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Harmonization of Regulations on the Utilization of Motor Vehicle Pawns from the Perspective of Islamic Law and Positive Law in Indonesia

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Abstract

The use of motor vehicles as pawn objects in financing practices in Indonesia continues to increase in line with the public's need for fast and flexible access to financing. However, this development raises legal problems in the form of regulatory disharmony between positive law and Islamic law related to the use of pawn objects. These regulatory differences have the potential to cause legal uncertainty, weak protection for debtors *(rāhin)*, and practices that lead to exploitation and covert usury. This study aims to analyze the regulation of the use of motor vehicle pawn objects in the perspective of positive law and Islamic law, identify forms of regulatory disharmony, and formulate a model of legal harmonization. This research is a normative legal research with legislative, conceptual, and comparative approaches. Primary legal materials include the Civil Code, the Compilation of Sharia Economic Law (KHES), the DSN-MUI Fatwa on *rahn*, and the perspectives of the four schools of fiqh. The analysis is carried out qualitatively through deductive reasoning. The results of the study show that the Civil Code contains silent norms regarding the use of pawn objects, thus opening up a wide space for interpretation. On the other hand, the Fatwa of KHES, DSN-MUI, and fiqh muamalah limit the use of pawned objects to prevent exploitation and usury. Therefore, it is necessary to harmonize regulations through updating the provisions on pawns in the Civil Code by integrating the principles of justice, protection of property rights, and restrictions on the use of pawned objects.

Keywords: Vehicle Pawning; Rahn; Islamic Law; Positive Law; Disharmony of Regulations.

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1. INTRODUCTION

The practice of pawning as a form of guarantee agreement has long lived in Indonesian society, both through formal institutions and civil relations between individuals. Pawning motor vehicles, especially motorcycles and cars, is one of the most widely used forms of practice because it has high economic value, is easy to transfer, and is relatively quickly converted into a source of financing[1]. This phenomenon shows that motor vehicles not only function as a means of transportation, but also as economic instruments that have collateral value in various financing transactions.[2] As the community's need for fast and flexible access to funding increases, the practice of vehicle pawning continues to develop both through formal institutions and informal mechanisms that live in the community[3].

The development of the practice of vehicle pawning raises increasingly complex legal issues, especially related to the use of pawn objects by pawnbrokers during the agreement period.[4] In practice, vehicles that are used as collateral are often used by the pawnee without the clear consent of the vehicle owner. This condition has the potential to cause economic losses, ownership disputes, and legal uncertainty for the parties.[5] These issues are becoming increasingly important because they concern the protection of property rights, legal certainty of collateral transactions, and the fulfillment of the principle of justice in the legal relationship between the giver and the receiver of the pawn.[6]

Normatively, the regulation regarding pawns in the Indonesian legal system is contained in Articles 1150–1160 of the Civil Code and the Compilation of Sharia Economic Law (KHES). However, the two legal regimes show different approaches regarding the use of pawn objects.[7] The Civil Code does[8] not provide explicit rules

[1] Achmad Miftah Farid and Fandi Ahmad Fahreza, "Sharia Pawn (Rahn) in the Perspective of Islamic Law and Positive Law," *Strata Law Review* 1, no. 1 (2023): 48.

[2] Ferry Saputra and Ignatia Maria Sri Sayekti, "OJK Records 1.95% Slight Growth in Multifinance Vehicle Financing as of May 2025," *KONTAN.CO.ID*, 2025, https://keuangan.kontan.co.id/news/ojk-catat-pembiayaan-kendaraan-multifinance-tumbuh-tipis-195-per-mei-2025.

[3] Aang Asari and Muhammad Irkham Firdaus, "Comparison of Rahn Contract from the Perspective of Islamic Law and Indonesian Guarantee Law," *Journal of Islamic Economics Lariba* 8, no. 2 (2022): 258, doi:10.20885/jielariba.vol8.iss2.art1.

[4] Ana Billah, "Analisis Relevansi Rahn Dengan Dinamika Perikatan Syariah Di Indonesia," *JSE: Jurnal Sharia Economica* 3, no. 1 (2024): 19.

[5] Amrin Amrin, Adi Priyono, and Nailis Shofia, "Analysis of Sharia Economic Law on Vehicle Pawning in PT . Pegadaian (Persero) Cabang Bima , Nusa Tenggara Barat , Indonesia," *Talaa : Journal of Islamic Finance* 2, no. 2 (2022): 113, doi:10.54045/talaa.v2i2.699.

[6] Neha Aswin Maysura et al., "Legal Safeguards for Consumer Collateral Protection at Pawnshops in Indonesia," *Barelang Journal of Legal Studies* 1, no. 2 (2023): 115, doi:10.37253/barjoules.v1i2.8864.

[7] Fajar Andika Pratama et al., "Pasal 1157 Ayat 2 KUH Perdata Sebagai Dasar Jaminan Biaya-Biaya Tak Terduga Yang Timbul Akibat Menggadaikan Barang Bergerak.," *Majelis : Jurnal Hukum Indonesia* 2, no. 1 (2025): 42, doi:10.62383/majelis.v2i1.487.

regarding the use of pawned goods during the detention period by creditors, while KHES[9] and DSN-MUI Fatwa[10] provide room for use with certain conditions and still pay attention to the ownership rights of the tenant.[11] These differences in legal construction have the potential to cause regulatory disharmony that has an impact on the inconsistency in the application of the law in practice.

Several previous studies have examined the practice of pawning from various perspectives. Deni Yuliono et al. concluded that the use of pawned goods without the owner's permission is contrary to sharia principles because it contains elements of unjustified benefit-taking.[12] Amal Astana, Makruf Antoni, and Hardian Iskandar found that vehicle pawn agreements without written agreements caused weak legal protection for debtors.[13] Meanwhile, Muhammad Ali Tamrin et al. showed that the deviation of pawn practices was more influenced by the low legal literacy of the community than by the weakness of legal norms.[14] Fatima Retno Ningrum et al. examined the execution of the object of *rahn* based on the DSN-MUI Fatwa Number 92 of 2014 and the Constitutional Court Decision Number 18/PUU-XVII/2019 and concluded that the execution of the guarantee can only be carried out after the debtor defaults while still upholding the principles of justice and protection of the rights of the right.[15] Laily Anggraini's research also shows that the rental of pawned objects by *murtahin* to a third party without the consent of *rāhin* is contrary to the principle of muamalah jurisprudence because the right of *murtahin* is only limited to the possession of goods as collateral, not to benefit from its economic benefits. Despite making important contributions, these studies still focus on pawning practices, execution mechanisms, compliance with sharia principles, or legal protection in a particular perspective.[16] There has not been a study that comprehensively analyzes the disharmony of regulations regarding the use of motor vehicle pawn objects through a comparison between Chapter XX of the Civil Code, the Compilation of Sharia Economic Law (KHES), Fatwa DSN-MUI Number 25/DSN-MUI/III/2002, Fatwa DSN-MUI Number 92/DSN-MUI/IV/2014, as well as the views of the fiqh school, as well as examining its

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[8] Mariam Darus Badrulzaman, *Civil CodeCivil Code Book III on Engagement with Explanation* (Bandung: Citra Aditya Bakti, 1996).

[9] Mahkamah Agung Republik Indonesia, "Kompilasi Hukum Ekonomi Syariah Pasal 396," 2008.

[10] Robin, Nilhakim, and Miswinda, "Analisis Fatwa DSN-MUI NO. 25/DSN-MUI/III/2002 Tentang Rahn Terhadap Praktik Pegadaian Sepeda Motor," *Borneo: Journal Of Islamic Studies* 4, no. 2 (2024):148.

[11] Asari and Firdaus, "Comparison of Rahn Contract from the Perspective of Islamic Law and Indonesian Guarantee Law."

[12] Deni Yuliono, Hadi Sunaryo, and Pardiman, "Analysis of Rahn Law an Islamic Economic Perspective," *JIEI: Scientific Journal of Islamic Economics* 9, no. 02 (2023): 2517, doi:10.29040/jiei.v9i2.9663.

[13] Amal Astana Makruf Antoni and Hardian Iskandar, "The Principle of Good Faith in Oral Pawn Agreements with Motor Vehicle Credit Collateral," *Legal Brief* 14, no. 2 (2025): 275, doi:10.35335/legal.v14i2.1303.

[14] Muhamad Ali Tamrin, Moch Uzeir Mustaqfirin, and Fitrotul Wafiyah, "Analysis of Sharia Economic Law on Pawns with Unpaid Motorcycle Collateral," *Ta'wiluna: Journal of the Science of the Qur'an, Tafsir and Islamic Thought* 5, no. 1 (2024): p.123, doi:10.58401/takwiluna.v5i1.1637.

[15] Fatima Retno Ningrum et al., "Sharia Compliance in the Implementation of Rahn Pawn Guarantee Execution," *Ash-Syari'ah* 25, no. 1 (2023): 20, doi:10.15575/as.v25i1.28809.

[16] Laily Anggraini and Khoirun Nasik, "The Tradition of Pawn Car Rental in Lebbek Village," *Al-Musthofa* 04, no. 02 (2021): 170, doi:10.58518/al-musthofa.v4i2.895.

implications for legal certainty, protection of the rights of the parties, and the formulation of a legal harmonization model.

Based on the analysis of previous research, there is a research gap in the form of the absence of a study that comprehensively analyzes the normative conflict between the Civil Code, KHES, the DSN-MUI Fatwa, and the fiqh view regarding the use of motor vehicle pawn objects.[17] Most previous research is still partial and does not offer a model of legal harmonization that can bridge these regulatory differences.[18] Therefore, this study offers novelty in the form of an analysis of the disharmony of regulations on the use of motor vehicle pawn objects using a comparative approach between Islamic law and positive law, as well as formulating a more harmonious and applicable legal construction.

Based on the background and gaps of the research, this study aims to: (1) analyze the regulation of the use of motor vehicle pawn objects in the perspective of positive Indonesian law; (2) analyze the regulation of the use of motor vehicle pawn objects from the perspective of Islamic law; and (3) identify forms of regulatory disharmony that arise in the practice of utilizing vehicle pawn objects.

To achieve this goal, this study uses normative legal research methods [19] with a statutory approach, a conceptual approach, and a comparative approach[20]. The primary legal material consists of the Civil Code, KHES, DSN-MUI Fatwa on *Rahn*, and relevant Islamic law sources. The secondary legal materials are obtained from scientific journals, law books, and court decisions related to the object of research. All data were analyzed qualitatively[21] to identify points of similarity, differences, and possible harmonization between Islamic law and positive law in regulating the use of motor vehicle pawn objects.

2. DISCUSSION

2.1 The Concept of Utilizing Vehicle Pawn Objects in Positive Law

Pawn in Indonesian positive law is classically regulated in Articles 1150-1160 of the Civil Code as a right obtained by creditors over movable goods handed over by the debtor to guarantee the repayment of debts.[22] This formulation places the pawn as a material guarantor institution whose main function is to ensure the certainty of receivables payments through the control of collateral objects. As *zakelijk zekerheid*, a pawn does not stand alone, but is attached to the receivables relationship as the

[17] Farid and Fahreza, "Gadai Syariah (Rahn) Dalam Perspektif Hukum Islam Dan Hukum Positif."

[18] Tunggul Ansari Setia Negara, "Normative Legal Research In Indonesia : Its Origins And Approaches," *Audito Comparative Law Journal* 4, no. 1 (2023): 4, doi:10.22219/aclj.v4i1.24855.

[19] Farah Qatifa Elzahra Faisal, "Legal Protection of Pawned Property Owners whose Objects Are Used as Pawned Objects by Others Without Their Consent," *Hakim: Journal of Legal and Social Sciences* 2, no. 2 (2024): 221, doi:10.51903/hakim.v2i2.1757.

[20] Hasan Basri and Muhammad Azani, "Sharia in Pekanbaru Implementation Of Rahn Akad In Sharia Pawn Shops Based," *Legal Ideas* 01, no. 02 (2019): 163, doi:10.31849/jgh.v1i02.7697.

[21] Muhammad Zulfahri Tambusai and Tetty Marlina Tarigan, "Utilizing Marhun Bih Based On Mutual Agreement According To Hanafi Fiqh And Syafi'i Fiqh (Case Study Of Pegadaian Syariah Branch Ar. Hakim Branch, Medan Area District, Medan City)," *Indonesian Interdisciplinary Journal of Sharia Economics* 8, no. 2 (2025): 2880, doi:10.31538/iijse.v8i2.6591.

[22] Dita Nofa Amalia, Fattoriqul Musaffak, and Elisa, "Gadai Dalam Konteks Hukum Di Indonesia," *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 2, no. 10 (2025): 135, doi:10.14710/nts.v13i2.31087.2.

principal agreement.[23]The characteristics of the surrender of physical control of the object of the pawn are the main differentiator between pawns and other tangible collateral, such as fiduciaries that do not require physical surrender. In the development of contemporary economics, pawn objects have undergone a significant shift, from simple moving objects to motor vehicles that have high economic value, high mobility, and productive functions.[24] This shift creates new legal complexities, especially regarding the limitation of creditors' authority over the use of objects mortgaged during the agreement, which were not explicitly anticipated by the classical formulation of the Civil Code.

As a lien ownership right, according to J. Satrio, has an accessoir and preferential nature that determines the juridical position of creditors and debtors. The nature of the accessoir confirms that the lien only exists as long as the receivables agreement is still valid, so the removal of the principal agreement automatically removes the lien rights.[25] Meanwhile, the preferential nature gives the mortgagee creditor the privilege to pay off his softening before other creditors if the debtor defaults or goes bankrupt. A further consequence of this material nature is the application of *the droit de suite principle*, i.e. the lien continues to follow its object into the hands of whoever the object moves.[26] In this framework, the Civil Code requires physical control over the object mortgaged by creditors as a constitutive condition for the birth of a pawn right. However, the condition of physical ownership is often mistakenly considered as legitimacy to use the pawned object, even though doctrinally physical ownership is not synonymous with the transfer of the right of use or benefit.[27]

The physical control of the object of pawn by the creditor is essentially intended as an instrument to secure collateral, not as a basis for exploiting the use value of goods. The main purpose of control is to prevent the debtor from diverting, damaging or eliminating the object of the collateral so that the creditor's rights remain protected.[28] In the context of motor vehicle pawning, the distinction between ownership and utilization is crucial, considering that vehicles have a high use value and their active use has the potential to cause significant depreciation in economic value. The Civil Code itself does not formulate clear regulatory boundaries regarding the extent to which physical control can be translated into the right to use. This ambiguity creates a wide scope of interpretation and opens up opportunities for practices that are formally lawful, but substantially detrimental to the debtor, especially when the vehicle is used by creditors in the absence of a fair and proportionate compensation mechanism.[29]

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[23] Asmuliadi Lubis, "The Object of Pawn in the Civil Code and the Compilation of Sharia Economic Law: A Comparative Review," *Al Mashalih: Journal of Islamic Law* 3, no. 1 (2022): 55.

[24] Isdiyana Kusuma Ayu, "Legal Counseling on the Problem of Abuse of Pawned Goods," *Legal Dedication* 3, no. 1 (2023): 108, doi:10.22219/jdh.v3i1.28264.

[25] J Satrio, *Guarantee Law: Material Guarantee Rights* (Bandung: Citra Aditya Bakti, 2002).

[26] Arpangi, "The Government's Legal Politics to Provide Legal Certainty Regarding the Practice of Paid Rent Pawning Based on the Value of Justice," *Deed* 9, no. 1 (2022): 96.

[27] Filza Yulinda Muharamah and Sukirno, "Legal Protection of Third Parties on Pawn Agreements that Collateral Proceeds of Crime," *Notary* 17, no. 2 (2024): 797, doi:10.14710/vol%25viss%25ipp1245-1259.

[28] Pratama et al., "Article 1157 paragraph 2 of the Civil Code as the basis for guaranteeing unexpected costs arising from pawning movable goods."

[29] Thesia Elestika Simanjuntak, Hasim Purba, and Aflah, "Legal Certainty Of Guarantee Of Movable And Non-Movable Property In Oral Agreements To Lend Money," *Ekonomi* 13, no. 04 (2024): 952, doi:10.54209/ekonomi.v13i04.

The rights and obligations of creditors in vehicle pawning according to the Civil Code are formulated in a relatively minimalist manner and oriented towards protecting the interests of creditors. The creditor has the right to hold the object of the lien and carry out the sale if the debtor defaults, either through a public auction or other mechanism recognized by law.[30] At the same time, creditors are burdened with the obligation to maintain and maintain the mortgaged object so that it is not damaged or lost. However, this maintenance obligation is more focused on the physical integrity of the object, rather than preserving its economic value or functional benefits. In the practice of vehicle pawning, the use of the vehicle by creditors can lead to a significant decrease in market value even if no physical damage occurs. This aspect shows that the Civil Code has not been fully responsive to the characteristics of modern collateral objects whose economic value is greatly influenced by the intensity of use.[31]The principle of *goede trouw* is actually a basic principle in civil law that should limit the exercise of creditors' rights. This principle requires that each right be exercised reasonably, proportionately, and without undue harm to other parties. In the context of vehicle pawning, the principle of good faith must prevent creditors from exploiting the vehicle or for personal gain that is not directly related to the collateral function.[32]

In contrast to the Civil Code, the Preparation of Sharia Economic Law (KHES) is present as part of a positive law that consciously adopts the principles of fiqh muamalah, especially the concept of *rahn*. Although derived from the Islamic legal tradition, the KHES has a formal position in the national legal system, especially as a regulatory reference in the religious justice environment. KHES emphasized that *marhūn* remains the property of *rāhin*, while *murtahin* only has the right to withhold goods as collateral.[33] This affirmation conceptually separates the right of control and the right of utilization, thus narrowing the space for interpretation that has the potential to harm the debtor. Thus, KHES offers a material legal approach that has been corrected by the values of substantive justice.

In the KHES regulations, the use of objects mortgaged by creditors without the owner's permission is expressly positioned as an unjustified act.[34] This principle is based on the assumption that any benefit arising from the contract remains the right of the owner of the goods, and the creditor must not derive additional benefits from a contract that is essentially a guarantee.[35] In the context of motor vehicles, this ban is very significant because the vehicle has great potential economic benefits, both through direct use and through rental value. By prohibiting unauthorized use, KHES provides

[30] Maysura et al., "Legal Protection for the Protection of Consumer Collateral at Pawnshops in Indonesia."

[31] Raisa Sari, Tasya Dania Azzahra, and Herlin Nurdiani, "The Power of Pledge Agreements Made in a State of Strength," *Pamator* 17, no. 3 (2024): 530, doi:10.47709/jhb.v13i03.4057.8.

[32] Dwi Atmoko and Noviriska, "Legal Certainty in Online Transactions: The Role of the Good Faith Principle Based on Indonesian Civil Law," *Binamulia Hukum* 13, no. 2 (2024): 425, doi:10.37893/jbh.v13i2.955.

[33] Muhammad Syahrullah, "The Formalization of the Rahn Contract in the Compilation of Sharia Economic Law," *Islamic 2* , no. 2 (2019): 148, doi:10.37859/jsi.v2i2.1645.

[34] Tina Amelia, "Legal Protection of Sharia Pawnbrokers According to Indonesian Positive Law," *Qawãnïn Journal of Economic Sharia Law* 8, no. 2 (2024): 138, doi:10.30762/qaw.v8i2.653.

[35] Asari and Firdaus, "Comparison of Rahn Contract from the Perspective of Islamic Law and Indonesian Guarantee Law."

stronger normative protections for debtors and prevents exploitative practices that could harm weak parties in legal relationships.[36]

2.2 The Concept of Utilization of Vehicle Pawn Objects in Islamic Law

In Islamic law, *rahn* is understood as a contract for the detention of goods of economic value (*mal mutaqawwam*) that is used as a guarantee for debt repayment, without transferring substantive ownership rights from pawn (*rāhin*) to pawn (*murtahin*). The main character *of rahn* lies in its function as an instrument of strengthening trust (*ta'zīz al-Ṡiqah*) in debt and receivables transactions, not as a means of transferring benefits or taking profits. In the context of fiqh muamalah, *rahn* is categorized as a contract of *tabarru'* which is oriented towards assistance (*ta'āwun*), so its existence must be sterile from the elements of usury, garar, and economic exploitation.[37] Therefore, the *rahn* contract must not produce additional benefits for the creditor other than a guarantee of debt repayment. Contemporary fiqh literature and modern sharia regulations consistently affirm that the ownership of *marhūn* remains in the hands of the *rāhin*, including its beneficial rights and economic value. As a result, any implementation of *rahn*, especially in Islamic financial institutions, must guarantee full protection of these rights. Recent research has shown that deviations from this principle have the potential to shift *rahn* from a trust contract into an instrument of exploitation, thus contradicting maqāṣid al-Syarī'ah in property protection (*ḥifẓ al-Māl*). The basis of *rahn* rules in Islamic law is sourced from the Qur'an, the hadith of the Prophet Muhammad Saw., as well as the consensus and ijtihad of fiqh scholars. QS. al-Baqarah/2:283 explicitly allows the existence of dependents in debt transactions, while the hadith of the Prophet affirms the practice of *rahn* as a guarantee mechanism without transfer of ownership. From these postulates, scholars have compiled fiqh rules that emphasize that *marhūn* remains the right of *rāhin*, and *murtahin* does not have the legitimacy to use the item without permission. The well-known *rule of kullu qardin jarra naf'an fa huwa ribā* is the basis of the main rule in prohibiting the taking of benefits from debt receivables contracts. In the context of *rahn*, the unauthorized use of *marhūn* by *murtahin* is not only a breach of contract, but also potentially contains secret usury. Therefore, the main purpose of the *rahn* contract is understood not to provide additional benefits to creditors, but to ensure the security of debt payments in a fair and proportionate manner. Contemporary fiqh studies affirm that the giving of rahn is intended to protect both parties from uncertainty, not to open up space for unilateral benefit-taking which is contrary to the principle of distributive justice in Islam.[38]

Empirical research on the implementation of *rahn* contracts in sharia pawnshop institutions shows that in terms of regulations, *rahn* operations have tried to follow the provisions of fiqh and Fatwa DSN-MUI No. 25 of 2002. Sharia pawnshops generally affirm that *marhūn* remains the property of the *rāhin* and is not used by the institution,

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[36] Iwan Setiawan, Rusmani, and Nurhaeti, "Implementation of the Compilation of Islamic Economic Law in Sharia Pawn in Indonesia," *IJSOC: International Journal of Science and Society* 5, no. 4 (2023): 914, doi:10.54783/ijsoc.v5i4.1349.

[37] Habibulloh Siregar and Ahmad Zuhri, "The Law on the Use of Pawned Goods Without the Owner's Permission from the Perspective of Fatwa Dsn Number 25/Dsn-Mui/III/2002 Concerning Rahn (Case Study of Sipolu-Polu Village, Panyabungan District, Mandailing Natal Regency)," *Legal Summary* 13, no. 5 (2024): 1244, doi:10.35335/legal.v13i5.1158.

[38] Zahratul Wasi'ah et al., "Phenomenological Analysis of Mortgage Land Sales Practices in Muslim Communities in Wonobyo Village, Klabang District, Bondowoso Regency," *Ajemb: American Journal of Economic and Management Business* 4, no. 6 (2025): 807.

except for maintenance. However, field studies also show that there are variations in practices, especially related to the determination of maintenance costs (*mu'nah*) and risk management of pawned goods.[39] This variation is often influenced by the internal policies of the institution, the level of employee understanding of fiqh muamalah, and the pressure of operational efficiency. These findings suggest that although regulatory frameworks already exist, the implementation of *rahn* in the field still faces practical challenges. In other words, sharia compliance in *rahn* does not only depend on regulations, but also on the quality of governance, sharia supervision, and legal literacy of the parties involved. This confirms that *rahn* as a fiqh concept cannot be separated from the institutional and social context in which the contract is applied.

The agreement of fiqh scholars regarding the ownership of *marhūn* is one of the strongest consensus points in *rahn* law. Substantive ownership (*milkiyyah*) of the pledged goods remained in the hands of the *rāhin*, while the *murtahin* only obtained the right of custody (*ḥabs al-'Ayn*) as collateral.[40] This strict separation between property rights and liens has very important legal implications, especially in the context of the use of goods. The right to hold does not necessarily give birth to the right to use (*manfa'ah*), because benefits are part of the property rights. Therefore, even though *marhūn* is in the physical possession of an apostate, any unauthorized use is still seen as a violation of the owner's rights.[41] This principle emphasizes that physical control in *rahn* is trustworthy, not economic dominance. In the modern context, this separation becomes even more relevant when the object *of the rahn* is a productive asset such as a motor vehicle, which has a high use value and has the potential to generate direct economic benefits.

DSN-MUI Fatwa No. 25 of 2002 is an important regulatory instrument that operationalizes the principle of fiqh *rahn* in the context of the modern Indonesian economy. This fatwa explicitly affirms that *rahn* is permissible as a sharia contract, but *marhūn* and its benefits remain the property of *rāhin*. *Murtahin* is forbidden to use *marhūn* except with the owner's permission and is limited to reimbursement of actual treatment costs. This affirmation is important because it closes the room for interpretation that can lead to unilateral benefit-taking. The fatwa also prohibits the determination of maintenance costs related to the loan amount, as the practice has the potential to become a covert usury. Thus, the DSN-MUI Fatwa serves as a bridge between classical fiqh and contemporary financial practices, as well as ethical and legal standards for Islamic financial institutions in managing *rahn* products.[42]

Fiqh muamalah makes a significant contribution to protecting the economic rights of debtors (*rāhin*) through an emphasis on justice, balance, and the prohibition of exploitation. This protection includes not only the physical aspects *of marhūn*, but also its economic value and potential benefits. In the context of motor vehicles as the object of collateral, this protection is crucial because vehicles are productive assets that can generate sustainable economic benefits. Fiqh muamalah rejects any practice that allows

[39] Moh. Agus Sifa' and Ahmad Syakur, "The Implementation of the DSN-MUI Fatwa in 2002 on Rahn in Tuban Sharia Pawnshop Services: A Study on the Application of Mu'nah Fees," *Journal of Sharia Economics* 7, no. 1 (2025): 56, doi:10.35896/jse.

[40] Nurmansah and Bani Sarif Maula, "Application of The Rahn Contract In Islamic Pawnshops," *Al-Kharaj: Journal of Sharia Economics, Finance & Business* 6, no. 4 (2024): 4397, doi:10.47467/alkharaj.v6i4.924.

[41] Yuliono, Sunaryo, dan Pardiman, "Analisis Hukum Rahn Perspektif Ekonomi Islam."

[42] Dewan Syariah Nasional MUI, *Fatwa Dewan Syariah Nasional Nomor: 25/DSN-MUI/III/2002 Tentang Rahn*, *Dewan Syariah Nasional MUI*, vol. 7 (Jakarta, 2016).

creditors to profit from such assets without a valid contractual basis. Thus, maintenance responsibilities and risks should not be used as an excuse to take hidden profits. This approach reflects Islamic law's commitment to substantive justice and the protection of economically weaker parties in debt-receivables relations.[43]

The comparison between fiqh *rahn* and positive law shows a striking difference in the normative approach to the use of the object of pawn. Fiqh and sharia fatwas present explicit norms that prohibit the use of *marhūn* without permission, while positive law, especially the Criminal Code, tends to be silent. This silent norm creates a gray space that allows for a variety of interpretations in practice. In the context of sharia financing, this gap is filled by the DSN-MUI Fatwa as a corrective norm that affirms the principle of substantive justice. However, when pawn transactions involve more positive law-oriented actors, regulatory tensions become inevitable. This condition shows the importance of harmonizing norms between Islamic law and positive law in the practice of vehicle pawning.[44]

DSN-MUI fatwa and other sharia regulations play a strategic role in maintaining consistency between fiqh theory and economic practice. Fatwas not only function as a regulatory guideline, but also as an operational reference for Islamic financial institutions in designing *rahn* products. With the fatwa, financial institutions have clear standards regarding the limits on the use of *marhūn*, the mechanism for financing maintenance costs, and risk management. This role is becoming increasingly important in the modern context, where the complexity of economic transactions demands legal certainty and sharia compliance at the same time. Without strict guidelines, *rahn* has the potential to lose the character of sharia and turn into a conventional financing instrument wrapped in Islamic terminology.[45]

Although the regulatory framework for *rahn* is relatively clear, its implementation in the field still faces various challenges. Lack of muamalah fiqh literacy among the community and practitioners, weak supervision, and dualism of legal norms often lead to deviations in practice. In some cases, maintenance costs are disproportionately charged or the utilization of *marhūn* is carried out without explicit permission. This phenomenon suggests that the main challenge lies not in the lack of norms, but in the effectiveness of implementation and supervision. Therefore, strengthening education, operational standards, and the role of sharia supervisors is an urgent need.[46]

2.3 Analysis of the Disharmonization of Regulations Between Islamic Law and Positive Law

According to Maria Farida Indrati, legal harmonization is the process of harmonizing legal norms in order to create a legal system that is consistent,

[43] Mulyono, "The Implementation of the Rahn Contract in Islamic Financial Institutions," *Journal of Masharif Al-Syariah: Journal of Sharia Economics and Banking* 10, no. 204 (2025): 3380, doi:10.30651/jms.v10i2.28690.

[44] Abd Rohim et al., "The Right to Guarantee in Sharia Banking: Regulatory Harmonization Between Fiqh Muamalah and Positive Law in Indonesia Journal of Sharia and Islamic Law," *Al-'Adalah: Journal of Sharia and Islamic Law* 10, no. 1 (2025): 93, doi:10.31538/adlh.v10i1.6877.

[45] Sifa' and Syakur, "Implementasi Fatwa DSN-MUI Tahun 2002 Tentang Rahn Dalam Layanan Pegadaian Syariah Tuban: Telaah Terhadap Penerapan Biaya Mu'nah."

[46] Mustaniroh et al., "Syariah Pawnship In Indonesia : Analysis Of Fiqh And Its Practice In Syariah Financial Institutions," *Al-Muzdahir* 07, no. 01 (2025): 54, doi:10.55352/ekis.v7i1.1413.

synchronous, and guarantees legal certainty.[47] In horizontal harmonization, rules that are in the same hierarchy must have a harmonious content material, especially when regulating the same legal object. This inconsistency creates a conflict of norms that has the potential to cause differences in the application of the law. This view is in line with Lawrence M. Friedman's theory of the legal system which states that the effectiveness of law is influenced by the substance, structure, and culture of the law.[48] Therefore, the difference in regulation between the Civil Code and the Compilation of Sharia Economic Law (KHES) regarding the use of pawned objects can cause differences in interpretation and law enforcement practices. According to Gustav Radbruch, legal certainty is one of the main goals of law so that the conflict of norms will reduce certainty and justice.[49] The resolution of norm conflicts basically uses the principles of lex superior derogat legi inferiori, lex specialis derogat legi generali, and lex posterior derogat legi priori. However, these principles are not fully effective if the norms that govern the same object have a different regulatory orientation.

Regulatory disharmonization in this study is defined as a situation when two or more legal norms that have legitimacy in the national legal system regulate the same legal object, but produce different legal consequences so as to cause uncertainty in their application.[50] The indicators of disharmony can be identified through five aspects, namely the suitability of the regulatory object, the consistency of the substance of the norm, the harmony of legal principles, the similarity of regulatory objectives, and the similarity of legal consequences. Based on Table 1, it can be seen that the Civil Code, KHES, and the views of the four schools of jurisprudence both regulate the object of pawn (*marhūn*), but have different approaches to its use. The Civil Code does not explicitly regulate the use of pawned objects, while the KHES and the majority of fiqh schools limit and even prohibit the use of pawned goods without the permission of the *Rāhin*. This difference shows that disharmony does not lie in the object that is regulated, but in the substance of the norm and the legal consequences it causes. As a result, the protection of the right of the right to *rāhin* becomes non-uniform, opens up space for multiple interpretations for creditors, and has the potential to result in different court decisions on cases with the same characteristics. This condition shows that regulatory harmonization is not only needed to harmonize norms, but also to ensure legal certainty, justice, and protection of the rights of parties in the practice of pawning motor vehicles.

Table 1. Regulatory Disharmony between Positive Law and Islamic Law

Aspek Comparative	Definition of Pawn Object (*Marhūn 'Alaih*)	Types of Pawn Objects (*Marhūn 'Alaih*)	Utilization of Pawned Objects (*Marhūn 'Alaih*)
Civil Code	Movable objects handed over by the debtor to creditors as collateral for	Limited to moving objects, including motor vehicles.	It is not explicitly regulated.

[47] Maria Farida Indrati Soeprapto, *Legal Science: Types, Functions, and Content Materials*, Rev. ed. (Yogyakarta: Kanisius, 2020).

[48] Lawrence M Friedman, *The Legal System: A Social Science Perspective* (New York: Russell Sage Foundation, 1975).

[49] Gustav Radbruch, Bonnie Litschewski Paulson, and Stanley L Paulson, "Statutory Lawlessness and Supra-Statutory Law," *Oxford Journal of Legal Studies* 26, no. 1 (2006): 7–12, doi:10.1093/ojls/gqi041.

[50] Rr Dewi Anggraeni, "Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia : Tension and Constraints," *Ahkam:Jurnal Ilmu Syariah* 23, no. 1 (2023): 33, doi:10.15408/ajis.v23i1.32549.

	debt repayment.		
KHES	Debt of gratitude; Ownership is not transferred, only the right to hold.	All amwāl (movable and immovable objects) of economic and halal value are used.	It is forbidden to use without permission; Fixed benefits belong to the owner of the goods.
Mazhab Hanafi	Valuable property (*māl mutaqawwim*) belongs to *rāhin* as collateral for debt.	Movable and immovable objects that are valuable and can be mastered.	It may be limited to permits or maintenance fee compensation.
Mazhab Maliki	An asset of economic value that can guarantee debt.	Movable and immovable objects, including productive assets.	It can be used with calculations as debt reduction.
Madhhab Shafii	Certain properties, clean, and transferable belong to *rāhin* in full.	Moving and immovable objects whose substance and benefits are obvious.	This is strictly prohibited, as it includes taking benefits without rights.
Mazhab Hanbali	Property is valued according to Sharia as collateral for debt.	Moving and immobile objects.	Prohibited, except with the permission of *rāhin* without unilateral benefit.

Based on the indicators in Table 1, the first regulatory disharmonization lies in the concept of pawn objects (*marhūn*), the scope of objects that can be used as pawn objects, and the right to use them. From the conceptual aspect, the Civil Code views pawn as a tangible right to movable objects handed over by the debtor to creditors to ensure the repayment of debts as stipulated in Articles 1150-1160 of the Civil Code, so that its orientation rests on the function of material guarantees and the protection of creditors' interests.[51] On the other hand, KHES views *rahn* as a tabarru' contract that does not transfer the ownership of the *marhūn* because the ownership rights remain with the *rāhin*, while *murtahin* only gets the right to hold the goods as collateral.[52] The views of the four schools of fiqh also show the similarity that the right of ownership of *marhūn* does not pass to the apostate, although there are differences regarding the space for its use. The Hanafi and Hanbali schools allow limited use based on *rāhin* permits or as compensation for maintenance costs, the Maliki school allows use if it is agreed and taken into account as debt reduction, while the Shafii school expressly prohibits any use that provides a unilateral benefit to apostates.[53] This difference shows that the conflict of norms does not lie in the recognition of the function of pawns as debt collateral, but in the construction of the relationship between the right to control, the right to own, and the right to use the pawned goods.

Disharmonization is increasingly evident in the regulation regarding the use of motor vehicle pawn objects. The Civil Code does not explicitly regulate whether creditors have the right to use the pawned goods while in their possession, thus opening up room for interpretation that physical possession can be followed by the right of use as long as it does not conflict with the agreement.[54] On the contrary, KHES emphasized that the benefits of *marhūn* remain the right of *rāhin* and *murtahin* is prohibited from using pawned goods without the owner's permission.[55] This provision is in line with DSN-MUI Fatwa Number 25/DSN-MUI/III/2002 which only allows the use of *marhūn* as long as it is not a means of obtaining unilateral benefits and does not contradict

[51] R Subekti, *Hukum Perjanjian* (Jakarta: Intermasa, 2005).
[52] Indonesia, "Compilation of Sharia Economic Law Article 396."
[53] Wahbah al-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuhu*, vol. 5 (Damascus: Dar al-Fikr, 2002).
[54] Scott, *The Law of Attraction: The Right to Property*.
[55] Indonesia, "Compilation of Sharia Economic Law Article 396."

sharia principles.[56] As a result, one common legal object, namely a motor vehicle as a pawn, gives birth to different legal consequences in two legal regimes. From a civil law perspective, the absence of explicit norms creates a legislative gap that triggers multiple interpretations, while in the perspective of Islamic law, norms are actually limitative to protect the property rights of *rāhin* and prevent the practice of usury and exploitation. The difference in orientation does not only show variations in regulation, but also produces a conflict of norms that has an impact on legal uncertainty, inconsistency of court decisions, and weak legal protection for debtors when there is a dispute regarding the use of vehicles used as pawn objects.

The fundamental problem in regulating the use of motor vehicle pawn objects is whether the absence of explicit regulations in the Civil Code is a structural weakness or only the result of a narrow legal interpretation. From the first perspective, the void of norms is a historical consequence because the provisions of the Civil Code that adopted the Burgerlijk Wetboek 1848 were drafted when the object of the pawn was still limited to simple moving objects, so it did not anticipate motor vehicles as productive assets.[57] As a result, Articles 1150–1160 of the Civil Code are more oriented towards the function of pawns as debt collateral rather than regulating the limits on the use of pawns. From the second perspective, the gap can actually be overcome through a systematic interpretation based on the principle of good faith in Article 1338 paragraph (3) of the Civil Code, a teleological interpretation that places pawn as an instrument of receivables protection, and a historical interpretation that shows that the former of Burgerlijk Wetboek did not formulate rules regarding the use of pawned goods.[58] However, the three methods have not been able to guarantee legal certainty because they depend on the interpretation of each judge. Therefore, this study argues that the main problem is a structural weakness in the Civil Code that opens up space for multiple interpretations, reduces legal certainty, and has the potential to cause conflicts between civil law and sharia economic law in the practice of pawning motor vehicles.

Indonesian judicial practices as reflected in the Medan District Court Decision Number 738/Pdt.G/2023/PN Mdn show that the settlement of pawn disputes is still oriented towards the legality of the execution of the collateral object through proof of default, compliance with the sales mechanism based on Article 1155 of the Civil Code, and the conformity of creditors' actions with the agreement and POJK Number 31/POJK.05/2016. In the case, the judge stated that the sale of pawned objects was legal because the debtor was proven to have been negligent in fulfilling his obligations.[59] However, these considerations have not answered the limits of the authority of the pawnee as long as they control the collateral object before the execution is carried out. According to J. Satrio, the right of pawn as *zakelijk zekerheidsrecht* only gives the authority to control and maintain objects as collateral, not enjoy its economic benefits.[60] In line with that, Subekti emphasized that the possession of the pawned object by the creditor is solely aimed at ensuring the repayment of the debt and does not give rise to

[56] National Sharia Council of the Indonesian Ulema Council, "Fatwa Number 25/DSN-MUI/III/2002 concerning Rahn" (Jakarta: DSN-MUI, 2002).

[57] Philipus M Hadjon and Tatiek Sri Djatmiati, *Legal Argumentation* (Yogyakarta: Gadjah Mada University Press, 2005).

[58] Subject, *Covenant Law*.

[59] Pengadilan Negeri Medan, Putusan Pengadilan Negeri Medan Nomor 738/Pdt.G/2023/PN Mdn (2023).

[60] Scott, *The Law of Attraction: The Right to Property*.

the right to use the object.[61] Therefore, although the decision provides legal certainty regarding the validity of execution after default, it has not resolved the core of regulatory disharmony, namely the absence of strict juridical restrictions on the use of pawned objects while in the control of creditors. From the perspective of Islamic law, this view is also not entirely in line with the doctrine of *rahn*, because the majority of the fuqaha limit the use of pawned goods except with the permission of the owner or a reason justified by the sharia in order to avoid the element of usury and protect property (*ḥifẓ al-Māl*).[62] Thus, the resolution of regulatory disharmony requires harmonization between Article 1155 and Article 1157 of the Civil Code, mortgage regulations, and *the principle of rahn* in order to create legal certainty and substantive justice for the parties.

Based on the theory of the legal system by Lawrence M. Friedman, the disharmonization of regulations in the use of vehicle pawn objects does not only occur in the aspect of legal substance, but also in the legal structure and legal culture. In the aspect of legal substance, there is a difference in regulation between the Civil Code which does not explicitly regulate the use of pawn objects with KHES, the DSN-MUI Fatwa, and the fiqh view that provides strict restrictions on the right to apostasy. In the aspect of legal structure, there is no uniformity of interpretation between the general judicial institution and the religious court, as reflected in the Medan District Court Decision Number 738/Pdt.G/2023/PN Mdn which only bases its considerations on the Civil Code and POJK without integrating the principles of sharia economic law. Meanwhile, in the aspect of legal culture, the practice of vehicle pawning in society is still influenced by the custom that allows the pawnee to use the pawn object while in his possession, even though this practice is contrary to the principles of *rahn*. This condition shows that regulatory disharmony is a systemic problem that involves the substance of law, institutions, and legal culture at the same time. As an effort to harmonize regulations, Article 1157 of the Civil Code needs to be interpreted in harmony with the principle of *rahn* in order to realize horizontal synchronization between the Civil Code, KHES, and the DSN-MUI Fatwa, so that there are no longer differences in interpretation regarding the limits of the authority of the pawnee in utilizing the pawn object.

The model of harmonization of legal protection for the use of vehicle pawn objects needs to be built based on the principle of balance, the principle of proportionality, and the principle of good faith (*goede trouw*) as a basis for integrating positive law with Islamic law. This approach aims to create a balance between the protection of the rights of *rāhin* as the owner of the vehicle and the *murtahin* as the holder of the right of guarantee, without eliminating the function of the pawn as a material guarantee institution. The principle of proportionality demands a fair distribution of rights and obligations from the establishment to the execution of the contract so that neither party obtains benefits that go beyond its contractual functions.[63] In a pawn relationship, the physical possession of the vehicle by the *murtahin* cannot be interpreted as the right to use the vehicle because the pawn is only *an accessory* to the principal agreement. The lien only gives the creditor the authority to control and execute the object as collateral if the debtor defaults, not to enjoy its economic

[61] Subject, *Covenant Law*.
[62] Al-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuhu*.
[63] Agus Yudha Hernoko, "Asas Proporsionalitas Sebagai Landasan Pertukaran Hak Dan Kewajiban Para Pihak Dalam Kontrak Komersial," *Jurnal Hukum Dan Peradilan* 5, no. 3 (2016): 449, doi:10.25216/JHP.5.3.2016.447-466.

benefits.[64] Subekti also emphasized that the possession of pawned objects is solely intended to ensure the repayment of debts so that it does not give birth to ownership rights or use rights of pawned goods.[65] Therefore, legal protection for *rāhin* and *murtahin* must be placed proportionately so that the right to guarantee is protected without reducing the right of ownership of the pawned object.

The implementation of the harmonization requires the reconstruction of regulations that expressly prohibit the use of pawned objects without the written consent of the *rāhin*, accompanied by arrangements regarding the responsibility of the *murtahin* for damage or depreciation of the value of the vehicle, the mechanism of compensation, dispute resolution through mediation before litigation, and the preparation of fair standard clauses regarding the use of pawned objects. The strengthening of the preventive aspect is in line with the concept of legal protection put forward by Philipus M. Hadjon, that legal protection must be directed to prevent the violation of rights before disputes arise.[66] The harmonization model is also in line with Article 1338 paragraph (3) and Article 1339 of the Civil Code which requires the implementation of agreements based on good faith, propriety, and custom, and is consistent with the *principle of rahn* in the DSN-MUI Fatwa Number 25/DSN-MUI/III/2002 and the Compilation of Sharia Economic Law which affirms that the benefits *of marhūn* Basically, it remains the right of *rāhin*, while *murtahin* only has the right to withhold goods as collateral for debt. Thus, harmonization through the reconstruction of the substance of the law, the strengthening of preventive legal protection, and the establishment of fair contractual clauses are not only able to minimize the disharmony between positive law and Islamic law, but also increase legal certainty, justice, and the balance of protection for the parties in the practice of vehicle pawning.

3. CONCLUSION

This study shows that the regulation of the use of vehicle pawn objects in Indonesia is still experiencing disharmony between positive law and Islamic law. The Civil Code only regulates retention rights, maintenance obligations, and execution mechanisms, but has not provided explicit limits on the authority of the pawnee to use the pawn object during the guarantee period. On the contrary, KHES, DSN-MUI Fatwa Number 25/DSN-MUI/III/2002, DSN-MUI Fatwa Number 92/DSN-MUI/IV/2014, and the majority view of the fuqaha affirm that the benefits of *marhūn* remain the right of *rāhin*, so its use by *murtahin* is only allowed with the consent of the owner or in circumstances justified by the Shari'a. These differences in regulation cause legal uncertainty which is reflected in the Medan District Court Decision Number 738/Pdt.G/2023/PN Mdn, where the judge focuses more on the legality of execution based on the Civil Code without interpreting the limits of the use of pawned objects before execution. This shows that disharmonization does not only occur in the aspect of legal substance, but also in the legal structure and legal culture as stated by Lawrence M. Friedman.

Theoretically, this study offers a legal harmonization model for the use of vehicle pawn objects through the integration of legal substance, legal structure, and legal culture. The model emphasizes that the regulatory vacuum in the Civil Code needs

[64] Scott, *The Law of Attraction: The Right to Property*.
[65] Subject, *Covenant Law*.
[66] Hadjon and Djatmiati, *Argumentasi Hukum*.

to be overcome through an interpretation based on the principles of good faith, proportionality, balance, and legal protection and aligned with the principle of *rahn*. The harmonization also places *maqāṣid al-Syarī'ah*, especially the principles *of ḥifẓ al-Māl* (protection of property) and *al-'Adl* (justice), as a normative basis to realize a balance of rights and obligations of the parties while preventing the taking of benefits that have the potential to cause injustice and usury.

Practically, this study recommends a limited revision of Articles 1150–1160 of the Civil Code by adding norms that prohibit the use of pawn objects without the written consent of the pawnbroker, regulating liability for damage or depreciation of goods, and compensation mechanisms. In addition, the Financial Services Authority needs to draft or revise the POJK regarding sharia-based vehicle pawning that integrates the principle of *rahn*, consumer protection, and certainty of the execution mechanism, while the Supreme Court needs to develop interpretive guidelines so that dispute resolution is not only oriented towards the legality of execution, but also on the protection of *rāhin* rights through the harmonization of the Civil Code, KHES, and DSN-MUI Fatwa.

This research is still limited to a normative legal approach with the support of empirical data that is limited to the practice of vehicle pawning and analysis of a single court decision, so it does not represent the overall practice of justice and pawning in Indonesia. Therefore, further research is recommended using a socio-legal or mixed methods approach by involving more court decisions, conventional and sharia pawn institutions, as well as testing the effectiveness of the harmonized model offered, including the possibility of establishing a special regulation on vehicle pawning that integrates national civil law with the principles *of maqāṣid al-Syarī'ah*.

5. REFERENCES

Al-Zuhaili, Wahbah. *Al-Fiqh Al-Islami Wa Adillatuhu*. Vol. 5. Damaskus: Dar al-Fikr, 2002.

Ali Tamrin, Muhamad, Moch Uzeir Mustaqfirin, and Fitrotul Wafiyah. "Analisis Hukum Ekonomi Syariah Terhadap Gadai Dengan Jaminan Sepeda Motor Yang Belum Lunas." *Ta'wiluna: Jurnal Ilmu Al-Qur'an Tafsir Dan Pemikiran Islam* 5, no. 1 (2024): hal.123. doi:10.58401/takwiluna.v5i1.1637.

Amalia, Dita Nofa, Fattoriqul Musaffak, and Elisa. "Gadai Dalam Konteks Hukum Di Indonesia." *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 2, no. 10 (2025): 135. doi:10.14710/nts.v13i2.31087.2.

Amelia, Tina. "Perlindungan Hukum Pelaku Gadai Syariah Menurut Hukum Positif Indonesia." *Qawãnïn Journal of Economic Syaria Law* 8, no. 2 (2024): 138. doi:10.30762/qaw.v8i2.653.

Amrin, Amrin, Adi Priyono, and Nailis Shofia. "Analysis of Sharia Economic Law on Vehicle Pawning in PT . Pegadaian (Persero) Cabang Bima , Nusa Tenggara Barat , Indonesia." *Talaa : Journal of Islamic Finance* 2, no. 2 (2022): 113. doi:10.54045/talaa.v2i2.699.

Anggraeni, Rr Dewi. "Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia : Tension and Constraints." *Ahkam:Jurnal Ilmu Syariah* 23, no. 1 (2023): 33. doi:10.15408/ajis.v23i1.32549.

Anggraini, Laily, and Khoirun Nasik. "Tradisi Penyewaan Mobil Gadai Di Desa Lebbek." *Al - Musthofa* 04, no. 02 (2021): 170. doi:10.58518/al-musthofa.v4i2.895.

Antoni, Amal Astana Makruf, and Hardian Iskandar. "The Principle of Good Faith in Oral Pawn Agreements with Motor Vehicle Credit Collateral." *Legal Brief* 14, no. 2 (2025): Hal. 275. doi:10.35335/legal.v14i2.1303.

Arpangi. "The Legal Politics of the Government to Provide Legal Certainty Related to the Practice of Pawning on A Paid Rent Based on Justice Value." *Akta* 9, no. 1 (2022): 96.

Asari, Aang, and Muhammad Irkham Firdaus. "Comparison of *Rahn* Contract from the Perspective of Islamic Law and Indonesian Guarantee Law." *Journal of Islamic Economics Lariba* 8, no. 2 (2022): 258. doi:10.20885/jielariba.vol8.iss2.art1.

Atmoko, Dwi, and Noviriska. "Kepastian Hukum Dalam Transaksi Online : Peran Asas Itikad Baik Berdasarkan Hukum Perdata Indonesia." *Binamulia Hukum* 13, no. 2 (2024): 425. doi:10.37893/jbh.v13i2.955.

Ayu, Isdiyana Kusuma. "Legal Counseling About the Problems of the Misuse of Pawned Goods." *Dedikasi Hukum* 3, no. 1 (2023): 108. doi:10.22219/jdh.v3i1.28264.

Badrulzaman, Mariam Darus. *KUHPerdata Buku III Tentang Perikatan Dengan Penjelasan*. Bandung: Citra Aditya Bakti, 1996.

Basri, Hasan, and Muhammad Azani. "Syariah Di Pekanbaru Implementation Of *Rahn* Akad In Sharia Pawn Shops Based." *Gagasan Hukum* 01, no. 02 (2019): 163. doi:10.31849/jgh.v1i02.7697.

Billah, Ana. "Analisis Relevansi *Rahn* Dengan Dinamika Perikatan Syariah Di Indonesia." *JSE: Jurnal Sharia Economica* 3, no. 1 (2024): 19.

Faisal, Farah Qatifa Elzahra. "Perlindungan Hukum Pemilik Benda Gadai Yang Bendanya Dijadikan Objek Gadai Oleh Orang Lain Tanpa Persetujuannya." *Hakim: Jurnal Ilmu Hukum Dan Sosial* 2, no. 2 (2024): 221. doi:10.51903/hakim.v2i2.1757.

Farid, Achmad Miftah, and Fandi Ahmad Fahreza. "Gadai Syariah (*Rahn*) Dalam Perspektif Hukum Islam Dan Hukum Positif." *Strata Law Riview* 1, no. 1 (2023): 48.

Friedman, Lawrence M. *The Legal System: A Social Science Perspective*. New York: Russell Sage Foundation, 1975.

Hadjon, Philipus M, and Tatiek Sri Djatmiati. *Argumentasi Hukum*. Yogyakarta: Gadjah Mada University Press, 2005.

Hernoko, Agus Yudha. "Asas Proporsionalitas Sebagai Landasan Pertukaran Hak Dan Kewajiban Para Pihak Dalam Kontrak Komersial." *Jurnal Hukum Dan Peradilan* 5, no. 3 (2016): 449. doi:10.25216/JHP.5.3.2016.447-466.

Indonesia, Dewan Syariah Nasional Majelis Ulama. "Fatwa Nomor 25/DSN-MUI/III/2002 Tentang *Rahn*." Jakarta: DSN-MUI, 2002.

Indonesia, Mahkamah Agung Republik. "Kompilasi Hukum Ekonomi Syariah Pasal 396," 2008.

Lubis, Asmuliadi. "Objek Gadai Dalam Kitab Undang- Undang Hukum Perdata Dan Kompilasi Hukum Ekonomi Syariah : Sebuah Tinjauan Komparatif." *Al Mashalih: Journal of Islamic Law* 3, no. 1 (2022): 55.

Maysura, Neha Aswin, Lu Sudirman, Xavier Nugraha, Go Chin Tjwan, and Winda Fitri. "Legal Safeguards for Consumer Collateral Protection at Pawnshops in Indonesia." *Barelang Journal of Legal Studies* 1, no. 2 (2023): 115. doi:10.37253/barjoules.v1i2.8864.

Medan, Pengadilan Negeri. Putusan Pengadilan Negeri Medan Nomor

738/Pdt.G/2023/PN Mdn (2023).

Muharamah, Filza Yulinda, and Sukirno. "Perlindungan Hukum Pihak Ketiga Atas Perjanjian Gadai Yang Barang Jaminan Hasil Dari Kejahatan." *Notarius* 17, no. 2 (2024): 797. doi:10.14710/vol%25viss%25ipp1245-1259.

MUI, Dewan Syariah Nasional. *Fatwa Dewan Syariah Nasional Nomor: 25/DSN-MUI/III/2002 Tentang Rahn*. *Dewan Syariah Nasional MUI*. Vol. 7. Jakarta, 2016.

Mulyono. "Implementasi Akad *Rahn* Di Lembaga Keuangan Syariah." *Jurnal Masharif Al-Syariah: Jurnal Ekonomi Dan Perbankan Syariah* 10, no. 204 (2025): 3380. doi:10.30651/jms.v10i2.28690.

Mustaniroh, Ahmad Musadad, Umi Indasyah Zahro, and Tri Pujiati. "Syariah Pawnship In Indonesia : Analysis Of Fiqh And Its Practice In Syariah Financial Institutions." *Al-Muzdahir* 07, no. 01 (2025): 54. doi:10.55352/ekis.v7i1.1413.

Negara, Tunggul Ansari Setia. "Normative Legal Research In Indonesia : Its Origins And Approaches." *Audito Comparative Law Journal* 4, no. 1 (2023): 4. doi:10.22219/aclj.v4i1.24855.

Ningrum, Fatima Retno, Adang Sonjaya, Siti Puryandani, and Dian Anggraeny Rahim. "Sharia Compliance Dalam Pelaksanaan Eksekusi Jaminan Gadai *Rahn*." *Asy-Syari'ah* 25, no. 1 (2023): 20. doi:10.15575/as.v25i1.28809.

Nurmansah, and Bani Sarif Maula. "Application of The *Rahn* Contract In Islamic Pawnshops." *Al-Kharaj: Jurnal Ekonomi, Keuangan & Bisnis Syariah* 6, no. 4 (2024): 4397. doi:10.47467/alkharaj.v6i4.924.

Pratama, Fajar Andika, Nadia Isna Putri, Ananda Althof Samudra, and Eti Mul Erowati. "Pasal 1157 Ayat 2 KUH Perdata Sebagai Dasar Jaminan Biaya-Biaya Tak Terduga Yang Timbul Akibat Menggadaikan Barang Bergerak." *Majelis : Jurnal Hukum Indonesia* 2, no. 1 (2025): 42. doi:10.62383/majelis.v2i1.487.

Radbruch, Gustav, Bonnie Litschewski Paulson, and Stanley L Paulson. "Statutory Lawlessness and Supra-Statutory Law." *Oxford Journal of Legal Studies* 26, no. 1 (2006): 7–12. doi:10.1093/ojls/gqi041.

Robin, Nilhakim, and Miswinda. "Analisis Fatwa DSN-MUI NO. 25/DSN-MUI/III/2002 Tentang *Rahn* Terhadap Praktik Pegadaian Sepeda Motor." *Borneo: Journal Of Islamic Studies* 4, no. 2 (2024): hal.148.

Rohim, Abd, Ismiyatus Tsaniyah, Zuhriyatus Salimah, Siti Nuryatima Ramdania, and Ahmad Musadad. "Hak Jaminan Dalam Perbankan Syariah : Harmonisasi Regulasi Antara Fiqh Muamalah Dan Hukum Positif Di Indonesia Jurnal Syariah Dan Hukum Islam." *Al-'Adalah: Jurnal Syariah Dan Hukum Islam* 10, no. 1 (2025): 93. doi:10.31538/adlh.v10i1.6877.

Saputra, Ferry, and Ignatia Maria Sri Sayekti. "OJK Catat Pembiayaan Kendaraan Multifinance Tumbuh Tipis 1,95% per Mei 2025." *KONTAN.CO.ID*, 2025. https://keuangan.kontan.co.id/news/ojk-catat-pembiayaan-kendaraan-multifinance-tumbuh-tipis-195-per-mei-2025.

Sari, Raisa, Tasya Dania Azzahra, and Herlin Nurdiani. "The Power Of A Pledge Agreement Made Under Circumstances Of Force." *Pamator* 17, no. 3 (2024): 530. doi:10.47709/jhb.v13i03.4057.8.

Satrio, J. *Hukum Jaminan: Hak Jaminan Kebendaan*. Bandung: Citra Aditya Bakti, 2002.

Setiawan, Iwan, Rusmani, and Nurhaeti. "Implementation of the Compilation of Islamic Economic Law in Sharia Pawn in Indonesia." *IJSOC: Jurnal Internasional Ilmu Pengetahuan Dan Masyarakat* 5, no. 4 (2023): 914. doi:10.54783/ijsoc.v5i4.1349.

Sifa', Moh. Agus, and Ahmad Syakur. "Implementasi Fatwa DSN-MUI Tahun 2002 Tentang *Rahn* Dalam Layanan Pegadaian Syariah Tuban: Telaah Terhadap Penerapan Biaya Mu'nah." *Journal of Sharia Economics* 7, no. 1 (2025): 56. doi:10.35896/jse.

Simanjuntak, Thesia Elestika, Hasim Purba, and Aflah. "Legal Certainty Of Guarantee Of Movable And Non-Movable Property In Oral Agreements To Lend Money." *Ekonomi* 13, no. 04 (2024): 952. doi:10.54209/ekonomi.v13i04.

Siregar, Habibulloh, and Ahmad Zuhri. "The Law on Using Pawned Goods Without the Owner ' s Permission Perspective of Dsn Fatwa Number 25 / Dsn-Mui / Iii / 2002 Concerning *Rahn* (Case Study of Sipolu-Polu Village , Panyabungan District , Mandailing Natal Regency)." *Legal Brief* 13, no. 5 (2024): 1244. doi:10.35335/legal.v13i5.1158.

Soeprapto, Maria Farida Indrati. *Ilmu Perundang-Undangan: Jenis, Fungsi, Dan Materi Muatan*. Rev. ed. Yogyakarta: Kanisius, 2020.

Subekti, R. *Hukum Perjanjian*. Jakarta: Intermasa, 2005.

Syahrullah, Muhammad. "Formalisasi Akad *Rahn* Dalam Kompilasi Hukum Ekonomi Syariah." *Islamika* 2, no. 2 (2019): 148. doi:10.37859/jsi.v2i2.1645.

Tambusai, Muhammad Zulfahri, and Tetty Marlina Tarigan. "Utilizing *Marhūn* Bih Based On Mutual Agreement According To Hanafi Fiqh And Syafi'i Fiqh (Case Study Of Pegadaian Syariah Branch Ar. Hakim Branch, Medan Area District, Medan City)." *Indonesian Interdisciplinary Journal of Sharia Economics* 8, no. 2 (2025): 2880. doi:10.31538/iijse.v8i2.6591.

Wasi'ah, Zahratul, Siti Masrohatin, Abdul Wadud Nafis, Hersa Farida Qoriani, and Ahmadiono. "Phenomenological Analysis of the Practice of Pawned Land Sale in the Muslim Community in Wonoboyo Village, Klabang District, Bondowoso Regency." *Ajemb: American Journal of Economic and Management Business* 4, no. 6 (2025): 807.

Yuliono, Deni, Hadi Sunaryo, and Pardiman. "Analysis of *Rahn* Law an Islamic Economic Perspective." *JIEI: Jurnal Ilmiah Ekonomi Islam* 9, no. 02 (2023): 2517. doi:10.29040/jiei.v9i2.9663.