

IMPLEMENTING CONFIDENTIALITY PRINCIPLES IN SHARIA ECONOMIC DISPUTE RESOLUTION THROUGH ONLINE DISPUTE RESOLUTION IN INDONESIA

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Abstract: The resolution of Sharia economic disputes through Online Dispute Resolution (ODR) in Indonesia has been growing in parallel with advancements in digital technology. In this context, the principle of confidentiality has become a crucial aspect to protect the privacy and security of the disputing parties' information. This research aims to analyze the implementation of the principle of confidentiality in ODR within arbitration institutions in Indonesia and identify the challenges and solutions related to data protection. The methodology employed is a sociological-juridical approach, utilizing primary data collected through interviews, focus group discussions (FGD), and documentation, alongside secondary data from relevant journals and regulations. The findings indicate that, while institutions such as Basyarnas and BANI have implemented various protocols to uphold confidentiality, including the use of secure digital platforms and strict regulations on data access, significant challenges remain, notably the potential for data breaches due to cyberattacks or technical negligence. Furthermore, inconsistencies in laws and legal interpretations have created legal uncertainty, which in turn impacts privacy protection. The contribution of this research is to provide recommendations for strengthening digital security standards, consistent policies, and raising awareness of the importance of confidentiality in ODR, thereby creating legal certainty and enhancing trust in the online resolution of Sharia economic disputes.

Keywords: Confidentiality Principle, Online Dispute Resolution, Sharia Economic Disputes.

Abstrak: Penyelesaian sengketa ekonomi syariah melalui Online Dispute Resolution (ODR) di Indonesia semakin berkembang seiring dengan kemajuan teknologi digital. Dalam konteks ini, prinsip kerahasiaan menjadi aspek krusial untuk melindungi privasi dan keamanan informasi pihak yang bersengketa. Penelitian ini bertujuan untuk menganalisis implementasi prinsip kerahasiaan dalam ODR pada lembaga arbitrase di Indonesia, serta mengidentifikasi tantangan dan solusi terkait perlindungan data. Metode yang digunakan adalah pendekatan yuridis sosiologis dengan pengumpulan data primer melalui wawancara, diskusi kelompok terarah (FGD), dan dokumentasi, serta data sekunder dari jurnal dan regulasi terkait. Hasil penelitian menunjukkan bahwa meskipun lembaga seperti Basyarnas dan BANI telah mengimplementasikan berbagai protokol untuk menjaga kerahasiaan, seperti penggunaan platform digital yang aman dan aturan ketat mengenai akses data, masih terdapat tantangan signifikan berupa potensi kebocoran data akibat serangan siber atau kelalaian teknis. Selain itu, ketidakseragaman regulasi dan interpretasi hukum menyebabkan ketidakpastian hukum yang berdampak pada perlindungan privasi. Kontribusi penelitian ini adalah memberikan rekomendasi untuk memperkuat standar keamanan digital, kebijakan yang konsisten, serta peningkatan kesadaran tentang pentingnya kerahasiaan dalam ODR, guna menciptakan kepastian hukum dan meningkatkan kepercayaan dalam penyelesaian sengketa ekonomi syariah secara daring.

Kata Kunci: Asas Kerahasiaan, Online Dispute Resolution, Sengketa Ekonomi Syariah.

Introduction

Online Dispute Resolution (ODR) has experienced significant growth since its introduction in the mid-1990s.¹ ODR has proven effective in resolving e-commerce disputes involving cross-border business actors.² According to a 2020 World Bank report, the volume of global e-commerce transactions reached over \$4 trillion and is

projected to continue increasing annually. Consequently, there is a need for efficient dispute resolution mechanisms. ODR, as a dispute resolution tool, experienced substantial growth during the COVID-19 pandemic.³ Human social interactions, which were predominantly offline, transitioned to online formats.⁴ This shift in

¹ Karolina Mania, 'Online Dispute Resolution: The Future of Justice', *International Comparative Jurisprudence* 1, no. 1 (1 November 2015): 76–86, <https://doi.org/10.1016/j.icj.2015.10.006>; Orna Rabinovich-Einy, 'The Past, Present, and Future of Online Dispute Resolution', *Current Legal Problems* 74, no. 1 (1 December 2021): 125–48, <https://doi.org/10.1093/clp/cuab004>.

² Elena P. Ermakova and Sergey Sh. Shakirov, 'Trends in Dispute Resolution in E-Commerce: China's Experience', in *Sustainable Development Risks and Risk Management: A Systemic View from the Positions of Economics and Law*, ed. Elena G. Popkova, Advances in Science, Technology & Innovation (Cham: Springer International Publishing, 2023), 39–41, https://doi.org/10.1007/978-3-031-34256-1_7.

³ Amy J. Schmitz, 'Arbitration in the Age of COVID: Examining Arbitration's Move Online', *Cardozo Journal of Conflict Resolution* 22 (2021 2020): 245.

⁴ Wei Bao, 'COVID-19 and Online Teaching in Higher Education: A Case Study of Peking University', *Human Behavior and Emerging Technologies* 2, no. 2 (2020): 113–15, <https://doi.org/10.1002/hbe2.191>; Gina G. Barker and Edgar E. Barker, 'Online Therapy: Lessons Learned from the COVID-19 Health Crisis', *British Journal of Guidance & Counselling* 50, no. 1 (2 January 2022): 66–81. Tomoya Kawasaki, Hisayuki Wakashima, and Ryuichi Shibasaki, 'The Use of E-Commerce and the COVID-19 Outbreak: A Panel Data Analysis in Japan', *Transport Policy* 115 (1 January 2022): 88–100. Liguori and Christoph Winkler, 'From Offline to Online: Challenges and Opportunities for Entrepreneurship Education

social interaction patterns has given rise to legal issues.⁵ The increased use of the internet and various digital tools has led to a rise in cybercrimes,⁶ posing significant risks to individuals, corporations, and governments.⁷ Cybersecurity Ventures

reported that losses due to cybercrime were estimated to reach \$6 trillion in 2021, underscoring the global magnitude of this threat. In the context of Islamic economic dispute resolution in Indonesia, these cybercrime statistics are particularly relevant. The rise in data breaches and cyberattacks presents a direct challenge to the implementation of ODR, which is increasingly being adopted for resolving Sharia-based disputes.⁸ Although ODR has seen considerable growth, public confidence in its effectiveness and fairness remains a concern. The public has not yet expressed satisfaction with the ease of the process and the fairness of outcomes from online dispute resolution.⁹ Additionally, post-conflict relationship building, data security, and confidentiality during ODR processes have also come under scrutiny. Parties acting in bad faith are feared to record, download, or disseminate confidential data during ODR proceedings.¹⁰

Valkenet and Trueman argue that ODR providers are responsible for ensuring confidentiality principles during the dispute resolution process.¹¹ This is in alignment

Following the COVID-19 Pandemic, *Entrepreneurship Education and Pedagogy* 3, no. 4 (1 October 2020): 346–51.

- ⁵ Steven Furnell and Jayesh Navin Shah, 'Home Working and Cyber Security – an Outbreak of Unpreparedness?', *Computer Fraud & Security* 2020, no. 8 (August 2020): 6–12, [https://doi.org/10.1016/S1361-3723\(20\)30084-1](https://doi.org/10.1016/S1361-3723(20)30084-1); Harjinder Singh Lallie et al., 'Cyber Security in the Age of COVID-19: A Timeline and Analysis of Cyber-Crime and Cyber-Attacks during the Pandemic', *Computers & Security* 105 (1 June 2021): 102248. Bernardi Pranggono and Abdullahi Arabo, 'COVID-19 Pandemic Cybersecurity Issues', *Internet Technology Letters* 4, no. 2 (2021): e247, <https://doi.org/10.1002/itl2.247>; Shannon Wass, Sina Pournouri, and Gregg Ibbotson, 'Prediction of Cyber Attacks During Coronavirus Pandemic by Classification Techniques and Open Source Intelligence', in *Cybersecurity, Privacy and Freedom Protection in the Connected World*, ed. Hamid Jahankhani, Arshad Jamal, and Shaun Lawson, Advanced Sciences and Technologies for Security Applications (Cham: Springer International Publishing, 2021), 67–100.
- ⁶ Abdulaziz Alzubaidi, 'Measuring the Level of Cyber-Security Awareness for Cybercrime in Saudi Arabia', *Heliyon* 7, no. 1 (1 January 2021): e06016, <https://doi.org/10.1016/j.heliyon.2021.e06016>; David Buil-Gil et al., 'Cybercrime and Shifts in Opportunites during COVID-19: A Preliminary Analysis in the UK', *European Societies* 23, no. sup1 (19 February 2021): S47–59. Jacqueline M. Drew, 'A Study of Cybercrime Victimization and Prevention: Exploring the Use of Online Crime Prevention Behaviours and Strategies', *Journal of Criminological Research, Policy and Practice* 6, no. 1 (1 January 2020): 17–33, <https://doi.org/10.1108/JCRPP-12-2019-0070>; James Hawdon, Katalin Parti, and Thomas E. Dearden, 'Cybercrime in America amid COVID-19: The Initial Results from a Natural Experiment', *American Journal of Criminal Justice* 45, no. 4 (1 August 2020): 546–62.
- ⁷ Salem T. Argaw et al., 'Cybersecurity of Hospitals: Discussing the Challenges and Working towards Mitigating the Risks', *BMC Medical Informatics and*

Decision Making 20, no. 1 (3 July 2020): 146, <https://doi.org/10.1186/s12911-020-01161-7>;

- Saqib Saeed et al., 'Digital Transformation and Cybersecurity Challenges for Businesses Resilience: Issues and Recommendations', *Sensors* 23, no. 15 (January 2023): 6666.
- ⁸ Yuru Liu and Yan Wan, 'Consumer Satisfaction with the Online Dispute Resolution on a Second-Hand Goods-Trading Platform', *Sustainability* 15, no. 4 (January 2023): 3182.
- ⁹ Dewi Sulistianingsih et al., 'Online Dispute Resolution: Does the System Actually Enhance the Mediation Framework?', *Cogent Social Sciences* 9, no. 1 (31 December 2023): 2206348, <https://doi.org/10.1080/23311886.2023.2206348>.
- ¹⁰ Joseph Goodman, 'The Pros and Cons of Online Dispute Resolution: An Assessment of Cyber-Mediation Websites', *Duke Law & Technology Review* 2, no. 1 (18 February 2003): 1–16.
- ¹¹ Thomas Valkenet and Jeff Trueman, 'Online Mediation Safety and Security', *CLM Magazine*, 2021.

with Article 6 of Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, which mandates the confidentiality of arbitration proceedings and the protection of all related information. This reflects the importance of upholding confidentiality principles in arbitration, including their application in ODR. Data breaches pose a significant threat to ODR processes. Parties often choose not to resolve disputes in court to prevent their issues from becoming public knowledge.¹² In the industrial sector, disputes can affect client or investor trust in a company's performance.¹³ ODR could be a viable solution for resolving Sharia economic disputes in Southeast Asia. Sharia economics has experienced substantial growth.¹⁴ It is considered more stable than conventional economics.¹⁵

However, the development of Sharia economics has been accompanied by the emergence of disputes. The public tends to resolve Sharia economic disputes through non-litigation methods. The low rate of Sharia economic dispute resolutions in religious courts is evidence of this.¹⁶ Non-litigation dispute resolution is viewed as more effective and provides substantial justice to multi-ethnic communities.¹⁷ The development and challenges of Sharia economic dispute resolution, particularly regarding the implementation of confidentiality principles, require responses from institutions specializing in alternative dispute resolution.

This research evaluates the implementation of confidentiality principles in ODR processes for Sharia economic disputes in Indonesia. It aims to provide an in-depth analysis of how confidentiality is upheld during dispute resolution and identifies the barriers and challenges encountered in this implementation. The study highlights the critical role of ODR providers in safeguarding data confidentiality and recommends strategies to strengthen these practices, ensuring trust and adoption. By focusing on the practical obstacles and potential solutions, this research offers valuable insights for policymakers and

¹² Ahmad Dzulfikar Sayyidin Panatagama and Mohammad Irvan Nafis Fuadi, 'Alternatif Dispute Resolution Dengan Asas Pacta Sunt Servanda Dalam Mediasi Penyelesaian Konflik Pertanahan', *Al-'Adalah: Jurnal Syariah Dan Hukum Islam* 8, no. 2 (23 December 2023): 252-72, <https://doi.org/10.31538/adlh.v8i2.4214>.

¹³ Panatagama and Fuadi.

¹⁴ Salina Kassim, 'Islamic Finance and Economic Growth: The Malaysian Experience', *Global Finance Journal* 30 (1 May 2016): 66-76, <https://doi.org/10.1016/j.gfj.2015.11.007>; Mohammed Ayoub Ledhem and Mohammed Mekidiche, 'Islamic Finance and Economic Growth: The Turkish Experiment', *ISRA International Journal of Islamic Finance* 14, no. 1 (1 January 2021): 4-19, <https://doi.org/10.1108/IJIF-12-2020-0255>; Ghina Sakinah, Rahmatina A. Kasri, and Nurkholis Nurkholis, 'Islamic Finance and Indonesia's Economy: An Empirical Analysis', *Jurnal Ekonomi & Keuangan Islam*, 1 February 2022, 47-59, <https://doi.org/10.20885/jeki.vol8.iss1.art4>.

¹⁵ Mehmet Huseyin Bilgin et al., 'Economic Uncertainty and Bank Stability: Conventional vs. Islamic Banking', *Journal of Financial Stability* 56 (1 October 2021): 100911, Shifa Mohamed Saeed et al., 'Dependency of Islamic Bank Rates on Conventional Rates in a Dual Banking System: A Trade-off between Religious and Economic Fundamentals', *International Review of Economics & Finance* 86 (1 July 2023): 1003-21, <https://doi.org/10.1016/j.iref.2021.09.013>.

¹⁶ Mahkamah Agung RI, *Laporan Tahunan Mahkamah Agung Republik Indonesia Tahun 2021: Akselerasi Perwujudan Peradilan Modern* (Jakarta: Mahkamah Agung, 2022).

¹⁷ Amirizal Bustamin, Arini Azka Muthia, and Sonia Ivana Barus, 'The Protection of Spiritual Rights in the Sharia Banking Dispute Settlement: Overview of the Sharia Banking Law in Indonesia', *Padjadjaran Jurnal Ilmu Hukum (Journal Of Law)* 9, no. 3 (29 December 2022): 388-407; N. Khalidah Dahlan, 'Alternative Dispute Resolution for Islamic Finance in Malaysia', *MATEC Web of Conferences* 150 (2018): 05077; Dewi Nurul Musjtari and Syintia Widya Kencana, 'Legal Relations and Legal Consequences of Wakalah Contract Implementation in Hajj Fund Deposit', *Jurnal Hukum Novelty* 11, no. 2 (17 August 2020): 179-95.

dispute resolution institutions to enhance ODR frameworks that respect confidentiality while maintaining fairness and efficiency. The goal is to support the development of inclusive and robust dispute resolution models that align with the unique needs of Sharia economic practices.

Method

This study employs an empirical juridical research method, examining both the applicable legal provisions and the actual conditions in society. The focus of this research is to analyze the implementation of the principle of confidentiality in ODR for mediation and arbitration, and to evaluate how data security is maintained throughout the process. The goal of this research is to uncover relevant facts that can contribute to solving issues related to data security in ODR and resolving Sharia economic disputes.

The research employs both a sociological and juridical approach, as well as a comparative approach. The sociological juridical approach empirically studies the application of law, observing how it is implemented in society through interviews with legal practitioners. The comparative approach is used to compare the implementation of the confidentiality principle across various dispute resolution institutions and evaluate the effectiveness of each in maintaining privacy and data security. The study was conducted at two alternative dispute resolution institutions in Indonesia, namely the Indonesian National Sharia Arbitration Board (Basyarnas) and the Indonesian National Arbitration Board (BANI).

The data used in this study consists of both primary and secondary data. Primary data was collected through in-depth interviews with three arbiters at Basyarnas and two arbiters at BANI, as well as with the ODR legal expert Prof. Huala Adolf. Secondary data was sourced from relevant literature,

including books, journal articles, and official documents related to arbitration and ODR. The primary data collection methods employed in this study include in-depth interviews and documentation, aimed at gathering information on the implementation of the confidentiality principle and the challenges faced in ensuring data security. Documentation was also used to collect regulations and data on the number of ODR cases resolved annually.

Data analysis in this research follows the methodology proposed by Miles and Huberman, which includes the stages of data reduction, data presentation, and conclusion drawing. In the data reduction phase, irrelevant data is eliminated to focus the analysis on the implementation of the confidentiality principle in ODR. The data is then presented systematically in a narrative form to facilitate interpretation and analysis, utilizing grammatical interpretation to understand the meaning of legal terms related to confidentiality. In the final stage, conclusions are drawn based on the findings relevant to the research problem, which are used to answer the research questions and provide policy recommendations on data security in resolving Sharia economic disputes.

Implementation of the Principle of Confidentiality in Online Dispute Resolution (ODR) at Alternative Dispute Resolution Institutions in Indonesia

In the realm of arbitration, the terms "confidentiality" and "privacy" are often used interchangeably; however, they are distinct concepts. Privacy in arbitration reflects the process's closed nature, where no third parties are permitted to attend or witness the proceedings, except for legal counsel, witnesses, and the arbitrator.¹⁸

¹⁸ Sofia Ribeiro Mendes, 'A Lawyer's Perspective: Confidentiality, Privacy and Security in Arbitration in Times of Covid', in *Online Dispute Resolution*, ed. Dário Moura Vicente, Elsa Dias

Confidentiality, on the other hand, refers to the obligation that the content of arbitration proceedings, including the award, must remain undisclosed and, in principle, cannot be published or revealed by any party.¹⁹ Confidentiality, encompassing aspects of privacy, is considered one of the primary reasons parties choose arbitration over court litigation. ODR In Indonesia, the regulation governing ODR is based on Law No.30 of 1999 concerning Alternative Dispute Resolution. In Article 4 paragraph (3) of Law on Law No.30 of 1999 states “*therefore, the transmission of telex, telegram, facsimile, e-mail, or using the other communication facilities*” grammatically does not merely list permitted communication media but explicitly broadens the scope of communication methods in arbitration from the traditional exchange of physical letters to include various electronic and digital communication disputes through the exchange of letters and that the communication media employed are not limited to conventional means.

The phrase “*or using other communication facilities*” is an open-ended expression that provides legal flexibility to accommodate current and future technological advancements in communication, including internet-based communication, instant messaging applications, and other digital platforms that facilitate rapid and efficient interaction and document transmission.

Grammatically, this indicates that the legislature consciously and deliberately permits the use of digital communication technology as an official medium in the arbitration process, thereby enabling arbitration to be conducted online with valid legal standing, provided that administrative

requirements, such as receipt acknowledgments from the parties, are fulfilled. In other words, this provision not only updates the communication methods in arbitration but also reflects the need for efficiency, speed, and ease of access that digital technology offers. This is highly relevant in the context of globalization and the advancement of information technology, where dispute resolution processes must keep pace with contemporary developments without diminishing legal certainty and procedural integrity. Therefore, the permissibility of conducting arbitration online is based on the explicit recognition of various electronic communication means as legally valid instruments for exchanging arbitration documents. This clause serves as the legal foundation accommodating digital arbitration, allowing for a more flexible, efficient, and geographically unrestricted arbitration process, thereby optimizing access to justice for disputing parties.

ODR, as a modern alternative dispute resolution, applies the principle of confidentiality to support arbitration procedures that are not open to the public. The principle of confidentiality is a fundamental aspect of arbitration as it protects the parties involved in the dispute from potential harm.²⁰ Confidentiality shields parties from embarrassment, prejudice, and reputational damage, including the disclosure of commercial²¹ and industrial secrets that may surface during

Oliveira, and João Gomes De Almeida (Nomos Verlagsgesellschaft mbH & Co. KG, 2022), 205-32, <https://doi.org/10.5771/9783748931508-205>.

¹⁹ Jean-François Poudret and Sébastien Besson, *Comparative Law of International Arbitration* (Sweet & Maxwell, 2007), 315-321.

²⁰ David C. Singer, ‘Arbitration Privacy and Confidentiality In the Age of (Coronavirus) Technology’, *Alternatives to the High Cost of Litigation* 38, no. 7 (2020): 107-8, <https://doi.org/10.1002/alt.21849>.

²¹ Kyriaki Noussia, ‘The History, Importance and Modern Use of Arbitration’, in *Confidentiality in International Commercial Arbitration: A Comparative Analysis of the Position under English, US, German and French Law*, ed. Kyriaki Noussia (Berlin, Heidelberg: Springer, 2010), 11-17, https://doi.org/10.1007/978-3-642-10224-0_2.

proceedings.²² This principle ensures that parties are on an equal footing, and the arbitrator's independence is preserved. Unlike litigation²³, arbitration proceedings and documents are not public. The parties have control over who may participate and how information is disclosed during the process. However, confidentiality is not an automatic right, and the extent to which the process remains confidential can vary. The principle of confidentiality is enshrined in Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, which aims to protect the privacy and sensitive information of the parties involved in arbitration. Article 27 of this law stipulates that arbitration hearings must not be open to the public, unless the parties otherwise agree. Furthermore, Article 61 states that arbitration proceedings are confidential, meaning that all information disclosed during arbitration procedures, including documents, arguments, and decisions, must not be published without the consent of the parties to the dispute. This provision facilitates open communication without fear of negative repercussions from disclosure.

The principle of confidentiality in ODR has become an increasingly significant issue, particularly during the COVID-19 pandemic, as the Indonesian government imposed social restrictions to curb the spread of the

virus. These restrictions and lockdowns necessitated the adoption of virtual proceedings.²⁴ This shift impacted arbitration, which traditionally involved in-person sessions, transitioning to online formats.²⁵ One primary concern is the use of video conferencing and online platforms for conducting arbitration.²⁶ In Indonesia, arbitration institutions such as Basyarnas and BANI have adapted their dispute resolution processes to be conducted virtually. The entire process—from case registration, arbitrator selection, decision-making, document submission, deliberation, to notification of awards—is now conducted online.

Virtual dispute resolution relies heavily on technology. While technology has enabled the continuation of arbitration during the pandemic, it also poses potential vulnerabilities to data breaches and unauthorized access. Parties conducting arbitration from home or other non-secure locations may inadvertently increase the risk of disclosure or hacking.²⁷ Moreover, there is no uniform approach to confidentiality across national regulations. Institutions like Basyarnas and BANI independently interpret the meaning of confidentiality.²⁸

²² Isabel Corona, 'Confidentiality at Risk: The Interdiscursive Construction of International Commercial Arbitration', *Discourse & Communication* 5, no. 4 (1 November 2011): 355–74, <https://doi.org/10.1177/1750481311418097>.

²³ Riska Fauziah Hayati and Abdul Mujib, "Dispute Resolution On Muḍārabah Musytarakah Contract On Sharia Insurance In Indonesia: Between Regulation and Practice," *El-Mashlahah* 12, no. 1 (2022), <https://doi.org/10.23971/elma.v12i1.3795>; Hasanudin, Kamsi, and Ahmad Yani Anshori, "The Contestation of Legal Foundations in the Resolution of Islamic Economic Disputes in Religious Courts," *Al-Manahij: Jurnal Kajian Hukum Islam* 18, no. 2 (2024): 271–288, <https://doi.org/10.24090/mnh.v18i2.11934>.

²⁴ Henrique da Silveira Zanin and Pedro Henrique Dias Alves Bernardes, 'Technology and Access to Justice during the Pandemic: Online Dispute Resolution Development in Brazil and Japan', *Revista Tecnologia e Sociedade* 18, no. 50 (2 January 2022): 1–18.

²⁵ Juan Matheus, 'E-Arbitration: Digitization Of Business Dispute Resolution Pada Sektor E-Commerce Dalam Menyongsong Era Industri 4.0 Di Tengah Pandemi Covid-19', *Lex Renaissance* 6, no. 4 (2021): 692–704, <https://doi.org/10.20885/JLR.vol6.iss4.art4>.

²⁶ John D. Feerick, 'Covid-19's Impact On Best Practices In Arbitration and Mediation', *Alternatives to the High Cost of Litigation* 39, no. 7 (2021): 105–19, <https://doi.org/10.1002/alt.21901>.

²⁷ Mendes, 'A Lawyer's Perspective'.

²⁸ Garuda Wiko and Fatma Muthia Kinanti, 'Legality Aspect of Conducting Documents Only Arbitration In Indonesia', *Jambura Law Review* 3,

And establish their legal frameworks for implementing ODR.²⁹ Often, parties must negotiate and explicitly agree on confidentiality terms in online arbitration proceedings.³⁰ The inconsistent interpretation of the principle of confidentiality in ODR leads to variations in the scope and boundaries of confidentiality obligations, resulting in legal uncertainty. This uncertainty can have negative consequences on the implementation of confidentiality in ODR, such as data and document leaks. For example, in 2015, the Permanent Court of Arbitration (PCA) website was hacked during a maritime border dispute between China and the Philippines, prompting a complete shutdown of the site for security reasons. In the arbitration case of *Gela Mikadze et al. v. Ras Al Khaimah Investment Authority et al.*, one party claimed that hackers, allegedly instructed by the opposing party, accessed their confidential information. Similarly, in *Caratube v. Kazakhstan and ConocoPhillips v. Venezuela*, leaked confidential documents obtained through hacking were used as evidence in the arbitration process.³¹ In both cases, confidential documents obtained via cyber intrusions were eventually used as evidence in arbitration.

In Indonesia, during the COVID-19 pandemic, many dispute cases were processed online using platforms like Zoom. On some occasions, these cases involve documents that should be kept confidential. Still, in the process of overturning a judgment, previously private information can be disclosed in court, which poses a risk of reputational damage to the parties

involved.³² For example, several decisions to annul arbitral awards due to the opposing party's concealment of documents (e.g., West Jakarta District Court Decision 861/Pdt.Sus-Arb/2023) demonstrate how documents that should have been confidential in the arbitration process were disclosed in court. Nonetheless, arbitration institutions Basyarnas and BANI remain committed to upholding the principle of confidentiality in their dispute resolution processes. These two institutions have different competencies. Basyarnas specializes in resolving disputes in the field of Sharia economics, while BANI handles disputes across various sectors, including commerce, industry, and finance.³³ In practice, BANI can also be chosen by parties for Sharia economic dispute resolution, provided that the arbitration agreement explicitly states that arbitration will be conducted at BANI.³⁴ Basyarnas applies Supreme Court Regulation (Perma) No. 7 of 2022, amending Perma No. 1 of 2019 on Case Administration and Electronic Trials, as the basis for conducting ODR. Electronic trials are a series of processes to examine and adjudicate cases with the support of information and communication technology. To date, Basyarnas has undertaken only one virtual session during

no. 2 (14 October 2021): 231–52, <https://doi.org/10.33756/jlr.v3i2.9914>.

²⁹ Mahdi Achmad Mahfud, *Arbiter Basyarnas*, 23 Agustus 2024.

³⁰ Ichwan, *Arbiter Basyarnas*, 23 Agustus 2024.

³¹ 'Cybersecurity in International Arbitration: On the Road towards Green Flags', accessed 3 November 2024.

³² Asyharul Muala, "Repositioning of Islamic Economics in the Era of Globalization from the Maqāsid Syarī'ah Perspective," *Journal of Islamic Law* 1, no. 1 (2020), <https://doi.org/10.24260/jil.v1i1.17>; Erie Hariyanto and Moh Hamzah, "Bibliometric Analysis of the Development of Islamic Economic Dispute Resolution Research in Indonesia," *Juris: Jurnal Ilmiah Syariah* 21, no. 2 (2022), <https://doi.org/10.31958/juris.v21i2.6997>; Amelia Rahmaniah, Fuad Luthfi, and Muhammad Haris, "The Role Of Digitalization In Enhancing Legal Competencies Of Sharia Economic Law Graduates: A Case Study Of Graduate Users In South Kalimantan," *Syariah: Jurnal Hukum Dan Pemikiran* 23, no. 1 (2023).

³³ 'PeraturanProsedurArbitraseBANI_Ind.Pdf', accessed 4 November 2024.

³⁴ Huala Adolf, *Arbiter dan wakil BANI*, 18 September 2024.

the COVID-19 pandemic.³⁵ However, it is foreseeable that virtual sessions may increase in the future. The number of Sharia economic cases continues to grow, with most parties preferring Basyarnas over the Religious Courts for dispute resolution.³⁶ Table of Electronic Arbitration Proceedings Conducted by Basyarnas Under Supreme Court Regulation No. 7 of 2022 on Case Administration and Electronic Court Proceedings:

Table 1. Stages of Electronic Proceedings

Stage of Electronic Proceedings	Description
Case Submission	Claims, petitions, or objections are filed electronically.
Payment of Case Fees	Advance payment of case fees is made electronically by the specified estimate.
Notification of Hearing Summons	Summons are delivered via the electronic domicile of the parties or physically if the electronic domicile is unavailable.
Hearing and Evidence Process	Examinations, responses, replies, rejoinders, and evidence submissions are conducted via email; witnesses and experts may attend virtually.
Pronouncement of Decision	Conducted virtually with attendance by the parties and arbitrators, the decision is final and binding.

Source: Data Processed

Basyarnas utilizes Zoom for digital arbitration proceedings, with arbitrators maintaining full authority over confidentiality.³⁷³⁸ To uphold privacy, procedural rules are strictly enforced. 1) Pre-Hearing Preparation: Confidential Zoom links are provided to participants, who must conduct technical checks and use their correct name identifiers. 2) Confidentiality Measures: Strict bans on unauthorized recording; participants must be in secure, private locations. 3) Attendance and Protocol: Timely login, formal dress, muted microphones when not speaking, and adherence to turn-taking. 4) Evidence Handling: Electronic submissions via email and controlled screen sharing under arbitrator approval. 4) Technical Disruptions: Report issues immediately and consider rescheduling if necessary. 5) Security: Use of password-protected sessions and limited distribution of links. 6) Additional Rules: No disruptive behavior; sanctions apply for breaches. The hearing concludes with closing statements and the preparation of minutes. The Basyarnas Secretariat monitors access and ensures that legitimate parties, such as the claimant, the respondent, and the arbitrator, can participate in the online hearing. Basyarnas mandates that all participants in arbitration hearings maintain confidentiality throughout the proceedings. This regulation prohibits the recording or capturing of images without the explicit permission of the presiding arbitrator. The purpose of this prohibition is to prevent the dissemination of information that should not be accessed by external parties, ensuring that only authorized participants are aware of the hearing’s progress. Participants are often required to use two cameras: one camera for the Zoom platform and another positioned

³⁵ Mahdi Achmad Mahfud, Arbiter Basyarnas, 23 Agustus 2024.
³⁶ Data diolah dari hasil wawancara.

³⁷ Khotibul Umam, Arbiter Basyarnas, 14 September 2024.
³⁸ Emil Cahyo Prasajo, Arbiter Basyarnas, 23 Agustus 2024.

behind them to show the entire room where the online hearing is taking place.³⁹ Therefore, these strict policies are essential for preserving the private and secure nature of the whole process, preventing potential data misuse. In addition to maintaining digital confidentiality, Basyarnas, based on the Case Handling Procedure, although specific encryption protocols are not detailed, regulates the use of online meeting applications and email communication to ensure that documents sent are secure and can only be accessed by authorized parties. While not explicitly mentioned in the SOP, multi-factor authentication (MFA) is implied to be necessary, as participants are given access through a meeting link sent via email, which is only accessible by authorized individuals. Regarding IT security audits, although not explicitly detailed, procedures are implemented to ensure the smooth running of the process by identifying technical disruptions or data breaches, thereby safeguarding the integrity of the arbitration process. In terms of data backup, Basyarnas does not explicitly state that the management of data in digital form indicates the existence of automatic backup procedures to ensure that the data remains protected. In ODR, a secure physical environment is crucial to ensuring that access to hearing information is strictly limited to authorized parties. Basyarnas aims to uphold the integrity of Sharia dispute resolution through ODR. While digital platforms expedite and simplify arbitration processes, confidentiality remains a top priority to ensure that all proceedings are conducted securely and professionally, in line with Sharia principles.

BANI, another arbitration institution, bases its electronic arbitration procedures on Article 4(3) of Law No. 30 of 1999 on Arbitration and Alternative Dispute

Resolution (UUAAPS). This article states that “in cases where dispute resolution through arbitration is agreed to be conducted via correspondence, the delivery of telex, telegram, facsimile, email, or other communication means must be accompanied by proof of receipt by the parties.” BANI’s arbitration experts interpret the term “other communication means” to include digital platforms for conducting electronic arbitration, provided the parties agree to use such methods.

Underlying Legal Principles for Electronic Arbitration:

First, the Principle of Non-Discrimination. Article 4(3) emphasizes that dispute resolution via telecommunications means, such as telex, telegram, facsimile, and email, must not be discriminated against as valid means for dispute resolution. All forms of electronic communication are recognized as valid in electronic arbitration, provided they include proof of receipt by the parties. This ensures equal treatment of all technologies without favoritism towards any specific medium. Second, Principle of Technological/Functional Neutrality. The law exhibits technological neutrality, recognizing communication tools as neutral objects under the law. This means the law does not limit or favor any specific technology but considers all communication means as functional tools for message delivery. In arbitration, this neutrality enables the use of both traditional and digital technologies for dispute resolution, regardless of the type or platform employed, as per the third Principle of Equivalence. The principle of equivalence ensures that, while communication tools may have different delivery times, they fundamentally serve the same purpose: to convey messages between parties. This acknowledgment facilitates the conduct of electronic arbitration using various technologies, provided the communication effectively serves its purpose: Fourth, Principle of Party

³⁹ Khotibul Umam, Arbiter Basyarnas, 14 September 2024.

Autonomy. The principle of party autonomy grants the disputing parties the freedom to choose the communication tools they wish to use. This article enables parties to select the medium that best suits their needs, taking into account factors such as convenience, cost, and technological accessibility. This autonomy offers flexibility for parties to agree on the most effective communication methods for arbitration.

BANI adheres to the APEC Collaborative Framework for ODR in cross-border business-to-business disputes as a basis for conducting ODR. As an APEC member, BANI must comply with the APEC ODR Collaborative Framework and model procedural rules, including maintaining confidentiality of all information, securing databases and websites, and reporting initial trial results to APEC. BANI must also apply proportional fees based on the dispute value and utilize modern technologies, such as artificial intelligence, when feasible. Failure to comply with the APEC ODR Framework may result in BANI's removal from the list of recognized ODR providers.

To comply with these requirements, BANI has implemented appropriate technology for virtual dispute resolution. Initially, BANI utilized the Zoom platform, which was equipped with smart cameras featuring sensors to monitor movements and ensure that no unauthorized parties were involved. On August 12, 2024, BANI launched the BANI ODR platform, replacing Zoom as the primary virtual platform for dispute resolution.⁴⁰ BANI ensures that all case materials are received by the panel before the hearing begins, with each page initialled by the presiding arbitrator before being sent via email. The online process focuses on clarifications and the testimonies of witnesses and experts. Witnesses and experts are sworn in and reminded to maintain confidentiality regarding the

information they provide. Their body language and behaviour are monitored to ensure authenticity and adherence to procedures. Through this approach, BANI enforces confidentiality by controlling information access and restricting procedures, ensuring all parties feel secure that case data and information remain protected.⁴¹

BANI also states that the security protocol for electronic arbitration in the Arbitration Rules 2025 begins with the application of encryption to protect data transmitted or received during the arbitration process. All electronic documents used in arbitration are recognized as valid evidence and are protected through verified digital platforms, ensuring that the data remains secure and valid. Additionally, BANI applies multi-factor authentication (MFA) to control access to the electronic arbitration session, ensuring that the identity of each participant can be verified. This system helps minimize the risk of unauthorized access. Regarding access monitoring, BANI has established procedures that involve inspecting digital equipment used before the arbitration session beginning. Moreover, each BANI also has methods for conducting IT security audits, although specific details are not outlined in the document. However, it is ensured that the systems in use are closely monitored to detect potential threats to data. BANI also implements automatic data backup to ensure that information used during arbitration remains secure and can be recovered in the event of a system failure. In the event of a security incident, should data breaches or technical disruptions occur, BANI immediately isolates the affected system and reports the incident to the relevant authorities, while taking corrective actions by applicable protocols.

⁴⁰ Bayu Adam, Staff Basyarnas, 18 September 2024.

⁴¹ Huala Adolf, Arbiter dan wakil BANI, 18 September 2024.

Both Basyarnas and BANI uphold confidentiality and security in electronic arbitration proceedings, but their approaches diverge in several areas. Basyarnas employs more traditional methods with a strong focus on Sharia economic disputes, using Zoom and basic email protocols. BANI, on the other hand, has developed a more sophisticated and comprehensive system, featuring its proprietary platform, encrypted communications, and multifaceted security measures. The choice between these institutions would depend on the specific type of dispute, the required confidentiality levels, and the technological infrastructure available to the parties involved.

Table 2: Comparison of Protocol, Basyarnas vs BANI

Protocol	Basyarnas	BANI
Legal Basis	Perma No. 7 of 2022 (Sharia economic disputes)	UUAAPS Law No. 30 of 1999, APEC ODR Framework
Technological Platform	Zoom, email (limited digital tools)	BANI ODR platform (smart cameras, sensors)
Confidentiality Measures	Zoom link, two cameras, and bans on unauthorized recording	Encryption, body language monitoring, and behavior checks
Multi-Factor Authentication (MFA)	Implied MFA via email links	Explicit MFA requirements are defined in the Arbitration Rules 2025
Security Protocols	Email encryption, session monitoring	Encryption, automatic backups, and IT security audits
Evidence Handling	Email submissions,	Verified digital

	screen sharing	platforms for document handling
Audit & Monitoring	Access monitoring, reporting technical issues	IT security audits, monitoring of digital equipment

Source: data processed

Badan Siber dan Sandi Negara (BSSN), or the Indonesian National Cyber and Crypto Agency, in collaboration with the Indonesian Ministry of Communication and Information Technology, is responsible for regulating and overseeing the implementation of data security standards.⁴² Regulations issued by these agencies provide the legal framework and technical guidelines that arbitration institutions must adhere to to protect the confidentiality of information from the parties involved in disputes. However, coordination and synchronization between agencies still face challenges, particularly in dealing with the rapid development of technology and the need for continuous regulatory adjustments.

Discrepancies between legal bases and the interpretation of the principle of confidentiality in ODR can create legal uncertainty and diminish legal protection for disputing parties and arbitrators. This is rooted in the theory of legal certainty articulated by Sudikno Mertokusumo, which emphasizes that for a legal system to be fair, just, and orderly, laws must be clearly defined, predictable, and consistently applied. Mertokusumo argues that legal certainty is foundational to ensuring that citizens can anticipate and rely on legal norms in their decision-making. However, in

⁴² Istianah Zainal Asyiqin, M. Fabian Akbar, and Manuel Beltrán Genovés, “Cryptocurrency as a Medium of Rupiah Exchange: Perspective Sharia Islamic Law and Jurisprudential Analysis,” *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 7, no. 2 (2024): 227–292, <https://doi.org/https://doi.org/10.24090/volksggeist.v7i2.10975>.

the realm of ODR, this certainty is compromised when the application of the confidentiality principle, central to arbitration processes, varies significantly between institutions and jurisdictions, as evidenced in the cases of Basyarnas and BANI.

For instance, Basyarnas, which focuses on Sharia economic disputes, applies confidentiality measures primarily through traditional technologies like Zoom and email. The institution follows a relatively limited approach, relying on procedural safeguards such as Zoom links, two-camera monitoring systems, and bans on unauthorized recording to ensure confidentiality during online arbitration. On the other hand, BANI has developed a more sophisticated system, incorporating encrypted communication tools, multi-factor authentication (MFA), and IT security audits to ensure that confidential information is protected during arbitration proceedings. These differences in technological infrastructure and security measures underscore a broader legal uncertainty within Indonesia's ODR framework, where the principle of confidentiality is interpreted differently by each institution.

This inconsistency directly contradicts Mertokusumo's idea that legal certainty requires uniformity in the application of laws and regulations. The varying security protocols and confidentiality measures across Basyarnas and BANI create confusion for disputing parties, who are left uncertain about the level of protection their sensitive data will receive. This inconsistency undermines the integrity of ODR, making it difficult for parties to trust that their arbitration will be conducted fairly and securely, and that their information will remain confidential.

In line with Mertokusumo's theory, the lack of clarity surrounding confidentiality measures also impacts the effectiveness of

preventive legal protection in ODR. Preventive protection refers to regulatory mechanisms that aim to prevent potential violations before they occur, such as clear rules for data security, digital privacy, and confidentiality. In the context of Sharia economic disputes, both Basyarnas and BANI are tasked with ensuring that privacy is maintained during online arbitration. However, the absence of a clear, unified legal framework specifically addressing digital confidentiality in ODR processes means that institutions are left to apply their measures. For example, Basyarnas' Zoom-based proceedings lack robust encryption or multi-factor authentication, leaving sensitive data potentially vulnerable to breaches. This lack of uniform preventive protection in the face of rapidly advancing technologies highlights the legal uncertainty that Mertokusumo warns about. The uncertainty in digital security protocols exposes parties to potential harm, including unauthorized access to confidential documents, reputational damage, and data theft.

Mertokusumo's concept of preventive legal protection requires that laws and regulations be specific and forward-looking, capable of addressing emerging risks, such as cybersecurity threats. However, Indonesia's current legal infrastructure for ODR remains inadequate in this regard, offering only broad guidelines under Law No. 30 of 1999 and insufficient provisions for data protection in the digital age. As a result, parties involved in arbitration are at risk of data breaches, and there are no standardized mechanisms in place to ensure that ODR proceedings are conducted securely, ultimately affecting legal certainty. In cases where confidentiality breaches occur, repressive legal protection comes into play. Repressive protection involves legal remedies and compensatory measures that are applied after a violation has occurred to ensure that the aggrieved party receives justice. However, Mertokusumo also

highlights that legal certainty must be present in repressive mechanisms so that parties know what steps to take when violations happen and can reasonably expect redress.

Unfortunately, as observed in cases such as the annulment of arbitral awards due to breaches of confidentiality in Indonesian courts (e.g., West Jakarta District Court Decision 861/Pdt.Sus-Arb/2023), the legal protection available to parties in ODR is insufficient. There is no clear legal protocol that allows for swift and effective redress when data leaks or breaches occur. The lack of established reparative mechanisms for incidents such as data leaks or unauthorized access undermines legal certainty, leaving affected parties uncertain about how to seek compensation or remedies. Mertokusumo's legal certainty theory advocates for precise, enforceable mechanisms that ensure justice and compensation for those whose rights have been violated. However, in the absence of such mechanisms, particularly in the digital realm of ODR, affected parties may struggle to enforce their rights and protect their confidential data. This scenario demonstrates the pressing need for specific legal frameworks and regulations that provide not only preventive protection but also clearly defined repressive measures in the event of breaches.

The discrepancies in the application of confidentiality principles in ODR, particularly in Indonesia's Sharia economic dispute resolution, illustrate a significant gap between Sudikno Mertokusumo's theory of legal certainty and the current state of ODR practices. Legal certainty requires consistent, uniform, and predictable application of laws and regulations—yet the divergent interpretations of confidentiality within institutions like Basyarnas and BANI highlight the legal uncertainties that undermine trust in ODR as a secure dispute resolution mechanism.

Mertokusumo's theory requires the implementation of preventive and repressive legal protections to ensure the integrity of ODR processes. This involves the development of clear, comprehensive legal standards for digital confidentiality, specifically addressing emerging technologies like video conferencing platforms, cloud storage, and electronic evidence submission. Only by doing so can Indonesia ensure that ODR remains a reliable, efficient, and secure option for Sharia economic dispute resolution, in line with the principle of confidentiality and the overarching goal of legal certainty.

Repressive Legal Protection. Repressive legal protection involves post-violation measures to provide justice or compensation to the aggrieved party. In ODR, repressive protection is needed if data leaks or confidentiality breaches occur, causing harm to the disputing parties. The existing legal inconsistencies make it challenging to implement repressive protection. For example, when confidentiality breaches occur in ODR, the affected parties may struggle to seek compensation due to the lack of standard procedures or legal instruments governing accountability and remediation for violations in the digital space. In Indonesia, Law No. 30 of 1999 on Arbitration does not explicitly address mechanisms for handling digital confidentiality breaches. Consequently, parties and arbitrators lack adequate repressive protection. According to the theory of legal certainty, adequate repressive protection should provide justice and ensure recovery for the aggrieved party as a definitive and enforceable legal response. However, legal discrepancies in the application of confidentiality in ODR result in uncertainties regarding the types of compensation or remedies available. This weakens the legal position of affected parties, including arbitrators, and hinders the pursuit of equitable justice.

There are limitations regarding security standards and confidentiality in ODR, which vary among arbitration institutions in Indonesia, such as Basyarnas and BANI. The inconsistency in applying confidentiality principles across these institutions leads to variations in the interpretation and implementation of rules governing confidentiality in online arbitration processes. This results in legal uncertainty concerning data security and the potential risk of information leaks, particularly when digital platforms are used during proceedings. Additionally, discussions on the implementation of confidentiality principles have been limited to the domestic arbitration regulations and do not yet encompass.

Challenges and Obstacles in Implementing the Principle of Confidentiality in ODR

In the ever-evolving digital era, the use of Online Dispute Resolution (ODR) as a method for resolving disputes has become increasingly popular among various national and international arbitration institutions.⁴³ ODR offers numerous benefits, including time efficiency, cost savings, and ease of access, particularly in handling Sharia-compliant economic disputes.⁴⁴ However, the application of the principle of confidentiality, one of the fundamental principles of arbitration, faces complex challenges and obstacles. This principle aims to protect confidential information and allow parties to disclose information more freely without fear of external influence or unwanted publication.

The challenges in applying this principle of confidentiality are exacerbated by the fact

that ODR relies on digital technology that is vulnerable to data breaches, cyberattacks, and regulatory uncertainty regarding cross-border data protection. The lack of security on digital platforms and insufficient awareness of the importance of maintaining confidentiality in ODR can lead to information leaks, whether intentional or not, affecting the effectiveness and integrity of the arbitration process.⁴⁵

Technical challenges in ODR encompass various aspects that affect the effectiveness and security of the dispute resolution process. Although advancements in information technology facilitate and expedite dispute resolution, ODR also faces risks related to data breaches, network insecurity, and technology reliability. Online dispute resolution involves handling confidential party data, which requires ODR providers to ensure data security; otherwise, the data could be compromised by unauthorized parties. Data breaches are often caused by inadequate data storage security, weaknesses in encryption, and user negligence.⁴⁶ Data uploaded to ODR platforms is usually stored in cloud systems or online servers that are susceptible to cyberattacks. Weak encryption systems can create vulnerabilities that unauthorized parties may exploit, while user negligence, such as the use of weak passwords, can open opportunities for data leaks. To mitigate these risks, it is essential to implement end-to-end encryption, conduct regular security audits, and use multi-factor authentication. Network insecurity also presents a challenge in ODR. Processes heavily dependent on networks are susceptible to disruptions, such as DDoS attacks and communication interception. The use of unsecured networks, particularly public Wi-Fi, can expose users to

⁴³ Mokhinur Bakhramova, 'ODR (Online Dispute Resolution) System as a Modern Conflict Resolution: Necessity and Significance', *European Multidisciplinary Journal of Modern Science* 4 (2022): 443–52.

⁴⁴ Huala Adolf, Arbiter and Vice Board of BANI, 18 September 2024.

⁴⁵ Khotibul Umam, Arbiter of Basyarnas, 14 September 2024.

⁴⁶ Ichwan, Secretary of Basyarnas Jatim, tanggal 24 Agustus 2024.

hacking attempts. Solutions include the use of encrypted VPNs, firewalls, and DDoS protection on ODR platforms.

The technology used in ODR must be reliable and compatible with a wide range of devices.⁴⁷ System downtime can delay dispute resolution processes, while digital evidence submitted must be processed securely and accurately. Solutions include using high-uptime cloud technology, developing multi-platform applications, and integrating digital forensic tools.⁴⁸ Privacy and data protection are critical aspects of ODR.⁴⁹ ODR platforms must comply with data protection laws, such as the GDPR, and include data deletion policies that allow users to request the removal of their data.⁵⁰ Regulatory obstacles in data protection are another major challenge. Ambiguous regulations lead to legal and privacy risks for ODR users. The lack of specific rules regarding data protection during ODR processes can create legal uncertainty, increase the risk of data breaches, and complicate law enforcement efforts. Therefore, specific ODR regulations and standard data protection guidelines from international bodies such as UNCITRAL are needed.

The differences in data protection regulations between countries make it difficult for law enforcement to establish data protection standards. Harmonizing international rules through organizations such as the OECD or the UN can help address this issue. Additionally, regulations often develop more slowly than technological advancements, creating gaps in data protection. To address this,

regulatory updates involving technology experts and the integration of privacy principles from the initial design stage are necessary. The limitation of law enforcement in ODR poses another challenge, as it often operates beyond the direct supervision of traditional law enforcement authorities, making cross-border enforcement difficult. International cooperation in law enforcement and the application of multilateral sanctions are crucial to maintaining the integrity of the process.

Conclusion

This study reveals that the implementation of the confidentiality principle in Online Dispute Resolution (ODR) for Sharia economic disputes in Indonesia, though guided by various technical protocols, still faces significant challenges. These challenges primarily stem from issues such as data breaches, cyberattacks, and inconsistent legal interpretations of confidentiality across arbitration institutions like Basyarnas and BANI. The differences in technological infrastructure and security measures between these institutions create legal uncertainty and impede the development of a uniform framework for ensuring data protection. The findings of this study underscore the importance of adopting comprehensive and robust digital security standards, such as end-to-end encryption and multi-factor authentication, to safeguard confidential information during arbitration proceedings. Furthermore, legal certainty can only be achieved by harmonizing ODR regulations and integrating privacy protection into the digital dispute resolution framework. These findings have important implications for the future development of Sharia ODR in Indonesia, as they suggest that improvements in both legal frameworks and technical measures are necessary to address these challenges.

Future research should focus on creating a unified, comprehensive legal framework for

⁴⁷ Results of the Research Team's FGD with Basyarnas Yogyakarta, 14 September 2024.

⁴⁸ Research team discussion results, tanggal 25 Agustus 2024.

⁴⁹ Bakhramova, 'ODR (Online Dispute Resolution) System as a Modern Conflict Resolution'.

⁵⁰ Huala Adolf, Arbiter and Vice Board of BANI, 18 September 2024.

ODR that incorporates strict data protection guidelines, robust cybersecurity protocols, and clear definitions of confidentiality across all arbitration institutions. This includes exploring the integration of advanced technologies such as blockchain and AI to enhance the security and efficiency of ODR processes. Comparative studies with other countries that have advanced ODR systems could provide insights into best practices and international standards that Indonesia can adopt. Additionally, research on the development of multilateral agreements and international cooperation on data protection in ODR could help address cross-border privacy issues, ensuring the integrity and effectiveness of digital arbitration mechanisms globally.

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