

**ANALYSIS OF THE COURT'S COMPETENCE IN RESOLVING DEBTS AND  
RECEIVABLES DISPUTES IN ACEH  
(Study of PN Decision Number 2/Pdt.Gs/2024/PN Lgs)**

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**Abstract**

This article aims to analyze the absolute competence of the District Court in resolving disputes between debts and receivables of the people of Aceh with the provisions of Law Number 3 of 2006 and Qanun Aceh Number 11 of 2018 concerning Sharia Financial Institutions. This study uses a normative juridical approach, by examining the decision of the Langsa District Court Number 2/Pdt.Gs/2024/PN Lgs as a case study. The results of the study show that the transaction that is the subject of the dispute contains the substance of the sharia contract (*qardh*), so that materially it is the absolute authority of the Sharia Court, not the authority of the District Court. However, the case was still processed and decided by the District Court judge, which raised formal problems and potential legal defects. The indecisiveness of the implementation of the law, the lack of understanding of the general public and judicial officials, and the lack of an effective case screening mechanism are the main causes of competence errors. Therefore, it is necessary to harmonize between institutions, strengthen the capacity of the judicial apparatus, and continue socialization in order to create judicial authority in accordance with sharia principles and the applicable laws in Aceh.

**Keywords:** *Judicial Competence, Qardh Contract, Absolute Competence.*

### Abstrak

Artikel ini bertujuan untuk menganalisis kompetensi absolut pada Pengadilan Negeri dalam menyelesaikan sengketa utang piutang masyarakat Aceh dengan ketentuan Undang-Undang Nomor 3 Tahun 2006 dan Qanun Aceh Nomor 11 Tahun 2018 tentang Lembaga Keuangan Syariah. Penelitian ini menggunakan pendekatan yuridis normatif, dengan mengkaji putusan Pengadilan Negeri Langsa Nomor 2/Pdt.Gs/2024/PN Lgs sebagai studi kasus. Hasil penelitian menunjukkan bahwa transaksi yang menjadi pokok sengketa mengandung substansi akad syariah (*qardh*), sehingga secara hukum materiil merupakan kewenangan absolut Mahkamah Syar'iyah, bukan kewenangan daripada Pengadilan Negeri. Namun, perkara tetap diproses dan diputus oleh hakim Pengadilan Negeri, yang menimbulkan permasalahan formil serta potensi cacat hukum. Ketidaktegasan implementasi perundang-undangan, kurangnya pemahaman masyarakat awam serta aparat peradilan, dan belum adanya mekanisme penyaringan perkara yang efektif menjadi penyebab utama kekeliruan kompetensi. Oleh karena itu, diperlukan harmonisasi antar lembaga, penguatan kapasitas aparat peradilan, serta sosialisasi berkelanjutan agar terciptanya kewenangan yudisial sesuai dengan prinsip syariah dan hukum yang berlaku di Aceh.

**Kata Kunci:** *Kompetensi Peradilan, Akad Qardh, Kompetensi Absolut.*

### INTRODUCTION

The complex needs of human life in modern society demand the availability of various forms of economic transactions. Social interaction in the economic realm is an important foundation in ensuring the survival of individuals and communities, especially in the context of meeting basic needs to developing business capital. In the social reality order of society, transactions such as buying and selling, renting, and debts and receivables are common mechanisms to achieve financial balance between community groups that experience surpluses and those that experience economic deficits. In this case, debts and receivables occupy a strategic position as a form of social solidarity that aims to help others without a commercial element, in line with the basic principles of the <sup>1</sup>*tabarru'* contract in fiqh muamalah.<sup>2</sup>

The phenomenon of wealth distribution inequality results in some people not having sufficient financial ability to meet basic needs and to fund productive activities. On the other hand, there are also community groups that have excess

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<sup>1</sup> Gigih Prihantono, "The Influence of Social and Socio-Economic Capital on the Economic Valuation Value of Clean Water in the City of Surabaya," *Airlangga Journal of Economics and Business* 26, no. 1 (2016): 12–23, <https://doi.org/10.20473/jeba.V26I12016.12-23>.

<sup>2</sup>Farid Budiman, "Characteristics of Al-Qardh Financing Contracts as Tabarru Contracts," *Yuridika Journal* 28, no. 3 (December 2013): 408, <https://ejournal.unair.ac.id/YDK/article/view/354/188>.

wealth and are able to become informal sources of funding for groups in need. In this situation, the *qardh* or borrowing system in Islam becomes a humanistic solution that emphasizes the principle of mutual help without expecting profits. This concept is not just an economic transaction, but the implementation of ethical and spiritual values in muamalah.<sup>3</sup>

Conceptually, *qardh* is defined as the giving of property or money to another person on the condition that it is returned in the same form and value, without any additional benefits. All major schools in Islam agree that *qardh* is a non-commercial contract that must be carried out with the sincere intention to help those in need. The scholars of the Hanafiyah school emphasized that in *qardh*, the lender should not expect any kind of return, while the Shafi'iyah school emphasized the importance of implementation that is in accordance with the principles and conditions and free from coercion. The whole view places *qardh* as a form of social transaction that is not only legal according to shari'i, but also loaded with moral values.

Along with the increasing need and volume of debt and receivables transactions, new problems arise, especially when there is a default or failure of the party in fulfilling debt repayment obligations. This issue can be at the root of a protracted dispute that ultimately leads to legal proceedings in court. Debt-receivables disputes become very complex when there is no clearly documented agreement, either regarding the nominal, the repayment period, or the form of collateral provided. In fact, in Islam itself, the recording of debts and receivables is highly recommended as stated in the Qur'an. Al-Baqarah verse 282 which suggests the recording in writing and the presence of witnesses in every debt contract.<sup>4</sup>

Not a few people still underestimate the importance of recording debts in writing, so that when a dispute occurs, the legal position of the parties becomes weak. This shows that there is still a low level of legal literacy and muamalah fiqh at the grassroots level, which ultimately complicates the process of resolving the law in a fair and proportionate manner. Therefore, it is important to have systematic sharia law education that can increase public awareness of the importance of administrative order in every financial transaction, even on a small scale.<sup>5</sup>

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<sup>3</sup>Faisha, "Akad Qardh in Sharia Financial Institutions", *Al-Amwal Journal*, AlAmwal Journal 3, no. 1 (April 2018): 31, <https://ejournal.iainpalopo.ac.id/index.php/alamwal/article/view/197>.

<sup>4</sup> Agustinar and Nanda Rini, "A Review of Islamic Law on the Payment of Debts and Receivables with the Addition of Rice Harvest," *Al-Muamalat Journal* 3, no. 2 (2018): 146, <https://journal.iainlangsa.ac.id/index.php/muamalat/article/view/719/454>.

<sup>5</sup> Nur Azlina and Cholil Nafis, "The Implementation of the Qard Agreement as the Tabarru' Agreement in Sharia Banking," *Tasharruf Journal* 4, no. 1 (May 2023): 51, <https://jurnal.amikwidyaloka.ac.id/index.php/awl/article/view/436>.

The Indonesian legal system recognizes and regulates various forms of debt and receivables dispute resolution, including through litigation in the District Court. However, since the promulgation of Law Number 3 of 2006 concerning Amendments to Law Number 7 of 1989 concerning Religious Courts and the enactment of Qanun Aceh Number 11 of 2018 concerning Sharia Financial Institutions (LKS), there has been a shift in authority in handling disputes related to sharia-based economic transactions. This law provides legitimacy for any sharia economic dispute to be resolved at the Religious Court or the Sharia Court as a special judicial institution in Aceh.

Absolute competence is the limit of the authority of a judicial institution to adjudicate cases based on the nature, material, and subject matter of the case. When a case is handled by an institution that does not have absolute authority, the resulting decision has the potential to be formally flawed, and has implications for the loss of the legal force of the decision. However, in its implementation it does not always go ideally. This can be seen in the case of debts and receivables between S.N. and F. handled by the Langsa District Court. This dispute stemmed from a loan of Rp400 million given by the plaintiff to the defendant with a land certificate guarantee. Even though there is a written agreement legalized by a notary, the defendant does not fulfill the obligation to repay until it is due, so the plaintiff takes the litigation route and files a simple lawsuit to the District Court. In the trial process, the defendant admitted the existence of the loan, but denied the nominal amount and denied any additional interest. The defendant also showed good faith by making several payments. However, since the amount paid did not cover the entire debt, the panel of judges declared that the defendant had defaulted and ruled that the plaintiff was entitled to sell the collateral object.<sup>67</sup>

The problem arose because the case was handled by the District Court, even though it was clear that the form of agreement and the principle of the contract used led to sharia economic transactions, which should be the domain of the Sharia Court. In this case, the decision becomes problematic because it is formally issued by an unauthorized institution, thus causing legal uncertainty for both the plaintiff and the defendant.

This case is the main highlight because the substance of the agreement shows the characteristics of the *qardh contract*, which should be under the jurisdiction of

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<sup>6</sup> Moh. Zunaidi Halimi, "The Authority to Adjudicate Judicial Institutions in Indonesia and the Intersecting Point of the General Court with the Religious Court," *Al-Mawaddah: Journal of Islamic Studies and Family Law (Ahwal Al-Syakhsiiyyah)* 1, no. 1 (July 2024): 34–47, doi:10.61181/al-mawaddah.v1i1.428.

<sup>6</sup> Documentation data of the Decision of the Langsa District Court Judge Number 2/Pdt.Gs/2024/PN Lgs

the Syar'iyah Court, not the District Court. The problems that are being researched in this paper do not only concern the aspect of default in the debt and receivables agreement. The handling of the case by the District Court in this case has serious juridical implications, namely the potential for formal cancellation of the decision because it was issued by an institution that does not have substantive authority based on the applicable law.

This indecisiveness in the implementation of absolute authority also opens up a space for overlapping jurisdiction between the general judicial institution and the Syar'iyah Court. In the long run, this can hinder legal consistency, weaken the authority of the Syar'iyah Court as a religious judicial institution in Aceh, and hurt the spirit of regional autonomy based on Islamic sharia guaranteed within the framework of national law.

This condition reflects that in law enforcement practices in Aceh, there is still a discrepancy between the applicable norms and their implementation in the field. Not all judicial apparatus and the public comprehensively understand judicial competence within the framework of the national legal system. On the other hand, the lack of optimal socialization and briefing for law enforcement officials causes confusion in determining a case settlement forum.<sup>8</sup>

This ambiguity can have a serious impact, especially in terms of legal protection for the parties to the dispute. Decisions issued by institutions that do not have absolute authority will cast doubt on their validity and have the potential to be overturned in subsequent legal proceedings. For the plaintiff, this is a major obstacle in obtaining his rights, while for the defendant, an erroneous decision from the formal side risks becoming an unfair legal burden.

The author focuses on several important issues that reflect the core of the legal issues studied. One of the main highlights is whether the Langsa District Court still has absolute authority to decide debts and receivables cases that contain elements of sharia contracts. This study highlights how the legal impact of errors in determining judicial competence, especially on the guarantee of legal certainty and the protection of the rights of the parties to the dispute. In addition, this study also tries to further explore what are the factors that cause the weak implementation of the division of authority between the general court and the Syar'iyah Court in Aceh.

This problem indicates the need for structural and functional evaluation of the implementation of sharia justice in Aceh. In addition to strengthening the capacity of the apparatus, it is also necessary to harmonize implementing regulations both at the judicial level and national laws and regulations so that there is no gap in

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7 Sugianur et al., "Juridical Review of District Court Decisions related to Absolute Competence in Sharia Banking Dispute Resolution," *Khairun Journal* 4, no. 1 (November 2020): 32, <https://ejournal.unkhair.ac.id/index.php/klj/article/view/3031>.

norms that can be abused. Furthermore, the reporting and distribution system of cases between judicial institutions must be integrated to prevent *overlapping* authorities in the future.<sup>9</sup>

Based on these problems, the author considers it important to examine more deeply the absolute competence of the judiciary in resolving disputes over *qardh* contracts or debts and receivables among the people of Aceh. This research is relevant to ensure that the judicial institution that decides disputes really has substantive and formal authority in accordance with the applicable legal provisions. This study is expected to examine the juridical implications of the determination of absolute competence on the legal certainty of court decisions, as well as identify potential problems that arise due to errors in the determination of authority.

This study aims to analyze the application of the law by judicial institutions in the context of applicable laws and examine the implications of absolute competence on legal certainty and the protection of the legal rights of the parties to the dispute. This study is not only relevant from a juridical perspective, but also from a sociological and fiqhiyah perspective, considering that the legal system in Aceh combines the principles of national law with sharia values.

## RESEARCH METHODS

This study uses a qualitative research method with a normative juridical approach to laws and regulations (*statute approach*), describing the primary data used for research, namely in the form of the decision of the Langsa District Court judge Number 2/Pdt.Gs/2024/PN Lgs regarding debts and receivables lawsuits or *qardh*, aiming to analyze in depth the application of the absolute competence of the judiciary in dispute resolution according to Law Number 3 of 2006. This study aims to assess the compatibility between the practice of resolving debts and receivables disputes carried out by the District Court with the provisions of the law and sharia law principles, as well as to examine its juridical implications on legal certainty and the protection of the rights of the parties. The data sources in this study consist of primary data and secondary data. Primary data is obtained through the documentation of case decisions while secondary data is obtained from literature studies, including law books, scientific journals, laws and regulations, and fiqh muamalah literature, especially the concept of *qardh* and the principle of settlement.<sup>10</sup>

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8Farida Nuraeni and Dewi Tresnawati, "Development of Fiqh Applications for Buying and Selling, Debts and Receivables and Riba Using Multimedia," Journal of Algorithm 12, no. 1 (2015): 93, <https://jurnal.itg.ac.id/index.php/algorithm/article/view/165/151>.

<sup>10</sup> Muhammad Siddiq Armia, *Determining Methods and Approaches to Legal Research* (Banda Aceh: Indonesian Constitutional Studies Institute, 2022).

## RESULTS AND DISCUSSION

### A. Judicial Competence in the Indonesian Legal System

Judicial competence is a fundamental element in the legal system that determines the limits and scope of the authority of a judicial institution in examining, adjudicating, and deciding a case. Judicial competence is divided into two: absolute competence and relative competence. Absolute competence is related to the type of case that is the absolute authority of a judicial institution based on the substance of the law, while relative competence refers more to the authority based on the jurisdiction.<sup>11</sup>

The judicial system in Indonesia itself adheres to the principle of legal dualism, namely the national legal system and special legal systems such as customary law and Islamic law. This is manifested in the existence of the general court, religious court, military court, and state administrative court, each of which has special jurisdiction according to the nature of the case. The District Court as part of the general judiciary has the competence to adjudicate civil and criminal cases, including disputes arising from private legal relationships such as debts and receivables.<sup>12</sup>

The principle of separation of competencies emphasizes that there should be no overlap of jurisdiction between one judicial institution and another. If there is a case handling by an institution that does not have absolute competence, then the decision can be declared a formal legal defect. An understanding of absolute competence is very important for legal practitioners to be able to direct the settlement of cases to the right forum, thereby ensuring legal certainty and protection of the rights of the parties.

This becomes even more relevant when it is related to the legal reality in Aceh, as seen in the case of the debt and receivables dispute between Hj. Siti Nur and Fathonah which was decided by the Langsa District Court. In this case, even though the loan agreement contains sharia elements and is within the scope of transactions based on *qardh* contracts, the settlement process is actually carried out by the District Court, not the Syar'iyah Court as mandated by the Religious Justice Law. This decision casts doubt on the formal validity of the decision because it concerns a violation of absolute competence. This case is an important precedent in assessing

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<sup>11</sup> Shafira Muqsitha and Arif Wibowo, "The Competence of the State Administrative Courts Regarding Evidentiary Events in State Administrative Disputes," *Journal of Multidisciplinary Research* 2, no. 1 (February 2023): 10-17, doi:10.58705/jpm.v2i1.80.

<sup>12</sup> Marten Bunga, "Legal Review of the Competence of the State Administrative Courts in Resolving Land Disputes," *Gorontalo Law Review* 1, no. 1 (April 2018): 39-41, <https://jurnal.unigo.ac.id/index.php/golrev/article/view/155>.

how errors in determining juridical forums can have an impact on legal certainty and the legitimacy of court decisions.<sup>13</sup>

The absolute competence of the District Court refers to the authority of the institution to adjudicate general cases of a criminal and civil nature, which do not fall within special jurisdiction such as religious, military, or state administration. In Indonesia's positive legal framework, this absolute competence is affirmed in Law Number 48 of 2009 article 50 concerning Judicial Power, which states that the District Court has the authority to adjudicate at the first level all civil and criminal cases for citizens in general. Based on the law, the District Court is a general court that handles heterogeneous cases, ranging from property rights disputes, defaults, attempted murder, to misdemeanor crimes.

The absolute competence of the District Court is also authorized to resolve cases related to the validity of legal documents, such as the ratification of birth certificates, the determination of heirs and the application for the appointment of guardians. Even under certain conditions, the District Court can also carry out quasi-legislative functions through non-adversarial determinations, such as marriage dispensation applications. Absolute competence in the District Court does not only involve litigation aspects, but also non-litigation that is judicial administrative in nature.

This limitation of absolute competence is crucial in order to maintain the integrity and order of the legal system. If a case that should be examined by the Religious Court or PTUN is instead submitted to the District Court, then the judge is obliged to declare himself not authoritative. Compliance with the absolute competence limit is the main indicator of the functioning of the principle of *due process of law*. The Supreme Court as the highest court has also consistently affirmed through its jurisprudence that violations of absolute competence are serious violations of the principles of legality and justice. Absolute competence is not just an administrative division between institutions, but an essential part of the principle of the rule of law.<sup>14</sup>

Legal experts pay great attention to the importance of judicial competence in the modern legal system. Sudikno Mertokusumo, a prominent legal expert, stated that competence is an absolute element of the validity of the judicial process without

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<sup>13</sup> Raudhatul Anzira, "Analysis of the Perception and Impact of the Implementation of Qanun by Islamic Financial Institutions on Banking in Aceh," AT-TASYRI' Scientific Journal of the Muamalah Study Program 14, no. 2 (June 2022): 77-79, <https://ejournal.staindirundeng.ac.id/index.php/Tasyri>.

<sup>14</sup> Syssy Nurhidayati and Arif Wibowo, "The Consequences of Absolute Competence on PTUNs After the Enactment of the Government Administration Law," MAQASIDI: Journal of Sharia and Law 3, no. 2 (December 2023): 118-28, doi:10.47498/maqasidi.v3i2.1584.



competence, the court is like a judge without a seat, the power to try a case must be legally valid so that the result can be accepted as a legitimate legal product.

According to Subekti, absolute competence is an imaginary limit that should not be crossed by any judicial institution. Violations of this principle are tantamount to violations of the constitutional structure of the judicial system itself.<sup>15</sup>

The District Court is the main pillar in the general judicial environment which has absolute authority to handle criminal and civil cases of the first degree. Based on the provisions of Law Number 48 of 2009 concerning Judicial Power, the District Court has the competence to examine and decide cases that are outside the special jurisdiction, such as religious, military, and state administrative cases. This includes general criminal cases, general civil cases, as well as certain legal applications such as ratification of deeds, applications for name changes, and applications for guardianship.

The competence of the District Court is also described in Law Number 8 of 1981 concerning the Criminal Procedure Law (KUHAP) and the Civil Procedure Law (HIR and RBg). These two legal instruments emphasize that the District Court is the initial forum that must be passed before the case can be submitted to the appellate and cassation courts. Therefore, the position of the District Court is strategic in ensuring legal protection for the community and upholding the rule of law.<sup>16</sup>

The relative competence of the District Court is determined based on the domicile of the defendant or *locus delicti* in criminal cases. This provision makes it clear that the jurisdiction of the place of occurrence or the residence of the defendant has great significance in determining the appropriate jurisdiction. The District Court differs in principle from other special courts. For example, the Religious Court is only authorized in cases related to Islamic family law, such as divorce, inheritance, will, waqf, grants and zakat as stipulated in Law No. 3 of 2006 concerning Amendments to Law No. 7 of 1989. Meanwhile, the State Administrative Court (PTUN) handles administrative dispute cases between citizens and government officials based on Law Number 5 of 1986.

Meanwhile, the Military Court has absolute competence in prosecuting active military members who commit certain criminal acts. This is affirmed in Law Number 31 of 1997 concerning Military Justice. This difference in competence

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<sup>15</sup> Azis Akbar Ramadhan, "Absolute Competency Disputes of District Courts and State Administrative Courts Related to Land Dispute Cases," *Journal of Mandalika Literature* 6, no. 1 (2024): 2745, <https://sinta.kemdikbud.go.id/journals/profile/12219>.

<sup>16</sup> Ridwan, Despan Heryansyah, and Dian Kus Pratiwi, "The Expansion of the Absolute Competence of the State Administrative Court in the Government Administration Law," *Ius Quia Iustum* 25 *Legal Journal*, no. 2 (May 2018): 339-58, doi:10.20885/iustum.vol25.iss2.art7.

shows the specialization of the judicial institution in accordance with the characteristics of the cases it handles, thus minimizing the chance of jurisdictional error.

The District Courts function as a general juridical forum, while the special courts have a narrower but more in-depth scope of competence. It is important for the public and legal representatives to understand the differentiation of jurisdiction so that the legal process is not hampered by procedural obstacles.

Mistakes in determining judicial competence can result in serious consequences, both in administrative and substantive terms. A judgment rendered by an unauthorised court can be declared null and void (*nietig en ongeldig*) and has no binding force. This can slow down the settlement of cases and create legal uncertainty.<sup>17</sup>

The Supreme Court through its cassation rulings has repeatedly annulled the decisions of the court of first instance and appeals because the court does not have absolute competence to handle cases. One example is the sharia economic case that had been handled by the District Court, even though based on the provisions of Article 49 of Law No. 3 of 2006, the case became the authority of the Religious Court. This kind of error indicates the importance of prudence on the part of judges and lawyers in ensuring the proper authority of the forum.

Errors of competence can also hurt the principle *ne bis in idem* if a case has to be repeated in another forum after it has previously been decided by an unauthorised court. This certainly leads to a waste of time, cost, and resources, as well as lowering public trust in the justice system. Herbert Hart, a legal philosopher, also explained the importance of rules of *recognition* in determining the authority of an institution. In the Indonesian legal system, this recognition is reflected in laws and regulations that systematically divide the jurisdiction of judicial institutions to ensure procedural and substantive justice.<sup>18</sup>

## **B. Analysis of the Absolute Competence of the Langsa District Court in Dispute Resolution of the Qardh Agreement**

The District Court is part of the general judicial institution under the Supreme Court which has the authority to adjudicate criminal and civil cases at the first level.

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<sup>17</sup> Devi Melissa Silalahi, "The Competence of the State Administrative Court on the Supervision of Government Implementation Reviewed from the Expansion of General Principles of Good Government after the enactment of Law Number 30 of 2014 concerning Government Administration," *Journal of Legal Communication* 6, no. 1 (February 2020): 51-52, <https://ejournal.undiksha.ac.id/index.php/jkh/article/view/23439>.

<sup>18</sup> Yogo Pamungkas, "Shifting the Competence of the State Administrative Court," *Journal of Notary Law* 3, no. 2 (June 2020): 340-43, <https://jurnal.fh.unpad.ac.id/index.php/acta/article/view/232>.

This authority is affirmed in Law Number 48 of 2009 concerning Judicial Power and Law Number 2 of 1986 concerning the General Court as amended by Law Number 49 of 2009. In Indonesia's national judicial system, the District Court serves as the initial forum for the settlement of legal cases for citizens in general, with jurisdiction based on the designated administrative area.<sup>19</sup>

The functions of the District Court not only include the adjudicative task of resolving disputes between the parties, but also carry out certain administrative functions such as the ratification of deeds, the appointment of guardians, and the appointment of curators. In addition, the District Court is also tasked with supervising the implementation of decisions that have permanent legal force. With such a wide scope of duties, the District Court is an important node in the Indonesian legal system that bridges the public in accessing justice.

The District Court has an institutional structure consisting of the Chairman, Vice Chairman, Judge, Registrar, and administrative employees who carry out their respective duties professionally. The existence of a simple case system or simple lawsuit is also an innovation adopted by the District Court to speed up the settlement of cases with the value of certain claims. This emphasizes the role of the District Court as a guardian of the effectiveness and efficiency of law enforcement.

Juridically, the District Court has firm authority in various legal instruments, including the HIR (*Herzien Inlandsch Reglement*), RBg (*Rechtsreglement Buitengewesten*), as well as various provisions in the Civil Code and the Criminal Code. This proves that the existence of the District Court is an integral part of the formal legal system that applies nationally.<sup>20</sup>

Absolute competence is the authority of the court to examine and adjudicate a case based on the type or legal nature of the case. In the context of the District Court, absolute competence covers general criminal and civil cases, which do not fall under special jurisdiction such as religious, military, or state administrative cases. This affirmation can be found in Article 50 of Law Number 48 of 2009 concerning Judicial Power.

Absolute competence is a fundamental principle in the non-negotiable judicial system. If a case is examined by a court that does not have absolute competence over the case, then the resulting verdict can be considered legally flawed. In practice, lawyers and parties to the dispute are obliged to understand this principle

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<sup>19</sup> Yodi Martono Wahyunadi, "The Absolute Competence of the State Administrative Court in the Context of Law Number 30 of 2014 concerning Government Administration," *Journal of Law and Justice* 5, no. 1 (March 2016): 136–40, <https://www.jurnalhukumdanperadilan.org/index.php/jurnalhukumperadilan/article/view/50>.

<sup>20</sup> Maisarah, "Relative and Absolute Competence between Islamic Courts in Indonesia and General Courts," *al-Fikrah* 4, no. 2 (2015): 188–90, <https://ejournal.unisai.ac.id/index.php/jiaf/article/view/335>.

in order to determine the appropriate settlement forum in order to achieve legal certainty.

The District Court handles cases such as defaults, unlawful acts, property disputes, as well as applications for guardianship and appointment of curators. The District Court is authorized to prosecute various common criminal acts ranging from theft, persecution, to murder. If the case has a special legal element, for example sharia-based or involves military personnel, then the case must be submitted to a court with special authority. The Supreme Court's jurisprudence also affirms the importance of respect for the limits of absolute competence. Courts that exceed their authority have the potential to create legal uncertainty and juridical losses for the parties. Therefore, the recognition and implementation of absolute competence is one of the indicators of the rule of law in a state of law.<sup>21</sup>

Debt and receivables transactions are an inseparable part of people's economic life, both in social and commercial contexts. In Islamic law, debts and receivables are generally based on the *qardh contract*, which is a loan without any conditions of reward or profit. This is a reflection of the principles of solidarity and mutual cooperation in the Muslim community of Aceh which is strongly rooted in sharia values. Not all debt and receivables transactions go smoothly. Many cases show a default on the part of the debtor, which then leads to legal disputes.

Complexity increases when debts are not legally documented, or if there is a difference in perception between the lender and the borrower regarding the loan amount, maturity, and the existence of collateral. Based on the data obtained by the author, the implementation of the provisions for the transfer of judicial authority in sharia economic cases still faces various obstacles in the field. Many people and legal practitioners do not understand this change in authority in its entirety. In fact, not a few sharia economic cases are still submitted to the District Court, either due to procedural errors, lack of understanding, or the absence of an adequate integration system for the transfer of cases to the competent courts.

The case of S.N. and F. is a case of debts and receivables submitted to the Langsa District Court through a simple lawsuit mechanism, registered in case Number 2/Pdt.Gs/2024/PN Lgs. In this case, the plaintiff claimed to have lent funds of Rp400,000,000 to the defendant with a guarantee of two certificates of ownership (SHM). The loan agreement is made in writing and legalized by a notary. Although the defendant admitted the existence of the loan, he denied the nominal amount of the loan and stated that he only borrowed Rp150,000,000. The defendant also denied the existence of an interest agreement. The defendant has made partial

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<sup>21</sup> Muqsitha and Wibowo, "The Competence of the State Administrative Court Regarding the Evidentiary Event in State Administrative Disputes."

repayment in cash and through bank transfers. However, until this case is filed, the repayment does not cover all obligations so that it is considered a default by the plaintiff.

Amar's decision by the panel of judges stated that the defendant had committed a default and sentenced the defendant to pay losses of Rp350,000,000 to the plaintiff. The judge also stated that the plaintiff had the right to sell collateral in the form of SHM on behalf of a third party provided by the defendant. The problem arises because the loan agreement substantially shows the characteristics of the *qardh contract* in Islamic law, namely a loan without interest, with a guarantee as a contract reinforcement.<sup>22</sup>

This case indicates indecisiveness in the implementation of the division of absolute competence between the Sharia Court and the District Court. In fact, the provisions of the Religious Justice Law have explicitly emphasized that sharia economic transactions are not the domain of the general judiciary. Normatively, the Langsa District Court has absolute authority to adjudicate general civil and criminal cases, including conventional debt and receivables disputes. However, in the case of religious civil cases, this limit of authority has been narrowed in the context of sharia economic transactions. All financial transactions based on sharia principles such as *qardh* should be under the jurisdiction of the Sharia Court. In the case of S.N. v. F., which the author has researched, there are irregularities because the loan agreement used contains sharia principles, but it was settled in the District Court. This reflects the absence of a vacuum in the coordination of jurisdiction between judicial institutions. If the District Court continues to accept and decide sharia economic cases, then the existence of the Syar'iyah Court as a special legal institution in Aceh will be degraded.

The decision issued by the Langsa District Court in this context can be considered formally defective because it is outside the limits of its absolute competence. In the long run, this kind of practice can be a misguided jurisprudence that confuses law enforcement officials and justice-seeking communities, it can also hurt the principle *of due process of law*. Such mistakes need to be the attention of the Supreme Court and legal authorities in Aceh to clarify the dividing line of judicial competence through technical regulations, integration of case databases, and strengthening the capacity of judges to understand the local context. The affirmation of these jurisdictional boundaries is important to ensure legal consistency and judicial effectiveness in special autonomous regions such as Aceh.

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<sup>22</sup> Documentation data of the Langsa District Court Judge's Decision Number 2/Pdt.Gs/2024/PN Lgs

### **C. Review of the Religious Justice Law on the Competence of the Langsa District Court in Dispute Resolution of the *Qardh* Agreement**

Law No. 3 of 2006 concerning Amendments to Law No. 7 of 1989 concerning Religious Courts is an important milestone in regulating the absolute authority of judicial institutions in Indonesia, especially for Religious Courts. One of the fundamental changes introduced by this law is the expansion of the authority of the Religious Court to the field of sharia economics. Prior to the change, the Religious Court only handled certain civil cases such as marriage, inheritance, will, grants, waqf, zakat, infaq, and shadaqah. However, through Article 49 letter (i), this law affirms that the Religious Court is also authorized to examine, adjudicate, and decide disputes arising from the implementation of activities in the field of sharia economics. The scope of the sharia economy in question includes transactions, contracts, and business activities based on the principles of Islamic law, including the *qardh* contract.<sup>23</sup>

The concept of absolute competence in procedural law is related to the absolute authority of a court to examine a type of case based on the nature or object of the dispute. This authority cannot be agreed to be transferred, because it is an imperative legal provision. In the context of Law No. 3 of 2006, if a dispute concerns a contract that is carried out based on sharia principles and the parties of the Islamic religion, then the absolute competence lies with the Religious Court. This principle is binding on all law enforcement officials, advocates, and parties to the case. The District Court as part of the general court can only examine civil cases of a general nature, as long as the case does not fall within the scope of the jurisdiction of special courts such as the Religious Court, the State Administrative Court, or the Military Court.<sup>24</sup>

The *qardh* contract itself is a borrowing-borrowing agreement in which the lender hands over a certain amount of property or money to the borrower with the obligation to return the same amount at the agreed time, without additional profits. In the fiqh of muamalah, *qardh* is categorized as a *tabarru'* contract, which is a contract that is based on the intention to help, not to seek profit. The main characteristic of the *qardh* contract is the absence of interest or profit margin agreed upon in advance, although it is allowed to have a voluntary gift from the borrower to the lender as a form of award, as long as it is not a condition in the contract. In Law No. 3 of 2006, the position of the *qardh* contract is clearly included in the

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<sup>23</sup> Abu Tolhah, "Opportunities and Challenges of Religious Court Competence After the Amendment of Law No. 7 of 1989 concerning Religious Courts," *Ash-Sharia* 17, no. 2 (2015): 126–27, <https://journal.uinsgd.ac.id/index.php/asy-syariah/article/view/654>.

<sup>24</sup> Luluk Tirto et al., "Pretrial Implications on the Implementation of Police Investigator Authority in the Criminal Justice System," *Journal Juridisch* 2, no. 2 (2024): 133, <http://journal.usm.ac.id/index.php/jouridisch>.

category of sharia economics, so that every dispute arising from it is the absolute authority of the Religious Court.

In practice, the implementation of this provision has not been completely consistent. Case Number 2/Pdt.Gs/2024/PN Lgs is a concrete example where there was an error in determining the judicial forum. In this case, the plaintiff and the defendant are bound by a legal loan-borrowing relationship that substantially fulfills the characteristics of *the qardh contract*: there is no interest charge, there is a guarantee in the form of a land certificate, and the return of the principal of the loan is carried out in stages. Based on the provisions of Article 49 letter (i) of Law No. 3 of 2006, this kind of dispute should be examined by the Religious Court, in this case it is the authority of the Syar'iyah Court as a religious court in Aceh, considering that the parties are Muslims and the substance of the contract is clearly based on sharia principles. However, the lawsuit was actually filed and accepted by the Langsa District Court, which then examined and decided the case through a simple lawsuit mechanism. This ruling formally raises a potential legal defect because it is issued by a court that does not have absolute authority.<sup>25</sup>

The mistake of the forum in the case of *the qardh contract* can give rise to the perception that the division of authority that has been regulated by law is not implemented properly. Sociologically, this can be confusing and trigger the notion that the two judicial institutions have overlapping functions. In the long term, this condition has the potential to weaken the authority of the Religious Courts in handling sharia economic cases, even though the strengthening of this judiciary is one of the main objectives of the establishment and amendment of Law No. 3 of 2006.

The cause of the error in determining absolute competence can come from various factors. First, the lack of understanding of the general judicial apparatus on the scope of the sharia economy as referred to in Law No. 3 of 2006. Second, there is no effective screening mechanism or initial examination at the stage of case registration to identify sharia characteristics in civil disputes. Third, the low legal literacy of the public regarding the division of judicial authority, so that lawsuits are often filed in the wrong forum. Fourth, the weak administrative coordination between the District Court and the Religious Court in the transfer of cases that should be under the authority of other institutions.

Improvement efforts can be made through several steps. Intensive socialization regarding the provisions of Article 49 letter (i) of Law No. 3 of 2006 needs to be expanded, not only to judicial officials but also to advocates, notaries,

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<sup>25</sup> Huswatun Hasanah, "Critical Analysis of Judicial Power: Implications of Jurisprudence in Judicial Reform," *YUDHISTIRA: Journal of Jurisprudence, Law and Judiciary* 1, no. 4 (December 2023): 43–50, doi:10.59966/yudhistira.v1i4.1682.

and the general public. The court also needs to develop a case screening system based on the identification of the substance of the contract at the time of filing a lawsuit, so that the potential for forum errors can be minimized from the beginning. These measures will support the creation of a more effective integration of the justice system and in accordance with the national legal framework.

Decision Number 2/Pdt.Gs/2024/PN Lgs represents a *case in point* that shows that there is a *discrepancy* between the applicable positive legal norms and the implementive reality at the level of judicial practice. This phenomenon indicates that the applicability of norms is not always directly proportional to the effectiveness of their application (*normative validity versus empirical effectiveness*), thus creating a *gap* that has direct implications for legal certainty and judicial legitimacy. Therefore, a consistent *institutional commitment* from all stakeholders is needed to operationalize the division of judicial competence as stipulated in the law. This step is not only the fulfillment of procedural obligations, but also a prerequisite for realizing a judicial system that is not only fair (*eerlijk*), but also transparent (*transparent*), accountable (*responsibile*), and oriented towards the substantive protection of the rights of legal subjects (*bescherming van de rechten*).<sup>26</sup>

#### **D. Implications of Judicial Competence on Legal Protection on the Community**

Errors in determining judicial competence, especially absolute competence, have serious implications for the validity of decisions. In civil procedure law, absolute competence is the absolute authority of the court to examine and decide cases based on the type and substance of the dispute. This authority is imperative, so that if violated, the entire examination and verdict process becomes formally flawed. A judgment that is formally defective does not have binding legal force, although it has acquired permanent legal force, because it is issued by an absolute unauthorised court.<sup>27</sup>

The first implication of a miscarriage of competence is the loss of legal certainty. The parties who have gone through the trial process with cost, time, and effort, finally face the fact that the verdict they obtained is not enforceable. This is detrimental to both the plaintiff who hopes to get the fulfillment of rights, and the defendant who has carried out the obligations based on the decision. When a

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<sup>26</sup> Abu Tolhah, "Opportunities and Challenges of Religious Court Competence After the Amendment of Law No. 7 of 1989 concerning Religious Courts," *Ash-Sharia* 17, no. 2 (2015): 126–27, <https://journal.uinsgd.ac.id/index.php/asy-syariah/article/view/654>.

<sup>27</sup> Netty Herawati, "The Implications of Mediation in Civil Cases in District Courts on the Principles of Simple, Fast, and Low-Cost Justice," *Perspective* 16, no. 4 (2011): 228, <https://jurnal-perspektif.org/index.php/perspektif/article/view/85>.



judgment is declared invalid, all settlement efforts that have been made are in vain and the dispute must be repeated from the beginning in the competent courts.<sup>28</sup>

Practically, absolute competency errors also have an impact on the implementation of the decision. A judgment that is formally defective cannot be the basis for execution because it lacks legal legitimacy. If the execution is still carried out, the execution can be canceled and even give rise to new disputes related to compensation or restoration of rights due to the implementation of an invalid judgment, of course this situation will only harm the parties materially.

From an institutional point of view, absolute incompetence weakens the credibility of the judiciary. A decision that is annulled for reasons of authority will cast doubt on the ability of the judiciary to carry out its basic functions. In the long run, this can lower the level of public trust and hinder efforts to build a fair, transparent, and effective justice system.

The determination of absolute competence must be a top priority before the case examination process begins. Judicial officials, especially judges and clerks, must ensure from the beginning that the disputes filed are within the authority of the court. Accuracy in this early stage will prevent the occurrence of formal defective judgments, ensure legal certainty, and effectively protect the rights of the parties. A competency error is not just a procedural violation, but a fundamental failure that negates the value of the verdict and harms justice seekers.<sup>29</sup>

## CONCLUSION

Based on the above description, the author can conclude that the judicial practice in resolving debts and receivables disputes in Aceh, as seen in the case between S.N. and F., is not fully in line with the provisions of Law Number 3 of 2006 concerning Religious Courts. Although the loan contract in the case has a sharia substance (*qardh contract*) and should be the domain of the Syar'iyah Court, the decision was actually issued by the District Court, which indicates a mistake in the application of absolute competence. This shows that the implementation of the law as a substantive legal instrument at the judicial level has not been maximized. However, there is still a gap in the system in screening the types of cases from the beginning of registration. Lack of legal understanding, weak socialization of the law to the public, and lack of optimal integration of the system between the judiciary

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<sup>28</sup> Haris Kurnia Anjasmana, "The Implications of Filling the Position of Judge as a State Official on the Judicial System," *Tanjungpura Law Journal* 5, no. 1 (2021): 8-9, <http://jurnal.untan.ac.id/index.php/tlj>.

<sup>29</sup> Netty Herawati, "The Implications of Mediation in Civil Cases in District Courts on the Principles of Simple, Fast, and Low-Cost Justice," *Perspective* 16, no. 4 (2011): 228, <https://jurnal-perspektif.org/index.php/perspektif/article/view/85>.

are the main factors causing this misunderstanding of competence. The enforcement of absolute competence in accordance with the law is very important to ensure justice and legal certainty. Ignoring this provision can have serious implications such as legally flawed decisions, overlapping jurisdictions, and declining legitimacy of the Syar'iyah Court as a sharia court in Aceh. Therefore, it is necessary to build an effective case filtering system and strengthen legal procedures as a whole.

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