

Peradilan agama sebagai lembaga penyelesaian sengketa perbankan syariah = Religious court as a dispute resolution institution for sharia banking / Yudi Hasri Surya

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Abstrak

ABSTRAK

Tesis ini membahas kehadiran peradilan agama sebagai lembaga penyelesaian sengketa perbankan syariah yang efektifitas keberadaannya belum dirasakan maksimal sampai dengan diterbitkannya putusan Mahkamah Konstitusi di tahun 2013. Tesis ini memberikan gambaran serta mengungkap sejauh mana peradilan agama mampu mengakomodir kebutuhan dan kepentingan industri perbankan syariah sebagai satu kesatuan sistem hukum ekonomi Islam. Penelitian dilakukan secara normatif, yaitu dengan menganalisa pelaksanaan atau implementasi ketentuan hukum secara faktual. Adanya fakta bahwa selama kurun waktu keberadaan industri perbankan syariah, para pelaku di dalamnya justru cenderung untuk memilih lembaga peradilan umum apabila terjadi sengketa menunjukkan realitas keraguan atas kompetensi pengetahuan para hakim peradilan agama, kekhawatiran kepentingan perbankan yang tidak terakomodir secara baik, dan juga faktor sosial dimana peradilan umum lebih familiar untuk dipilih daripada peradilan agama. Oleh karenanya agar cita-cita akan sebuah sistem hukum perbankan syariah yang utuh di Indonesia terwujud, diperlukan sinergi yang lebih baik antar lembaga dan juga sinkronisasi ketentuan di dalamnya.

ABSTRACT

This thesis discusses the presence of religious courts as a dispute resolution institution of sharia banking that the effectiveness of its existence has not been felt maximized until the publication of the Constitutional Court decision in 2013. This thesis provides an overview as well as reveal the extent to which the religious courts were able to accommodate the needs and interests of the sharia banking industry as a whole legal system of Islamic economics. Research conducted normative, by analyzing the execution or implementation of the provisions of the law. The fact that during the period of existence of the sharia banking industry, in which actors tend to choose a general court in the event of a dispute showed the reality of doubt on the competence of knowledge of the judges of religious courts, which do not concern the interests of banks are well accommodated, and also social factors which more familiar to the general court chosen rather than religious courts. Therefore, in order that the ideals of the legal system will be a complete sharia banking in Indonesia realized, needed a better synergy between institutions and also synchronize the regulation in it.