)

The organizational structure of the National Sharia Arbitration Board (BASYARNAS) consists of several sections, namely: ([www.BASYARNAS.org](http://www.BASYARNAS.org))

1. The Supervisory Board is the body in charge of supervising all BASYARNAS activities, both financial, administrative, and operational.
2. The Main Director is the head of BASYARNAS, who is responsible for all BASYARNAS activities. The Main Director is assisted by several Section Heads: Head of Human Resource Development, Head of Finance and Accounting, Head of Legal and Advocacy, Head of Promotion and Publication, and Head of Operations.
3. The Arbitration Council is tasked with deciding Sharia disputes submitted to BASYARNAS. The Arbitration Board comprises Sharia experts with competence and integrity in Sharia law.
4. The Secretariat is responsible for the administrative management of BASYARNAS, such as document filing, scheduling of arbitration hearings, and public services.

### 2. Definition of Sharia Disputes

Conflicts or disagreements between parties, including Islamic or Sharia law, are called Sharia disputes. These disagreements concern a wide range of facets of life, including marriage, inheritance, business, and other areas that are governed by Islamic law. In Sharia conflicts, the parties involved have divergent views on issues about Sharia law. These issues may include legal interpretations, texts, legal istinbath, or decision-making, which must be based on Sharia principles. Arbitration institutions or Sharia courts are typically utilized to settle disputes that arise under Sharia law.

A conflict or disagreement between parties that are in some way connected to Islamic law or Sharia law is what is meant by the term "Sharia dispute." These disagreements concern a wide range of facets of life, including marriage, inheritance, business, and other areas governed by Islamic law. In Sharia conflicts, the parties involved have divergent views on issues pertaining to Sharia law. These issues may include legal interpretations, texts, legal istinbath, or decision-making, which must be based on Sharia principles. (Syarifuddin, 2017)

### 3. Types of Sharia disputes

The types of Sharia disputes include: (Syarifuddin, 2017)

**First: Inheritance disputes.** Disputes can arise over applying the applicable requirements of Sharia law to the equitable division of inherited property. Conflicts with inheritance can occur whenever the inheritors disagree with or are unsatisfied with how the estate was divided up in conformity with the stipulations of Sharia law. Inheritance disputes might arise either at the time of the distribution of the legacy or even after it has already been divided. Inheritance disputes typically occur when there are divergent points of view regarding which heirs are eligible to receive a portion of the inheritance and how much of a part each heir is entitled to receive. (Subekti & Syahrani, 2016) Making a will or agreeing with other heirs on the distribution of inheritance before one dies might help avoid inheritance disputes. A Sharia court or an arbitration organization can mediate a settlement if a dispute over an estate cannot be resolved through other means. (Syarifuddin, 2017)

**Second: Marriage disputes.** Disputes arise from marital concerns such as divorce, child custody, maintenance payments, and similar matters. Whenever there are difficulties or disagreements in the marriage connection between a husband and wife, this can lead to marital disputes. Disputes in marriage can manifest themselves in various forms, including petitions for divorce, the unequal division of assets, battles over custody of minor children, and so on. Traditional legal processes or alternative dispute resolution methods, such as mediation or arbitration, can settle this disagreement. Law Number 1 of 1974 Concerning Marriage and the Government Regulation Number 9 of 1975 Concerning the Implementation of Law Number 1 of 1974 Concerning Marriage governs resolving marital conflicts in Indonesia. In addition, the resolution of marital disagreements can also be carried out by religious tribunals, referred to as Religious tribunals. (Subekti & Syahrani, 2016)

**Third: Business disputes.** Disputes that arise out of commercial transactions that were carried out by parties who had prior agreements with one another or agreements that were governed by Sharia law. A disagreement in business arises whenever there is a difficulty or conflict between the parties involved in a business or trade transaction, regardless of whether it is related to the execution of the contract, payment, compensation, or anything else. Disputes in the business world can arise in various contexts, including banking, insurance, construction, and trade. Courts or other forms of alternative dispute resolution, such as mediation, arbitration, or negotiation, may be utilized to settle disagreements that arise in commercial transactions. The Indonesian National Arbitration Board (BANI) and the Indonesian Arbitration and Mediation Institution (LAM-Indonesia) are two of the most critical institutions in Indonesia for settling commercial disputes through arbitration. (Tjandra, 2013)

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**Fourth: Land ownership disputes.** Disputes between parties over the ownership of property or buildings are resolved using Sharia law as the guiding principle. Conflicts over land ownership arise whenever there are divergent points of view or issues with the request or rights of the land. These disagreements can manifest themselves in different ways, including disputes between landowners and other parties involving building use rights, disagreements concerning inherited property rights, disputes concerning registration of land rights, and so on. In addition, the legal system or other forms of alternative conflict resolution, such as mediation, arbitration, or negotiation, can be used to resolve disagreements about land ownership. Law Number 5 of 1960 respecting Basic Agrarian Regulations (UUPA) is the legislation in Indonesia that governs how land disputes are resolved. (Subekti & Syahrani, 2016)

**Fifth: Banking disputes.** Disputes involving banking transactions that parties carried out according to the principles of Sharia law. Disputes in banking occur when there are problems or disagreements over the products and services offered, whether between consumers or customers and the bank. Disputes involving financial institutions can arise from various issues, including transactions, credit, credit cards, deposits, etc. Courts or other forms of alternative dispute resolution, such as mediation, arbitration, or negotiation, may be utilized to resolve disagreements with banking matters. Law Number 21 of 2008 concerning Sharia Banking and Law Number 7 of 1992 concerning Banking provide provisions for resolving banking-related disputes in Indonesia. (Yusuf, 2018), (Dewi, 2018)

**Sixth: Buying and selling disputes.** Disputes arising from the acquisition and sale of products or services governed by Sharia law and carried out by various parties. During a sale and buy transaction, disagreements can arise at multiple phases, beginning with the stages of preparation, moving on to the implementation steps, and finally reaching the settlement stage. Disputes over sales and purchases can arise for some reasons, including the nature of the goods or services received, the timing of their delivery or delivery, the presence of flaws in the items or services purchased, or the nonpayment of payments or bills. (Sudaryono & Susilowati, 2019) Disputes that arise from sales and purchases can be settled through the traditional legal system or alternative methods of conflict resolution, such as mediation, arbitration, or negotiation. In addition, some regulations in Indonesia govern the resolution of controversies that arise from sales and purchases. These include Law Number 8 of 1999 Concerning Consumer Protection, Law Number 18 of 2019 Concerning Personal Data Protection, and other similar laws. (Yulianti & Utama, 2019)

**Seventh: Insurance Dispute. This dispute involves parties involved in the insurance business, including policyholders, insurance companies, agents, and others.** Disputes in insurance occur when there are problems or disagreements over insurance products and services offered, such as disputes between policyholders and the Company or between the Company and its agents. Disputes involving financial institutions can arise from various kinds of problems, such as premium or contribution payment issues, policies, claim payments, delays, and so on. Courts or other forms of alternative dispute resolution, such as mediation, arbitration, or negotiation, can be used to resolve disagreements in insurance matters. Fatwa of the National Sharia Council Council No. 21/DSN-MUI/X/2001 concerning General Guidelines for Sharia Insurance, in the Additional Provisions section, point 2 which mandates the settlement of disputes through the Sharia Arbitration Board. In the DSN-MUI Fatwa, it is written: "If one party does not fulfill its obligations or if a dispute occurs between the parties, then the settlement will be carried out through the Arbitration Board after no agreement is reached through deliberation." (Fatwa DSN-MUI, 2014)

### 4. Principles of Sharia dispute resolution

The principles of Sharia dispute resolution are the principles held by Sharia arbitral institutions in resolving disputes that occur. Some of these principles include: (Bachtiar, 2014) (Kurniawan, 2017)

1. The principle of justice. Settlement of Sharia disputes must be carried out in a fair and non-discriminatory manner so that the interests of all parties are met.
2. The principle of legal certainty. Settlement of Sharia disputes must be based on clear and definite Sharia law to produce decisions that all parties can understand and accept.
3. Speed principle. Sharia dispute settlement must be done quickly without sacrificing justice and legal certainty.
4. Confidentiality principle. Settlement of Sharia disputes must be carried out by maintaining the confidentiality and privacy of the parties involved.
5. Voluntary principle. Sharia dispute resolution is carried out voluntarily by the parties involved, and the resulting decision is binding for the parties involved.

These principles act as a guide in resolving Sharia disputes, aiming to produce fair, reasonable, and legally enforceable rulings for all parties involved. The concepts of Sharia dispute resolution are essential for various conflict situations, particularly those associated with Islamic law. Since the parties engaged in Sharia disputes have multiple interests, a guide is required to resolve these disputes to accomplish justice, legal certainty, speed, confidentiality, and voluntarism.

For example, the principle of justice is fundamental when there is a dispute over who can receive an inheritance. This ensures that the property is divided equitably and does not in any way discriminate against the heirs who are legally entitled to receive it. Legal certainty is exceptionally significant when disagreements between partners in a marriage since it makes it possible to establish each spouse's rights and responsibilities precisely. Regarding business conflicts, the notion of speed is highly crucial

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because companies almost always want a speedy conclusion to maintain the continuity of their operations. Regarding disagreements over land ownership, the principle of secrecy is vital since it protects the landowner's privacy and the safety of their property rights. When there are disagreements in the banking industry, the principle of voluntariness is essential so that the parties can come to an amicable resolution and prevent further financial losses. The principles of Sharia dispute resolution can provide Sharia arbitral institutions with guidance in producing judgements that are just and beneficial to the parties involved in various circumstances where disputes have arisen. For this reason, the application of these principles is required in the resolution of sharia disputes to accomplish the goals that are intended by all of the parties that are involved.

### 5. BASYARNAS Contribution in Sharia Dispute Resolution

#### a. The concept of Sharia dispute resolution through BASYARNAS

The National Sharia Arbitration Board, also known as BASYARNAS, is an institution of arbitration that was formed in 2003 by the Indonesian Ulema Council (MUI) to handle disputes in Indonesia that are related to Sharia law. The notion of Sharia conflict resolution through BASYARNAS is founded on the principles of Sharia law, which place a premium on practicality, fairness, and truth. (<https://BASYARNAS.id>)

In resolving Sharia disputes through BASYARNAS, several stages must be passed, namely: (Abdullah, 2018)

1. Registration and examination of dispute requests. The party submitting a dispute request must register and submit the documents required for the application examination.
2. Mediation. BASYARNAS will try to mediate the dispute and find the best solution for both parties.
3. Arbitration. If the mediation is not successful, BASYARNAS will continue the dispute resolution process through arbitration by holding an arbitration hearing with the parties to the dispute and issuing a binding decision for both parties.
4. Execution of the verdict. Both parties must obey decisions made by BASYARNAS.

Sharia dispute resolution through BASYARNAS is essential to resolve Sharia law-based disputes in Indonesia fairly and transparently. In this case, BASYARNAS, as an independent and professional institution, can provide the best solution for both parties and maintain stability and peace in society.

#### b. The advantages of Sharia dispute resolution through BASYARNAS

Settlement of Sharia disputes through the National Sharia Arbitration Board (BASYARNAS) has several benefits, including: (Khoiruddin, 2018) (Dewi, 2018)

1. Expedite dispute resolution. BASYARNAS has a relatively quick dispute resolution time compared to general courts. This is because BASYARNAS uses the principle of deliberation to reach a consensus, thereby speeding up the settlement process.
2. Minimize costs. The costs incurred in resolving disputes through public courts can be substantial. However, in settling disputes through BASYARNAS, costs can be reduced due to the use of the principle of deliberation.
3. Maintain harmony. Dispute resolution through BASYARNAS aims to maintain harmony and harmony between disputing parties. This is very important because it can speed up the dispute-resolution process.
4. More in line with Sharia principles. Dispute resolution through BASYARNAS is more in line with Sharia principles because the settlement process uses the code of deliberation for consensus and is supported by Sharia experts related to the dispute.

#### c. Requirements and Procedures for resolving Sharia disputes through BASYARNAS

The National Sharia Arbitration Board (BASYARNAS) is tasked with resolving Sharia disputes in Indonesia. Following are the requirements for Sharia dispute resolution through BASYARNAS: (Permenag No. 13/2016)

1. Agreement of the parties. In resolving disputes through BASYARNAS, the parties must agree on a settlement through BASYARNAS.
2. The dispute must be civil. BASYARNAS only resolves civil disputes, meaning conflicts between individuals or institutions related to rights and obligations in contracts or agreements...
3. The dispute must be related to Islamic law. Therefore, arguments to be resolved through BASYARNAS must be connected to Islamic law.
4. The court has not yet decided the dispute. Therefore, disputes that will be resolved through BASYARNAS must not have been selected by a court or arranged but not yet executed.
5. There is an agreement on the law that applies. The parties must agree on the applicable law in resolving disputes through BASYARNAS.

The National Sharia Arbitration Board (BASYARNAS) has the following Sharia dispute resolution procedures: (Permenag No. 13/2016)

1. Application Submission. Parties wishing to resolve disputes through BASYARNAS must submit a written request to BASYARNAS. In addition, the necessary supporting documents must accompany the application.
2. Application check. BASYARNAS will check the completeness of the application documents. If the records are incomplete, BASYARNAS will give time for the parties to complete them.

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3. Selection of judges. After the application is complete, BASYARNAS will determine the judge or panel of judges handling the dispute. The board of judges consists of 3 people: the Chair, Vice Chair and Members.
4. Mediation. The parties will be mediated by a panel of judges to find the best solution for the dispute at hand.
5. Arbitration. If the mediation is not successful, the panel of judges will initiate an arbitration process. The panel of judges will issue a binding decision for the parties.
6. Implementation of decisions. After the decision is issued, the parties must comply with the decision. If there are parties who do not comply with the decision, then BASYARNAS can follow up through legal proceedings.

Sharia dispute resolution procedures through BASYARNAS can be changed and adapted to the needs of the dispute resolution being faced.

## **6. Legal Review on Sharia Dispute Resolution through BASYARNAS**

### **a. Legal Foundation**

The National Sharia Arbitration Board (BASYARNAS), one of the institutions that carries out Sharia dispute resolution in Indonesia, has a legal basis regulating its duties and functions. These legal bases include:

First: Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. Article 1 paragraph (3) Law no. 30 of 1999 states that one alternative form of dispute resolution is arbitration. Therefore, BASYARNAS, a Sharia arbitration institution, is subject to and regulated in Law No. 30 of 1999.

Second: Regulation of the Minister of Religion Number 37 of 2018 concerning the Organization and Work Procedure of the National Sharia Arbitration Board. The Minister of Religion Regulation regulates the duties, powers and obligations of BASYARNAS in resolving Sharia disputes. In addition, the regulation governs the organizational structure, dispute resolution procedures, and code of ethics that must be obeyed by the parties involved in the dispute resolution process.

Third: Law Number 21 of 2008 concerning Islamic Banking. This law regulates the settlement of disputes that occur in Sharia banking transactions. Apart from going through the litigation route, namely the Religious Courts (PA), this law also provides an opportunity for the parties to resolve it through non-litigation channels, and in this case BASYARNAS is one of them. Article 43, paragraph (1) states that disputes in Sharia banking transactions can be resolved through Sharia arbitration held by an authorized institution. In this case, BASYARNAS is an institution that is recognized and authorized to settle disputes in Sharia banking transactions.

Fourth: Civil Code (KUHPdata). Article 1313 of the Civil Code states that the parties to the agreement can resolve disputes outside the court through deliberation or methods agreed upon by both parties. One way of resolving disputes outside the court is through Sharia arbitration organized by BASYARNAS.

Thus, it can be concluded that BASYARNAS has a solid legal basis for resolving Sharia disputes in Indonesia. Furthermore, a clear legal basis is expected to increase public confidence in this institution in resolving conflicts fairly and transparently.

### **b. BASYARNAS decision in Sharia dispute resolution**

The BASYARNAS decision is an alternative to legal Sharia dispute resolution and has a strong position in dispute resolution. This is supported by several legal foundations that regulate the National Sharia Arbitration Board (BASYARNAS) as a Sharia dispute resolution institution.

Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution stipulates that arbitral awards with permanent legal force have the same legal force as court decisions with unlimited legal power. In addition, based on the DSN-MUI fatwa Number 05/DSN-MUI/IV/2000 concerning the Sharia Arbitration Institution, it is stated that the decision of the Sharia arbitration institution has the same position as the decision of the religious court.

In the case of Sharia dispute resolution through BASYARNAS, the resulting decision also has the same legal force as the decision of the religious court. This follows Article 27 paragraph (3) of Law Number 3 of 2006 concerning the Syar'iyah Court, which states that decisions of Sharia dispute resolution institutions with a legal force still have the same legal force as decisions of religious courts.

Thus, the decision of BASYARNAS has a strong and legal position in Sharia dispute resolution. Parties who feel aggrieved by the BASYARNAS decision can also file a lawsuit in the religious court but must pay attention to the specified time limit.

### **c. Implementation of Sharia dispute resolution through BASYARNAS in Indonesia**

The National Sharia Arbitration Board, also known as BASYARNAS, is an alternative organization for resolving disputes in Indonesia based on Sharia law. BASYARNAS, as an alternative institution for resolving disputes, plays a significant part in settling disagreements relating to Sharia law, particularly those that arise in the commercial and financial spheres. The implementation of Sharia dispute resolution through BASYARNAS has been regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, as well as in Supreme Court Regulation Number 1 of 2016 concerning Dispute Resolution through the Indonesian National Arbitration Board. These laws were passed in 1999 and concern arbitration and alternative dispute resolution.

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Even if there is a legal framework that regulates the execution of Sharia dispute resolution through BASYARNAS, its implementation still has several challenges. This is the case even though there is a legal basis. The problem of public distrust in the decisions produced by Sharia arbitration institutions is another one of these obstacles. Some of these challenges include a lack of public awareness about the existence of Sharia arbitral institutions, a lack of availability of qualified Sharia law experts, and a lack of public awareness regarding the existence of Sharia arbitral institutions. (Fithriyah, 2021) Therefore, to overcome these challenges, efforts need to be made to increase general understanding of the existence of Sharia arbitration institutions as well as the benefits they provide, improve the quality of Sharia law experts through education and training, and increase transparency and accountability in the process of resolving disputes according to sharia law.

In its capacity as an institution for resolving conflicts, the National Sharia Arbitration Board (BASYARNAS) has the opportunity to work with other institutions to find solutions to those problems. The Ministry of Religion, Islamic financial institutions, Syar'iyah courts, and non-Sharia institutions for resolving disputes, such as district courts and national arbitration organizations, are some of the institutions that can collaborate with BASYARNAS. By working together, BASYARNAS can broaden its cooperation networks and make the most of the resources it already possesses, which both contribute to an increase in the efficiency of conflict resolution. For instance, BASYARNAS may choose to collaborate with the Ministry of Religion to design a training program for resolving disputes at the local level. BASYARNAS is also able to work in collaboration with Islamic financial institutions to offer customers a dispute resolution service that is both prompt and efficient. However, for BASYARNAS to successfully collaborate with other institutions, the organization must ensure that Sharia principles are adhered to and that the principles of justice in conflict settlement are not violated. In this situation, having a solid working relationship with institutions committed to adhering to Sharia's principles is vital.

### 7. Case Study

#### a. Sharia dispute cases resolved by BASYARNAS

An inheritance disagreement between heirs and the bank is one example of a Sharia dispute case that BASYARNAS settled. In this case, Sharia was used to resolve the conflict. The situation arose when a bank client died, leaving an outstanding balance at the financial institution. Because the bank refused to pay the debt, the customer's family took legal action against the institution. After going through BASYARNAS's internal dispute resolution process, the case was eventually resolved, and the outcome was favourable to the customer's family. (Putri & Sihombing, 2019)

A disagreement between two parties regarding purchasing a home is yet another illustration of a Sharia issue that BASYARNAS can address. In this particular instance, a controversy emerged between the home buyer and the home seller over the execution of a house sale and purchase transaction that did not comply with Sharia law norms. After going through the mediation and discussion process at BASYARNAS, both parties agreed to resolve the disagreement by the seller returning a mutually agreed upon sum of the down payment made by the buyer to the seller. ([www.BASYARNAS.go.id](http://www.BASYARNAS.go.id))

#### b. Analysis and evaluation of dispute resolution cases through BASYARNAS

Sharia dispute resolution cases can be evaluated through BASYARNAS by looking at several elements, including dispute resolution methods, decision quality, the efficacy of decision implementation, and effects on the parties engaged in the dispute. (Elsam, et al., 2020)

BASYARNAS has performed progressively well in settling Sharia disputes in Indonesia in recent years. This success has been attributed to the organization's commitment to Sharia law. This is evidenced by the growing number of cases that BASYARNAS has successfully handled and the increasing number of parties that have chosen BASYARNAS as the trustworthy Sharia dispute resolution organization. However, some aspects of BASYARNAS still need to be improved so that Sharia issues can be resolved in the most effective manner possible. These aspects include the following: (Zulian, 2017)

**First:** Development of Human Resources (HR). Improving the quality of human resources, in this case, Sharia judges, mediators and interpreters, is one of the keys to successfully resolving Sharia disputes through BASYARNAS. Therefore, BASYARNAS must pay attention to this and continue developing human resources.

**Second:** Effectiveness of Decision Implementation. BASYARNAS needs to ensure that the parties involved in the dispute can implement the decisions issued effectively. Therefore, BASYARNAS needs to continue to monitor the implementation of the decisions issued and take steps to ensure their performance.

**Third:** Openness and Transparency. BASYARNAS needs to ensure that the dispute resolution process is transparent and open so that the parties involved in the dispute feel fair and not feel disadvantaged.

**Fourth:** Legal Conformity. BASYARNAS must ensure that the decisions issued in Sharia dispute resolution follow the applicable Sharia law principles. Therefore, Sharia judges at BASYARNAS must have adequate competence in understanding the principles of Sharia law.

**Fifth:** The cost of resolving disputes at BASYARNAS provides convenience and is not burdensome for the parties involved.

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### D. CONCLUSIONS

Following the reasoning above, one might conclude that BASYARNAS plays a significant part in settling Sharia issues in Indonesia. With BASYARNAS, Sharia law can be applied to resolving disputes in a rapid, uncomplicated, and very successful way, thereby hastening the process of justice for the community. In addition to this, BASYARNAS is instrumental in the establishment of and advocacy for the utilization of Sharia-based methods for the resolution of disputes in Indonesia. However, there are still many obstacles to overcome to grow BASYARNAS, such as a scarcity of professionals in the field of Sharia law, a lack of public awareness of the Sharia dispute resolution system, and a lack of cooperation from associated parties. Therefore, it is necessary to make an effort to enhance a general understanding of the significance of Sharia dispute resolution and the function of BASYARNAS in this respect.

Additionally, it is necessary to increase both the quality and number of professionals in the field of Sharia law. Therefore, to strengthen the role of BASYARNAS, it is essential to analyze and improve the Sharia conflict resolution process carried out through BASYARNAS. This is necessary so that the operation can be more effective in terms of its services to the community. In general, BASYARNAS possesses a significant amount of potential in assisting with applying Sharia law to resolving disputes in Indonesia, and it is a different approach to the problem of providing justice for society.

### RECOMMENDATION

Some suggestions or recommendations that the author can give are:

- The government can improve advertising and socialization about BASYARNAS so that more people know its existence and can utilize it in settling conflicts based on Sharia law.
- Adopting new technology and maintaining efforts to enhance the functioning of the existing Sharia arbitration court system are two ways for BASYARNAS to raise the level of service provided and increase the efficiency of Sharia-based dispute resolution.
- The parties engaged in a Sharia dispute may consider settling the problem through BASYARNAS as an alternative to resolving the conflict through traditional courts because the process is quicker, more efficient, and utilizes Sharia principles.

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