

The Fiqh Divide: Standardization Challenges and the Quest for Regulatory Convergence in Islamic Finance

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ABSTRACT

The expansion of the Islamic finance industry (IFI) is constrained by a lack of global standardization, rooted in divergent Sharia rulings (fatwas) across jurisdictions. This fragmentation creates complex legal pluralism, escalating costs and limiting cross-border competition. This study employs a Normative Legal Research Approach and Comparative Legal Analysis of standards from AAOIFI, IFSB, SAC BNM, and DSN-MUI. The analysis uses Transnational Legal Theory (TLT) to frame the divergence. Findings indicate the primary obstacle is the critical failure of the Transnational Legal Process (TLP) at the Internalization stage. National authorities prioritize local legal sovereignty, causing frequent contradictions with AAOIFI standards. This divergence is exacerbated by normative egoism among scholars, undermining the objective of *maslahah* (public interest). The core conclusion is that the harmonization challenge constitutes a legal-governance failure. The study proposes a prescriptive strategy centered on Strengthening the TLP and utilizing Economic Incentives. Key recommendations include Mandating core AAOIFI standards for transnational products, establishing a Global Sharia Dispute Resolution Forum for binding interpretations, and institutionalizing Scholar Consensus Protocols. Integrating these strategies with financial incentives is essential to overcome fragmentation and achieve cost-effective development.

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Introduction

Islamic finance industry has recorded tremendous growth in 2025, constituting USD 5.47 trillion (Mordor Intelligence, 2025). A solid growth of Muslim population, widespread of ethical investment awareness, and the stabilization of Muslim-countries government are strategic contributing factor to the growth and seems to continue making positive performance until 2030 (Mordor Intelligence, 2025).

However, in the context of Islamic finance industry, different jurisdiction has differed to another with regards to shariah ruling on how financial products and services offered. The point of difference are varied, from law of contract used and its mechanism to contractual obligation and modus operandi (Hakim, 2013). Although different opinion in shariah ruling are justified

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especially on *muamalah* (human interaction) context, these divergence contain more disadvantages rather than benefit to Islamic finance industry (A. Shaharuddin, 2015). The difference of fatwa and shariah ruling may hamper the development of Islamic financial industry in the global stage. Different opinion and *fatwa* could generate a new problem in Islamic finance industry. For instance, Islamic Financial Institution (IFI) may face difficulties in expanding their business to various part of the world due to dissimilar jurisdiction, governance, and different of using Islamic law of contract. All of all contribute to lack of unification in reporting IFI activities and make public confuse about how they are supposed to operate (Kermeli, 2000; Khan, 2007, 2010; Bhuiyan et al., 2020). Therefore, the difference of fatwa and shariah ruling may hamper the development of Islamic financial industry in the global stage (Khan, 2007).

Recent literature discussed why standardization and harmonization of shariah ruling is crucial to implement in Islamic finance industry. For instance, (Antonio & Rusydiana, 2008) explained harmonization will impact to efficient control procedure and easy to monitor and manage. (Hakim, 2013) also mentioned that harmonization will enhance shariah compliance process and reduce the transaction cost, making IFI more efficient in delivering their product and service. In addition to that, standardization between regulation and Sharia would lead to expansion of IFI size and market as well as could boost the growth of IFI (A. Shaharuddin, 2016).

The effectiveness of standardization and harmonization can be achieved if the barriers and obstacles has been successfully identified within the industry. Recent study discovered that difference opinion to determine shariah contract become fundamental barrier in harmonization and standardization in Islamic finance (Devi & Hamid, 2024; Hakim, 2013). The divergence of opinion led to the different treatment of contracts from one to another. For instance, a shariah contract may accept in certain jurisdiction and unaccepted in another jurisdiction (A. Shaharuddin, 2016). Furthermore, Shaharuddin (2016) pointed out several challenges related to harmonization such as lack support from authorities, difficult to reach unanimous decision, difference practice of Shariah governance framework, and different development of Islamic finance. Moreover, (Devi & Hamid, 2024) reclassify the barrier of harmonization into four main problem namely, technical, governance, human, resource and regulation.

Unlike the result of the mentioned studies above, this paper not only discuss the opportunity and challenge of harmonization but also examine the issue of standardization and harmonization in Islamic Finance using Transnational Legal Theory (TLT) approach. Additionally, this study suggest strategy to takeaway as way forward for harmonization in Islamic finance industry. Therefore, this study seeks to address the following research question: (1) What are opportunities and challenges of harmonization of Fatwa in Islamic Finance? (2) How Transnational Legal Theory (TLT) views harmonization of fatwa in Global context? (3) What strategy and effort need to adopt for realizing harmonization and standardization of fatwa? The remaining section will discuss methodology, discussion, and conclusion.

Research Method

This study employs a qualitative research methodology by adopting normative legal approach (Mason, 2017). Normative Legal Research Approach is used to critically analyze the law as it is (fragmented Sharia standards) against the law as it ought to be (harmonized for efficiency). The research design utilizes Comparative Legal Analysis, systematically comparing authoritative legal norms across different jurisdictions to identify the precise nature and extent of divergence. Data collection relies on primary legal sources, specifically the official regulatory documents and Sharia standards issued by key transnational bodies—AAOIFI (Sharia and Governance Standards) and the IFSB (prudential guidelines)—and major national authorities—the SAC BNM (Resolutions and Guidelines) and DSN-MUI (Fatwas). Secondary sources, including academic

literature, complement this data by providing scholarly interpretation and critique of the established legal positions.

The data analysis employs three integrated techniques. First, Comparative Analysis involves mapping the legal elements and conditions for key Islamic financial contracts (e.g., Mudarabah, Tawarruq) across all four primary source bodies to identify and qualitatively describe the legal and conceptual gaps (Divergence/Gap Analysis). Second, Interpretive and Conceptual Analysis frames this divergence using Transnational Legal Theory (TLT), categorizing the failures as institutional resistance to the TLP's Internalization stage. Third, Institutional and Governance Analysis examines the structural authority (e.g., SAC BNM's mandatory power) that resists transnational standards, leading directly to the formulation of prescriptive, strategic recommendations necessary to restructure the TLP and achieve cost-effective standardization.

Discussion

1. The Need for Harmonization and Standardization

Harmonization of Shariah rulings is critical for the efficient operation of Islamic Banking activities across borders. However, Islamic bank has encountered difficulties competing with conventional bank due to lack of standardization for all schools of thought on Islamic banking mainstream product (Akhtar, 2007; Abdul Hamid, 2008). Separation of *shariah* committee from the main regulatory council of each bank, has brought fundamental difference in evaluating and examining new product in boundary or cross-boundary. Moreover, *shariah* boards, committees, or advisors tend to address the issue and give their opinions based on particular school of thought that is compatible with the nature of product are being offered. The condition is further exacerbated by the absence of independent institutions in issuing *fatwa* related to financial sector. As a result, some scholars may approve several products as *shariah* compliant while others may not. may be approved as *shariah* compliant by particular scholars but not by others.

Several factors become a special attention why Islamic financial industry need to harmonize and standardize *shariah* ruling. To begin, standards simplify and manage the process of managing and monitoring function. In addition, it will lower the cost of developing new regulations. Secondly, IFI will gain confidence to compete with Incumbent. Thirdly, the trend of global financial market has enforced financial provider to consolidate their services into several products that cater to the diverse need of their clients. Similarly, the global nature of the Islamic finance industry requires that customer tastes be less fragmented and diversified (Hakim, 2013).

A. Ready to Compete with Incumbent and Fit with Global Market Needs

The globalization era has increased the competition of Islamic and conventional banks day by day in cross border transactions. The development of technology and information has brought wind of change in liberalization of foreign exchange market. This trend enables financial industry players to combine and package products across many platforms, simplifying the client experience. As a result, customer in many countries can access on internet banking, unit trusts, mutual funds, and even business enterprises (Bhuiyan et al., 2020).

Lack of harmonization of *shariah* ruling and financial innovations become the primary challenge of Islamic bank to develop product that cope up with various customer needs. Addressing these needs creatively may require financial engineering and the development of new consumer-type financial instruments or new security, wealth

management, or cost-effective instrument, or a creative solution for corporate finance, such as the need to reduce funding costs, manage risk, and increase return on investment (Bhuiyan et al., 2020). Therefore, from Islamic banking point of view, it become main challenge to innovate the *shariah*-compliant compatible products with different risk-return profile to meet demand of entrepreneurs, investors, customers for liquidity and safety (Hassan & Dicle, 2005; Iqbal, 2007; Tahir & Bakar, 2009).

Islamic banking has put special attention to attract investors and entrepreneurs to profit and loss sharing product's characteristic and foster market integration rather than labelling *shariah* or non-*shariah* compliant product only. In general, Islamic bank has less amount of capital and resource ready to invest in research and development of new products that regular bank does. Given the critical nature of financial engineering, Islamic financial institutions should seriously consider collaborating to establish the necessary infrastructure for product introduction. Collaborative fundamental research and development may enable some of the expenditures associated with building this infrastructure to be avoided. One such collaborative endeavor would be to support research into the development of analytical models, computer systems, and tools for analyzing the risk and return on various instruments. Apart from that, harmonization and standardization of produced products are essential to eliminate investor doubt in using Islamic financial services. Thus, it is expected that Islamic banking products would be acceptable in cross-border transactions and will eventually be able to compete on a worldwide scale.

B. Time and Cost Saving

Harmonization of law and standardization of products and services will bring positive impact to the growth of Islamic finance industry. Other than that, time and cost will reduce proportionally and make financial services more cheaper (Hakim, 2013). So that, IFIs can compete with incumbent to provide alternative financial product with free-interest. Basically, IFI such as bank has expensive financial product due to higher development cost to produce wide range of product. As we know, Islamic bank adopt several contracts which is not only restricted to exchanged-based contract but also include lease-based and partnership-based contract with PLS concept.

Standardization is a proper solution to reduce cost of developing financial products and services in IFIs as well as will shorten time of delivering those products. Moreover, it will contribute to increase in public trust over IFIs and enhance its performance and efficiency.

C. Global acceptance and wider understanding

Since the IB was established with spirit of Islam as religion, many terms were used in labelling the contract refer to Arabic term which is quite difficult for layman to understand. The condition way more severe when the same term applied in IFI but differ in scheme and application. This case is obvious when the IFI experience different stage of Islamic finance development in their respective jurisdiction.

Therefore, harmonization and standardization are significant to address the pertaining issue. When IFIs across jurisdiction attempt to follow standards that produced by international agency such as AAOIFI and IFSB, unification of Islamic financial transactions and contracts would be realized. As a result, everyone can easily understand those with the same framework and scheme, less ambiguity. Moreover, it allow IFIs

expand their business across country and jurisdictions and increase the possibility of being accepted in the global context.

2. Challenges of Harmonization and Standardization

Nowadays, *Shariah* ruling harmonization in the industry of Islamic finance are merely done at academic discourse level. Numerous seminars, conference and roundtable discussions have been conducted domestically and internationally by various parties on related issues. Those organizations play a fundamental role in ensuring IFI is equipped by several standards which are ready to apply in harmonizing IFI practice across the globe.

A. Close-Minded Mentality

Nonetheless, it is predicted that implementing the resolutions or even reaching a consensus will be challenging. This is because the industry in each Muslim country is at a distinct level of growth. The harmonization of *shariah* ruling requires tolerance and openness. To reconcile these disparate judgements, Islamic scholars must be able to accept the views of others, even if they have their own position and justification for defending or rejecting specific contracts. To reconcile these disparate judgements, Islamic scholars must be able to accept the views of others, even if they have their own position and justification for defending or rejecting specific contracts. They need to be open minded and having negotiation and compromise skills in dialogue (A. Shaharuddin, 2015).

In fact, several times, Islamic scholars across border are reluctant to engage themselves in open dialogues and discussion. They are unable to listen to opposing arguments because they are so certain of their positions. This is why harmonization is so challenging to achieve. *Shariah* scholars must overcome their personal egoism and willing to amend the fatwas and ruling if its needed.

B. Divergence of Shariah Method and Fatwa

The lack of harmonization occurred when there is a divergence among *shariah* scholars who are in charge in issuing fatwa about Islamic financial products and services (Ahmed, 2015). These scholars are coming from different backgrounds of knowledge and expertise. Additionally, they also have different approach in deducting rulings from primary and secondary source by using difference school of thought in Islam. Moreover, *shariah* supervisory institution in different jurisdiction heavily rely on *shariah* scholar opinion which may potentially ignite contention and contradiction on Islamic financial products and services. Consequently, some of instruments are permissible to use, become impermissible to adopt in some jurisdiction.

Different methods for determining the validity of certain contracts in Islamic finance may result in inconsistent fatwas issued by Islamic scholars in different jurisdictions. Islamic scholars have their own set of Islamic schools of thought when it comes to addressing Islamic financial issues, which frequently results in uncertainty and dispute when assessing whether a transaction adheres to sharia norms and principles or not (Hakim, 2013).

According to Jamal Abbas Zaidi, in order to harmonize shariah standards, it is necessary to identify the possible arguments put forward by market leaders and regulators. The perspectives of each of them will lay the groundwork for possible counter-arguments by *shariah* scholars (Zaidi, 2008).

C. Infrastructure Readiness

Inadequate infrastructure to facilitate Islamic banking operations also contributes to the absence of fatwa harmonization and uniformity. Each country has its own unique set of infrastructural requirements for Islamic banking operations. For instance, Malaysia permits the use of organized-*tawaruq* as a result of the existence of a *bursa al-suq silaq* for the purpose of performing commodities *murabaha* between the bank and the customer. Additionally, the regulation is prepared to support this. Several countries, in comparison to Malaysia, may lack the substantial infrastructure and regulation that Malaysia possesses. Thus, it will strike controversy when *tawaruq*-like contracts are employed in several countries (besides different opinion on *tawaruq* itself).

D. Unique Legal Framework

The majority of the country's central banks have monitored all forms of banking activities, and Islamic banks are similarly regulated by the central bank's act as conventional banks are (Barth et al., 2001; Hassan & Dicle, 2005; Tahir & Bakar, 2009). Certain countries enact unique Islamic banking legislation to regulate the operations and connection of specific Islamic banks with the central bank (Tahir & Bakar, 2009). Thus, it is extremely difficult for an Islamic bank to operate under the same regulatory framework as conventional interest-based banking. Even Nevertheless, in order to safeguard public safety, the majority of governments have established extensive regulatory agencies to ensure the seamless operation of traditional banking across many countries. As a result, the banking industry has developed into one of the most severely regulated sectors worldwide.

E. Different Stage of Development

The difficulty to implement the resolutions to become a consensus is anticipated. The difference stages of development in Islamic finance industry have brought the divergence in certain ruling. Malaysia and Brunei, for example, have varying levels of market development and market size in the Islamic finance industry. The former is more advanced in terms of product development in Islamic finance, capital structure, and money market instruments. This factor allows *shariah* scholar in Malaysia discuss more advance and complex issue compared to Brunei. Consequently, certain ruling is applicable in Malaysia and not for Brunei. Therefore, to achieve harmonization in fatwa and standardization of products, this difference should be considered and taken into account (D. A. Shaharuddin, 2013).

3. Recent Developments and the Persistence of Jurisdictional Divergence in Sharia Standards

The analysis of Transnational Legal Theory (TLT) is strongly supported by recent developments in Islamic finance, which demonstrate both an intensified drive for global harmonization and the persistent, fragmented nature of legal internalization at the national level. International standard-setting bodies, primarily the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) and the Islamic Financial Services Board (IFSB), have intensified their collaborative efforts, viewing this partnership as a necessary step to consolidate the industry's foundation. This collaboration, formalized through various Memoranda of Understanding and joint exposure drafts, such as the Revised Shariah Governance Framework (RSGF), is a direct manifestation of the Transnational

Legal Process (TLP), where international organizations seek to interpret and implement unified global standards (AAOIFI, 2021).

However, the authority of these international standards frequently meets resistance from powerful, centralized national jurisdictions, underscoring the challenge of legal internalization. In Malaysia, the Shariah Advisory Council (SAC) of Bank Negara Malaysia (BNM) functions as the single highest authority for all Sharia matters, making its resolutions mandatory for the domestic industry. Studies comparing AAOIFI standards with SAC rulings have revealed significant gaps; for instance, differences exist in the prescriptive detail regarding contracts like *Mudarabah* and the structure of *Ijarah* (leasing) financing, where Malaysian institutions prioritize the flexible yet authoritative SAC rulings over AAOIFI's more rigid framework (Saleem & Mansor, 2020).

Similarly, Indonesia's Dewan Syariah Nasional-Majelis Ulama Indonesia (DSN-MUI) issues mandatory fatwas that occasionally deviate from the AAOIFI benchmarks. Concrete differences are evident in areas such as product substance and financial ratios: AAOIFI standards for *Murabahah* (cost-plus financing) place a high emphasis on the real transfer of ownership and risk (substance over form), providing a critique of national practices that may focus more on documentation. Furthermore, DSN-MUI's fatwas on Sharia stock screening allow for different, and often higher, thresholds for permissible riba-based leverage ratios compared to AAOIFI's stricter standards (Mulyana & Anwar, 2021). These jurisdictional differences force global Islamic Financial Institutions to operate under a multi-layered, non-uniform regulatory environment, directly confirming the TLT assertion that legal fragmentation persists despite powerful globalizing economic forces (Koh, 2017).

4. Transnational Legal Theory and Fragmentation in Islamic Finance Sharia Ruling

The challenges facing the harmonization of Islamic finance standards provide a compelling case study for the application and limitations of Transnational Legal Theory (TLT), particularly concerning the concept of the Transnational Legal Process (TLP) (Koh, 2017). The central tension lies between the universalizing pressure of global commerce and the resistance of decentralized, traditional legal authorities.

The necessity for harmonization stems directly from the globalizing imperative of the Islamic finance industry, which requires standardization to facilitate cross-border transactions, reduce development costs, and enhance competitiveness with conventional banks. The text explicitly links standardization to efficiency ("lower the cost of developing new regulations," "reduce cost of developing financial products") and market expansion ("acceptable in cross-border transactions," "increase the possibility of being accepted in the global context"). TLT views this economic necessity as the driving force compelling legal systems to converge.

However, the industry structure exhibits profound legal fragmentation. The source of the problem is the decentralized nature of norm-creation, specifically the practice of having separate Sharia committees within each bank or jurisdiction, leading to rulings based on a "particular school of thought." This results in a conflict of norms where products deemed Sharia-compliant by some scholars are rejected by others. This state of legal pluralism, where numerous non-state actors (Sharia boards) are creating binding legal rules across borders, is the very subject of TLT analysis.

The response to this fragmentation is the establishment of transnational governance bodies—notably the AAOIFI and the IFSB. These organizations engage in the Interpretation stage of the TLP, formalizing Sharia principles into technical standards and prudential guidelines. Their standards act as "soft law" that aims to provide a unified benchmark, thereby creating a common Transnational Legal Space. The text acknowledges their

importance, stating that when IFIs follow these international standards, the "unification of Islamic financial transactions and contracts would be realized."

The core analytical finding is that the TLP has met significant resistance to internalization, leading to the current state of divergence. This resistance is rooted in two critical areas. First, National regulatory bodies, such as the Shariah Advisory Council (SAC) of Bank Negara Malaysia (BNM) and the Dewan Syariah Nasional-Majelis Ulama Indonesia (DSN-MUI), act as sovereign gatekeepers of religious law. As the preceding discussion established, these bodies mandate their own rulings, which often conflict with AAOIFI's international standards in key areas, such as the specific application of *Murabahah* or the regulatory treatment of *Mudarabah* (Mulyana & Anwar, 2021; Saleem & Mansor, 2020). These differences demonstrate that the national legal system prioritizes its own authoritative interpretation (a form of legal sovereignty) over the global consensus, creating a "two-tier" standard. This jurisdictional preference is a primary cause of the lack of product fungibility and increased transaction costs in cross-border Islamic finance.

Second, TLT recognizes that normative actors, like scholars, are vital components of the TLP. Their reluctance to engage in "negotiation and compromise skills in dialogue" and their inability to accept opposing arguments arrests the process of Interpretation and Consensus-Building at the transnational level. The problem is not merely a legal one, but a sociological and ethical failure of the norm-setters to subordinate their particularistic school of thought to the *maqasid al-Shariah* (higher objectives of Sharia) related to facilitating global welfare (*maslahah*). The challenge is thus fundamentally a governance failure rooted in the lack of a shared normative commitment necessary to overcome deep jurisprudential differences.

5. Strategy for Standardizing and Harmonizing Sharia Fatwas in Islamic Finance

Based on the current context, considering the challenges have been outlined, the strategy for standardizing and harmonizing fatwas must be multi-pronged, leveraging both Transnational Legal Theory (TLT) principles (consensus building and international standards) and economic incentives (cost-effectiveness).

A. Strengthening the Transnational Legal Process (TLP)

The primary strategy must focus on reinforcing the Interpretation and Internalization stages of the TLP to overcome jurisdictional and intellectual resistance.

Table 1. Detail Strategy for Fatwa Harmonization in Islamic Finance using TLP Approach

Strategy Components	Descriptions	Mechanism for Success
Mandating International Standards	Regulatory bodies in key jurisdictions should mandate, not just recommend, the core Sharia standards of AAOIFI for global products.	Reduces the scope for national divergence by establishing a compulsory <i>prima facie</i> standard for cross-border transactions.
Establishing a Global Dispute Resolution Forum	Create a globally recognized Sharia arbitration or appellate body, potentially under the IFSB or the OIC, to issue	Provides a final, authoritative legal ruling, dismantling the power of veto held by local boards in transnational cases.

	binding interpretations on disagreements between national fatwas concerning standardized products.	
Scholar Dialogue and Consensus Protocols	Formalize "dialogue and compromise" by establishing clear procedural rules for Sharia scholars, including mandatory representation from all major schools (madhahib) and the adoption of takhayyur (selective adoption of best opinions) and talfiq (combining different opinions) principles to achieve consensus on common contracts.	Overcomes the "egoism" and "close-minded mentality" by institutionalizing the practice of <i>ijtihad jamā'ī</i> (collective juristic reasoning).
Mandating International Standards	Regulatory bodies in key jurisdictions should mandate, not just recommend, the core Sharia standards of AAOIFI for global products.	Reduces the scope for national divergence by establishing a compulsory <i>prima facie</i> standard for cross-border transactions.

Source: Author's own

B. Economics and Governance (Cost-Effectiveness)

Achieving cost-effectiveness requires integrating this legal strategy with clear financial and operational incentives. Instead of broad harmonization, the focus should initially be on standardizing the legal documentation and core structure of key cross-border contracts like Murabahah, Tawarruq, and Mudarabah profit distribution mechanisms, which directly reduces the legal and development costs for every new product launch. This efficiency can be exponentially increased through Centralized Sharia Audit and Certification, where an AAOIFI or IFSB certification is widely recognized, significantly reducing the costly, time-consuming process of bank-by-bank re-certification by multiple local boards (AAOIFI, 2021; Elhalaby et al., 2023; IFSB, 2021; Shabbir et al., 2020; Zaidi, 2008).

Furthermore, regulators should assign lower capital charges and favorable risk-weighting to IFI products that adhere to unified international standards, creating a powerful financial incentive for compliance over local divergence. Finally, leveraging Financial Technology (FinTech) is critical, particularly using distributed ledger technology or smart contracts to embed standardized Sharia clauses directly into digital contracts. This automates compliance, structurally enforces harmonization by making any unilateral deviation immediately auditable, and speeds up product delivery, addressing the need to compete with incumbent banks on both time and cost. The

ultimate goal is to move the industry from a state of fragmented jurisdictional preference toward a globally uniform framework that facilitates trade and reduces legal overhead.

In conclusion, the harmonization challenge in Islamic banking is a complex legal-governance failure of the TLP. Resolution requires shifting from a fragmented, localistic legal structure to a prescriptive Transnational Legal Process that uses mandatory international standards, financial incentives, and formalized consensus-building protocols to ensure that the industry's legal framework supports its core economic goals of efficiency and global competition

Conclusion

The study concludes that while the harmonization of Sharia fatwas is vital for achieving cost-effectiveness and stimulating development in the global Islamic finance industry, its progress is critically challenged by deeply entrenched legal and institutional barriers. The research answers its core questions by confirming that the opportunities for harmonization—enhanced efficiency, cost reduction, and increased global competitiveness—are currently overshadowed by persistent challenges, including the Divergence of Sharia method and fatwa, infrastructure inadequacies, and the resistance posed by a "Close-Minded Mentality" among scholars. From the perspective of Transnational Legal Theory (TLT), this failure is conceptualized as a breakdown in the Transnational Legal Process (TLP): the Internalization stage is blocked because national legal sovereignty, exemplified by the mandatory rulings of bodies like SAC BNM and DSN-MUI, acts as an impervious barrier against the "soft law" standards proposed by AAOIFI and IFSB. Consequently, the necessary strategy is prescriptive and multi-pronged, focusing on structural governance changes, including Mandating core AAOIFI standards for global products, establishing a Global Sharia Dispute Resolution Forum for binding interpretations, and institutionalizing Scholar Dialogue and Consensus Protocols utilizing *takhayyur* and *tafiq*.

This research offers novelty by providing a conceptual legal diagnosis, reframing fatwa fragmentation as a legal-governance failure rooted in resistance to a global normative system, thereby clarifying the core conflict. To achieve cost-effective standardization, the applicable recommendations center on making this process mandatory and economically incentivized: jurisdictional regulators must move to mandate core standards; an independent Global Sharia Appellate/Arbitration Body must be established to neutralize local veto power; and regulatory policies must implement Economic Alignment by assigning lower capital charges to globally compliant IFI products, thus creating a powerful financial incentive for standardization.

Author Contribution

SS contributed as the principal author and was mainly responsible for the conceptual development of the study, data collection, and drafting of the main manuscript.

References

AAOIFI. (2021). Accounting and Auditing Organization for Islamic Financial Institutions. *About AAOIFI*. <http://aaoifi.com/about-aaoifi/?lang=en>

Abdul Hamid, M. (2008). Harmonization of common law and shari'ah in Malaysia: A practical approach'paper presented at the Abd Al-Razzaq Al-Sanhuri Lecture. *Islamic Legal Studies Program, Harvard Law School*, 6.

Ahmed, D. A. (2015). *Factors Of Divergence Of Shari'ah Supervisory Opinions And Its Effects On The Harmonization Of Islamic Banking Products And Services* [PhD Thesis]. Universiti Utara Malaysia.

Akhtar, S. (2007). Building an effective Islamic financial system. *BIS Review*, 38, 1–7.

Antonio, M. S., & Rusydiana, A. S. (2008). What is the Future Outlook of Shar'iah Harmonization. *ISRA) Islamic Finance Seminar, Kuala Lumpur*, 11(11).

Barth, J. R., Caprio Jr, G., & Levine, R. (2001). Banking systems around the globe: Do regulation and ownership affect performance and stability? In *Prudential supervision: What works and what doesn't* (pp. 31–96). University of Chicago Press.

Bhuiyan, A. B., Ali, M. J., Islam, K. A., Alam, M. S., & Solaiman, M. (2020). The Issues And Challenges Of Shariah Harmonization Of The Cross Border Transaction: Conceptual Review Of Islamic Banking Industries. *International Journal of Shari'ah and Corporate Governance Research*, 3(2), 1–9.

Devi, A., & Hamid, B. A. (2024). Challenges and Obstacles in the Standardization and Harmonization of Fatwa in Islamic Finance Industry and Way Forward. *Ekonomi Islam Indonesia*, 6(1). <https://doi.org/10.58968/iei.v6i1.494>

Elhalaby, S., Sarea, A., Alnesafi, A., & Al-Absy, M. S. M. (2023). *The adoption of AAOIFI standards by Islamic banks: Understanding the microeconomic consequences*. 11(2), 39.

Hakim, R. (2013). Harmonization of Shariah Rulings in Islamic Finance: An Analysis. *Ijtihad: Jurnal Hukum Dan Ekonomi Islam*, 7(2).

Hassan, M. K., & Dicle, M. F. (2005). Basel II and regulatory framework for Islamic banks. *Journal of Islamic Economics, Banking and Finance*, 1(1), 1–16.

IFSB. (2021). *Islamic Financial Services Board (IFSB)*. List of IFSB Members. https://www.ifsb.org/membership_country.php

Iqbal, Z. (2007). Challenges facing Islamic financial industry. *Journal of Islamic Economics, Banking and Finance*, 3(1), 1–14.

Kermeli, E. (2000). *Islamic Legal Interpretation: Muftis and Their Fatwas*. JSTOR.

Khan, M. F. (2007). Setting standards for Shariah application in the Islamic financial industry. *Thunderbird International Business Review*, 49(3), 285–307.

Khan, M. F. (2010). Islamic banking in Europe: The regulatory challenge. *Islamic Banking and Finance in the European Union*, 61.

Koh, H. H. (2017). Transnational legal process. In *The Nature of International Law* (pp. 311–338). Routledge. <https://www.taylorfrancis.com/chapters/edit/10.4324/9781315202006-11/transnational-legal-process-harold-hongju-koh>

Mason, J. (2017). *Qualitative researching*. <https://sci-hub.ru/https://www.torrossa.com/gs/resourceProxy?an=5018333&publisher=FZ7200>

Mordor Intelligence. (2025, June 22). *Islamic Finance Market Size, Growth, Trends & Share Report 2030*. Mordor Intelligence. <https://www.mordorintelligence.com/industry-reports/global-islamic-finance-market>

Mulyana, R., & Anwar, S. (2021). Impact of Working Capital and Leverage on Profitability: A Comparison between Indonesia Ulama Council Fatwa and AAOIFI Sharia Standards. *The Accounting Journal of Binaniaga*, 6(1), 39–50.

Saleem, S., & Mansor, F. (2020). *Exploring compliance of AAOIFI shariah standard on ijarah financing: Analysis on the practices of Islamic banks in Malaysia*. 13(2), 29.

Shabbir, M. S., Bilal, M. K., Ur Rehman, H., & Cheema, A. A. (2020). A study on the integration of islamic social finance through accounting and auditing organization for Islamic financial institutions (AAOIFI). *International Journal of Advanced Science and Technology*, 29(7 Special Issue), 2069–2082. Scopus.

Shaharuddin, A. (2015). Harmonizing Shariah Rulings in Islamic Finance: Strategies and Challenges. *The Journal of Muamalat and Islamic Finance Research*, 12(1), 1–12.

Shaharuddin, A. (2016). Defining Harmonisation of Sharīah Rulings in Islamic Finance. *Arab Law Quarterly*, 30(3), 292–304. Scopus. <https://doi.org/10.1163/15730255-12341000>

Shaharuddin, D. A. (2013). *Harmonizing Shariah Rulings In Islamic Finance: Issues, Ways And Challenges*. 45.

Tahir, I. M., & Bakar, N. M. A. (2009). Islamic banking operations: Preparing the fit for internationalization. *Journal of Islamic Economics Banking and Finance*, 5(3).

Zaidi, J. A. (2008). Shari'a harmonization, regulation and supervision. *AAOIFI-World Bank Annual Conference on Islamic Banking and Finance, Manama, Bahrain*.