

## Civil Liability of Airport Managers for Consumer Losses from The Perspective of The Compilation of Sharia Economic Law

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### Abstract

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Consumers often require effective and convenient air transportation to carry out their daily activities, both for work and personal purposes. Air transportation offers a fast and efficient solution to reach their destination. This research aims to evaluate the consequences of the negligence of Kualanamu Airport officers and managers and to examine how their responsibilities towards consumers based on the perspective of the Compilation of Sharia Economic Law. The method used is normative juridical legal research, which refers to international law and relevant legislation, and uses the Statute Approach (reviewing all regulations relevant to the legal issues discussed) and Conceptual Approach (based on views and doctrines developed in legal science). The results show that many airport facilities have not met functional standards, which causes negligence of officers to still threaten the safety and comfort of consumers. This negligence includes the operationalization of facilities that are not fit for use. In the context of KHES, responsibility includes providing compensation in accordance with the principles of Islamic law governing loss and compensation. Compensation or '*dhaman*' aims to overcome the losses suffered by the injured party, both material and immaterial. This is regulated in Book II of the Compilation of Sharia Economic Law article 20 paragraph 37, which states that '*ta'widh*' or compensation is reimbursement for real losses paid by the party who committed an unlawful act.

### 1. Introduction

Indonesia is an archipelago consisting of thousands of large and small islands. To support movement between regions, Indonesia is supported by land transportation, sea transportation, and air transportation. As a transportation that excels in speed and comfort, air transportation is starting to become a popular choice nowadays. It is noted that the growth in the number of air transportation passengers in Indonesia over the past decade has reached 15% per year for domestic flights and 6% per year for international flights<sup>1</sup>. Air transportation in Indonesia is an important means of connecting thousands of islands in Indonesia through air transportation passengers can travel long distances between islands in a short time, this is a consideration for consumers to use airplanes<sup>2</sup>. Given that Indonesia is a country consisting of islands united by oceans with the fourth largest population in the world and the economic growth of the Indonesian people accompanied by the growth of low air transportation rates in the last decade. Indonesia is widely regarded as a low growth aviation market in the last decade. Indonesia is widely regarded as a growing aviation market, namely Kualanamu Airport. Kualanamu International Airport is an airport for Medan City. Indonesia as part of MP3EI which replaces the more than 70-year-old Polonia

<sup>1</sup>Hubud, D. (2023). *Laporan Akhir Lalu Lintas Penerbangan*. Jakarta.

<sup>2</sup>DPR, R. *Undang-undang Nomor 1 Tahun 2009 Tentang Penerbangan*. , Pub. L. No. 1(2009). Indonesia: LN. 2009/ No. 1, TLN NO. 4956, LL SETNEG : 157 HLM.

International Airport. Kualanamu Airport is expected to become an international transit base airport for the Sumatra region and beyond. The airport is the second largest airport in Indonesia after Soekarno-Hatta International Airport. The airport was officially opened on July 25, 2013.<sup>3</sup>

In connection with the increasing popularity of air transportation in this era of globalization, the existence of airports that support consumer needs both in terms of time effectiveness and comfort, as well as having aesthetic appeal, is something that is important both in terms of safety and responsibility<sup>4</sup>. Safety is the main factor for every passenger. This safety depends on various factors, including aircraft condition, crew condition, infrastructure, and natural factors (weather). One of the important tasks carried out by the Unitary State of the Republic of Indonesia is to protect and create general welfare for its people. In that context, the State has the obligation to facilitate the fulfillment of all the rights of every citizen.

Regulations in protecting consumers include visitors and passengers in the airport area. Airports according Law Number 1 of 2009 concerning the Aviation (hereinafter referred to as Law No. 1/2009) are areas on land and / or waters with certain boundaries that are used as places for aircraft to land and take off, up and down passengers, loading and unloading goods, and places for intra- and inter-modal transportation movements equipped with aviation safety and security facilities as well as basic facilities and supporting facilities. In addition, consumer protection is also expressly and clearly regulated in Law Number 8 of 1999 concerning the Consumer Protection (hereinafter referred to as Law No. 8/1999) that consumers have the right to security, comfort and safety in consuming goods and / or services<sup>5</sup>. Therefore, it is known as Aviation Security (AVSEC) which is a unit responsible for the security of flight operations and facilities at the Airport which includes the security of passengers, goods, aircraft, facilities, vital objects, land side and air side. Especially those within the airport perimeter area. Airports in Indonesia are constantly developing facilities and infrastructure to ensure that they provide the best service that prioritizes safety and customer satisfaction.

Based on the phenomenon of the case that occurred at Kualanamu Airport in accordance with the information and news that has been spread that in his statement, Kualanamu Airport through Head Corporate Secretary and legal PT.Angkasa Pura Aviation said that at the time of the incident it received a report from the victim's family who came from Medan-Sunggal. Together with the family, the airport immediately conducted a search of all locations that the victim might have visited. The family and Avsec tried to find the victim in all locations commonly visited at Kualanamu airport but the victim was not found, even at the elevator location where the last time the victim called the family was also not found so the family asked to see CCTV and the airport allowed, starting from the arrival video from the parking area to the return of their family, "said Dedi in his explanation. In addition, it was also assisted by officers to participate in checking all CCTV at the location in the elevator and during the

<sup>3</sup>Sitorus, R. S., Abdina, M. F., & Salsabila. (2023). Analisis Dampak Aktivitas Bandara Kualanamu Terhadap Pengembangan Kawasan Pertanian di Kecamatan Pantai Labu dan Kecamatan Beringin. *Jurnal SOMASI (Sosial Humaniora Komunikasi)*, 4(1), 1-20. <https://doi.org/10.53695/js.v4i1.915>

<sup>4</sup>Permatasari, R. R. C., & Hidayat, M. S. (2017). Penerapan Konsep Airport Mall pada Bandara: Studi Kasus Bandara Kuala Namu Medan Sumatera Utara. *Jurnal Desain Dan Seni Narada*, 4(3), 345-355.

<sup>5</sup>DPR, R. *Undang-undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen.* , Pub. L. No. 8(1999). Indonesia: LN. 1999/ No. 22, TLN NO. 3821, LL SETNEG : 35 HLM

incident in the elevator at approximately 20.35 WIB<sup>6</sup>. However, the video cannot be viewed in its entirety. From the results of the investigation carried out, the Ombudsman stated that there was an unlawful act due to the negligence of the airport manager. Until tonight, the Deli Serdang Police have examined 12 airport officials and elevator technicians. For the tragic death of the victim due to airport negligence, the victim's family will take legal action. Kualanamu Airport seemed slow in responding to complaints from the victim's family who had reported that he was trapped in the airport elevator.

In general, legal responsibility is defined as an obligation to do something or behave in a certain way that does not deviate from existing regulations. Responsibility (liability) can be interpreted as an obligation to pay compensation suffered,<sup>7</sup> "for example in an air transportation agreement, the airline is "responsible" for the safety of passengers and / or consignments, therefore if there is a loss suffered by passengers and / or freight forwarders, the airline must be responsible in the sense of liability, as obliged to pay compensation suffered by passengers and / or freight forwarders due to the airline. Meanwhile, according to Article 1367 of the Indonesia Civil Code, legal responsibility to people who suffer losses is not only limited to their own actions, but also the actions of employees, employees, agents, representatives if they cause harm to others, as long as the person acts in accordance with the obligations imposed on him<sup>8</sup>.

In Islam, responsibility is known as Mas'uliyah. Mas'uliyah or Accountability is a principle that requires a worker to always be vigilant and responsible for what is done or spent because they will be examined and questioned not only in the world but even on the day of reckoning. Responsibility includes several aspects, namely<sup>9</sup>:

- a. Responsibility between individuals (*mas'uliyah al-afraad*)
- b. Responsibility with society (*mas'uliyah al-mujtama'*) serta
- c. Government responsibilities (*mas'uliyah al-daulah*).

This responsibility is related to the baitul mal. Humans with society are obliged to carry out their obligations in order to create the welfare of community members as a whole. This responsibility with society is related to the responsibility of the expedition company for the process of shipping goods. Because this responsibility relates to the wider community and infinity. Therefore, the form of responsibility is also in the form of compensation. Regarding compensation, one of the opinions expressed by Wahbahal-Zulhayli, Nazzariyyahaldaman, and Damascus is as follows: "Dar al-Fikr, one of the general provisions that applies to it is: "Repair the damaged object as early as possible, such as returning the damaged object to its

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<sup>6</sup>Safrizal, H. (2023). Menilik Potensi Penerapan Vicarious Liability dalam Kejadian di Lift Bandara Kualanamu. Retrieved May 26, 2024, from Lembaga Kajian Keilmuan Fakultas Hukum Universitas Indonesia website: <https://lk2fhui.law.ui.ac.id/portfolio/menilik-potensi-penerapan-vicarious-liability-dalam-kejadian-di-lift-bandara-kualanamu/>

<sup>7</sup>Barkatullah, A. H. (2008). *Hukum Perlindungan Konsumen: Kajian Teoritis dan Perkembangan Pemikiran*. Bandung: Nusa Media.

<sup>8</sup>DPR, R. *Kitab Undang-undang Hukum Perdata*.

<sup>9</sup>Shomad, A. (2017). *Hukum Islam: Penormaan Prinsip Syariah dalam Hukum Indonesia* (3rd ed.; Suwito, Ed.). Jakarta: Kencana.

original place. If it is difficult to do this, then it should be replaced with the same object (money) or money<sup>10</sup>."

As in every policy there must be several aspects, one of which is in Islamic law there is the Compilation of Sharia Economic Law (KHES). KHES is an effort to "positivize" muamalat law in the lives of Muslims in Indonesia which is constitutionally guaranteed by the Indonesian constitutional system<sup>11</sup>. In KHES the form of liability refers to compensation where compensation in KHES in Indonesia refers to the principles of Islamic law governing loss and compensation. According to KHES, compensation or *dhaman* aims to eliminate the losses suffered by the injured party, both material and immaterial losses. Therefore, in Book II of the KHES, contains the definition of *Ta'widh* / compensation is compensation for real losses paid by the party who committed an unlawful act. This means that *Ta'widh* means covering losses incurred due to violations or mistakes. Allah SWT says which means: "O you who believe, do not betray Allah and the Messenger and do not betray the trust entrusted to you, while you know."

Allah calls upon the Muslims not to betray Allah and His Messenger, i.e. to neglect the obligations that they are required to fulfill, and to violate His prohibitions, which have been determined by revelation. Not betraying the mandate that has been entrusted to them, i.e. betraying all kinds of affairs that concern the order of the community, such as government affairs, war affairs, civil affairs, community affairs and the orderly life of the community. To regulate all kinds of affairs in society, it is necessary to have rules that are obeyed by all members of the community and by officials who are entrusted with taking care of the interests of the community. These rules have been outlined in principle in the Qur'an and Hadith. Therefore, everything that relates to all social affairs must not contradict the principles that have been determined. Therefore, all regulations that concern the interests of the people must not be betrayed, and must be obeyed properly. Almost all activities in this society are related to this belief. That is why Allah, the Almighty, forbids Muslims from betraying their trust, because when trust is no longer maintained, trust is lost. If trust has been lost, it means that law and order will no longer be maintained and the peace of social life can no longer be enjoyed. Allah emphasizes that the dangers that will befall people for betraying a known trust, both the dangers that will befall them in this world, namely the rampant evil and misery that shakes social life, or the eternal regret and torment of hellfire that will befall them in the hereafter.

Some previous studies used as references in this study that have similar topics include: Research conducted by Abd Azis, on "Airline Liability for Baggage Loss and Damage According to the Minister of Transportation Regulation No. 77 of 2011 concerning Air Transport Carrier Liability (Case Study at Hasanuddin International Airport)", this study is to describe the form of airline liability at Sultan Hasanuddin International Airport Makassar in resolving disputes over the loss and damage of passenger baggage. To describe what are the

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<sup>10</sup>Fadilah, A. A. (2023). *Pertanggungjawaban Pihak Maskapai Terhadap Kehilangan dan Kerusakan Bagasi Menurut Peraturan Menteri Perhubungan No. 77 Tahun 2011 Tentang Tanggung Jawab Pengangkut Angkutan Udara (Studi Kasus Di Bandara Internasional Hasanuddin)* (Institut Agama Islam Negeri Palopo). Institut Agama Islam Negeri Palopo. Retrieved from <http://repository.iainpalopo.ac.id/id/eprint/5824/>

<sup>11</sup>Fauzan, M. (2020). *Kompilasi Hukum Ekonomi Syariah* (4th ed.). Jakarta: Kencana

factors that hinder baggage protection by airlines at Hasanuddin International Airport Makassar. To describe the view of Islamic Law and find solutions in solving problems on the form of airline protection on the loss of passenger luggage at Sultan Hasanuddin International Airport Makassar.<sup>12</sup> Research conducted by Reyza Suwanto, on "Analysis of the Impact of Kualanamu Airport Activities on the Development of Agricultural Areas in Pantai Labu District and Beringin District", this study is to find out in the construction of the Kualanamu airport, the government expects that there will be many positive impacts on the surrounding community, among others, to open up employment land. However, ironically, the government's expectations did not come true because the reality that occurred was that farmers and other communities were the losers in the development process.<sup>13</sup> Research conducted by Rr Chandrarezky on "Application of the airport mall concept at the airport: Case study of Kuala Namu Airport Medan North Sumatra", this research is to find out the atmosphere, and the atmosphere and completeness of the Kuala Namu Airport "commercial facilities" after the building is finished. To find out the behavior of people who use the commercial mall area in the airport. And also, to know the completeness and graphic design at Kuala Namu airport.<sup>14</sup> Furthermore, research by Nofianti, on "Compensation in the Civil Code in terms of Islamic Law", to find out more about the review of Islamic Law on compensation in the Civil Code. In Islamic Law, all forms of losses incurred must be eliminated, eliminating the losses in question by compensating. However, in compensation for losses due to default, only the real losses suffered by the creditor must be reimbursed.<sup>15</sup>

Based on previous research similar to this research, it can be said that this research is different from previous research, because this research aims to: (1). To find out how the consequences of negligence of Kualanamu Airport officers and managers; (2). To find out how the liability of airport managers and officers to consumers based on the perspective of the KHES.

## 2. Methods

Soerjono Soekanto in his writing states that research is a scientific activity based on certain methods, systematics, and thoughts that aim to study one or several certain legal symptoms, by analyzing them. Except for this, an in-depth examination of the legal facts is also carried out to then try to find a solution to the problems that arise in the symptoms concerned. This research is normative juridical legal research, namely legal research that refers to international law and certain laws and regulations relating to the issues discussed, to further analyze the relationship between these legal rules in order to produce a systematic

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<sup>12</sup> Fadilah, A. A. (2023). *Pertanggungjawaban Pihak Maskapai Terhadap Kehilangan dan Kerusakan Bagasi Menurut Peraturan Menteri Perhubungan No. 77 Tahun 2011 Tentang Tanggung Jawab Pengangkut Angkutan Udara (Studi Kasus Di Bandara Internasional Hasanuddin)* (Institut Agama Islam Negeri Palopo).

<sup>13</sup> Nasution, Putri Andaria, and Marlon Sihombing. 2019. "Analysis of the Relationship the Development of Kualanamu Airport with the Development of Entrepreneurship of Youth in Batangkuis Sub-District, Deli Serdang Regency." <https://doi.org/10.4108/eai.24-10-2019.2290637>.

<sup>14</sup> The Implementation of Aerotropolis Concept on New Town Planning and Design in Mebidangro, Sumatera Utara The Implementation of Aerotropolis Concept on New Town Planning and Design in Mebidangro, Sumatera Utara

<sup>15</sup> Elhas, Nashihul Ibad. n.d. "Kompilasi Hukum Ekonomi Syariah: (Tinjauan Umum Hukum Islam)." *Jurnal Qolamuna* Volume 1 (Nomor 2): 213-22.

explanation The approaches used in this research are *Statute Approach and Conceptual Approach*. The statutory approach (*Statute Approach*) is carried out by examining all laws and regulations that are related to the legal issues being discussed and the conceptual approach (Conceptual Approach) departs from the views and doctrines that develop in law. This approach is based on the opinions of legal experts obtained from books, literature, journals, articles, and scientific works related to the provisions regarding liability in the event of a consumer accident.

### 3. Results and Discussion

#### 3.1. Definition of Accountability

Basically, the lowest level of responsibility is a person's ability to carry out obligations because of his inner drive, or it can be called a calling. He does something not because there is a rule that tells him to do it, but he feels that if he does not do the job well, he feels that he does not deserve to receive what has been his right. Responsibility according to the Big Indonesian Dictionary is a state of being obliged to bear everything (if anything happens, you can be sued, blamed, sued and so on). The liability contained in Article 1365 and Article 1366 of the Indonesia Civil Code requires an element of fault, meaning that a person must be guilty (liability based on fault). The principle of liability by fault is based on the principle that there is no liability if there is no element of fault in legal science called Tortious Liability or Liability Based on Fault<sup>16</sup>. There is also liability based on default which is a contractual liability as stipulated in Article 1243 of the Indonesia Civil Code, which is as follows: "Reimbursement of costs, losses and interest due to non-fulfillment of an obligation, will only begin to be required, if the debtor, after being declared negligent to fulfill his obligation, continues to neglect it, or if something that must be given or made, can only be given or made within the time that has been exceeded." The principles in the Shari'a include not making things difficult (*'Adam al-Haraj*), reducing burdens (*Taqilil al-Taklif*), establishing laws periodically, in line with universal benefit, and equality and justice (*al-Musawah wa al-Adalah*). In resolving sharia economic disputes, you must first see whether the dispute resolution procedures in religious courts are in accordance with sharia principles. Usually, if a dispute is based on sharia, the procedure must be based on sharia as well.

#### 3.2. Consumer Protection

Consumer according to Article 1 point 2 Law No.8/1999 is every person who uses goods and/or services available in the community, both for the benefit of themselves, families, other people, and living beings and not for trade. states that a business actor is any individual or business entity, both in the form of a legal entity and not a legal entity established and domiciled or conducting activities within the jurisdiction of the Republic of Indonesia, either alone or jointly through an agreement, organizing business activities in various economic fields. Legal protection of consumers is based on the existence of a number of consumer rights that need to be protected from actions that may be detrimental. These rights are rights that are very basic and universal in nature so that they need to be guaranteed by the state for their

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<sup>16</sup>Widiyastuti, Y. S. M. (2020). *Asas-Asas Pertanggungjawaban Perdata (Bagian Pertama)*. Yogyakarta: Cahaya Atma Pustaka. Retrieved from [http://e-journal.uajy.ac.id/22778/7/Asas\\_asas\\_Pertanggungjawaban\\_Perdata\\_8\\_juli\\_mohon\\_ACC.pdf](http://e-journal.uajy.ac.id/22778/7/Asas_asas_Pertanggungjawaban_Perdata_8_juli_mohon_ACC.pdf)

fulfillment. The definition of a consumer in general is a user, user, and/or utilizer of goods and or services for a specific purpose (own needs and not for resale). Business actors can also be referred to as producers of raw materials or components of a product, or can be called anyone who affixes a name, brand, or other signs to the product revealing himself as a business actor in the goods. By regulating the rights and obligations of producers and consumers, business actors and consumers can create good and healthy trade, and can know the proportion of rights and obligations to avoid and narrow the occurrence of trade disputes. The following Bob Widayahartono states that there are four basic consumer rights, among others:

- 1) The right to get or obtain security means that every consumer has the right to get protection for the goods / services consumed.
- 2) The right to obtain information means that every consumer has the right to obtain clear and comprehensive information about the goods/services that have been purchased (consumed).
- 3) The right to choose means that every consumer has the right to choose goods/services at a fair price.
- 4) The right to be heard means that consumers must have the right to have their needs and claims heard, both by the businesses concerned and by consumer protection organizations that fight for consumer rights.

In addition, five basic consumer rights have been agreed upon, among others:

- 1) Right to health and safety protection.
- 2) Right to protection of economic interests.
- 3) Right to compensation.
- 4) Right to implementation.
- 5) The right to be heard.

For this reason, consumers need to pay attention to the rights that must be fought for. As consumers we cannot remain silent, without being able to do anything when our rights have clearly been harmed.

### 3.3. Compilation of Shari'ah Economic Law (KHES)

The KHES is material law in the field of sharia economic dispute resolution in the Religious Courts. KHES is divided into four parts (books), namely: Book I: Legal Subjects and Amwal, Book II: Akad, Book III: Zakat and Grant, Book IV: Sharia Accounting. The source of KHES refers to Islamic law, but as with other regulations, in KHES there is no explanation of the category of sources of Islamic law above. Sources of Islamic law in Islamic law scholarship are divided into two categories: 1) Sources of Islamic law agreed upon by all scholars or primary sources, namely the Qur'an, Sunnah, *Ijmâ'* and *Qiyâs*. 2) Sources of law that are disputed, namely *Istihâsân*, *Istislâh* (*al-Maslahah al-Mursalah*), *'Urf*, *Istishâb*, *Sahâbi Mazhab*, *Shar'u Man Qablanâ*, and so on. KHES is a compilation compiled by referring to various sources, both at the level of sharia, fiqh, and qânûn (law). One of the sources for the preparation of KHES is *Majallah al-Ahkam al-'Adliyah*, which is a book of civil law laws in the Ottoman Turkish era, then adapted to the current context and Indonesianness. Contextualization of fiqh is very necessary, considering that fiqh itself is flexible, in the sense that it can change with changes in time, place, circumstances and customs.

KHES stipulated through the Supreme Court Regulation if observed through the approach of legislation can be assumed as follows:

- a) KHES is a regulation of a written nature;
- b) KHES is not a legal meteril that binds the public even though basically KHES is abstract general but only applies internally to the power of the Supreme Court;
- c) KHES is not a regulation formed by an institution that gets the authority of attribution or delegation authority to form legislation.

It was created by the Supreme Court only as *guidance for judges* deciding sharia economic cases<sup>17</sup>. Which since the enactment of Article 49 Law Number 3 of 2006 concerning the religious courts (hereinafter referred to as Law No. 3/2006) states that sharia economic disputes are the absolute authority of religious courts.<sup>18</sup>. On the basis of the explanation of legal structural regulations that explain the existence of KHES position in Indonesian positive law above, it can be said that KHES acts as a hero. First for religious court judges, legal practitioners and sharia economic practitioners because it makes it easier for legal practitioners to refer to the law in accordance with their wishes. The books of fiqh that are scattered in the Islamic world are full of differences of opinion which are sometimes confusing and difficult. With the compilation of sharia economic law. Judges, legal practitioners, and sharia economic practitioners no longer need to *mentarjih* various opinions in various fiqh books. Then in terms of the thirst of justice seekers who have been tossed around because of the void of binding material law on sharia economic disputes, KHES emerged as a hero for those who regulate in such a way related to sharia economics. Finally, according to the author, KHES acts as a hero for *mu'amalah* fiqh literature and Indonesian positive law. Because with the emergence of KHES able to unite the perspective of the books of fiqh *mu'amalah* which is full of differences so as to avoid the debate of differences in mazhab, because KHES is the result of an agreement of scholars derived from excavation of various sources of fiqh books, of course adapted to the development of Islamic economics in Indonesia. In addition, the more urgent KHES is also very meritorious for positive law in Indonesia, because with the transformation of KHES into a positive legal order he was able to harmonize the positive legal regulations in Indonesia in accordance with the desired and coveted culture of the majority Islamic community in Indonesia. This is in accordance with the development of community law, as stated by Eugien Ehrlich that "good law is a law that is in accordance with the laws that live in society."

There are 3 elements in how KHES interacts with other legal sources, namely: The first element, strong legal substance. In the context of sharia economics, the substance here is the integration of Islamic legal principles into national regulations in Indonesia, whether in the form of amendments to regulations or the creation of special regulations that regulate the implementation of sharia principles in our economy. The second element, a complete and strong legal structure or regulatory implementing apparatus. Law implementing institutions

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<sup>17</sup>Yasin, M. N. (2018). *Politik Hukum Ekonomi Syariah di Indonesia* (1st ed.; M. Rofiq, Ed.). Malang: UIN Maliki Press.

<sup>18</sup>Suyuthi, W. (2008). *Kapita Selekt Perbankan Syar'iah: Menyongsong Berlakunya UUU. No.3 Tahun 2006 Tentang Perubahan UUU. No. 7 Tahun 1989 (Perluasan Wewenang Peradilan Agama)*. Jakarta: Pusdiklat Teknis Peradilan Mahkamah Agung RI.

such as the judiciary or institutions that supervise and implement regulations must exist in a legal system. In Indonesia, the existence of religious courts as a dispute resolution institution in the field of sharia economics is proof of Indonesia's commitment to developing sharia economics.

There are several challenges in aligning Islamic principles with the legal framework in Indonesia today. Among them:

1. The values and social norms that develop in modern society are often different from the values contained in Islamic law. This results in tension and conflict in the implementation of Islamic law
2. The plurality of laws and differences in interpretation among ulama also pose challenges in the implementation of Islamic law. Ulama have differences of opinion in understanding and applying Islamic law
3. The influence of secular culture and globalization also poses its own challenges in implementing Islamic law. Secular culture which prioritizes the values of individualism and consumerism often conflicts with Islamic values which emphasize social aspects and justice.

#### **3.4. Consequences of Negligence of Kualanamu Airport Officers and Managers**

PT Angkasa Pura Aviassi as the manager is also responsible for Aisiah's death. In this case, PT Angkasa Pura Aviassi's fault lies in the transparency of information or directions about the two-way elevator and CCTV surveillance. Regarding information transparency, PT Angkasa Pura Aviassi should have made a notification, either in writing or by voice stating that the elevator doors are two-way so as not to cause confusion among visitors. The same thing was also expressed by Mr. Robert who said that "Kualanamu Airport still does not meet information transparency standards such as a sign or notification as a hint or direction that the elevator is two-way"<sup>19</sup>.

Regarding the building aspect, PT Angkasa Pura II and PT Angkasa Aviassi can be prosecuted for Article 41 paragraph (2) of Law Number 28 of 2002 concerning the building (hereinafter referred to as Law No. 28/2002). The article regulates the obligations of building owners and managers in the implementation of building buildings, some of which are to carry out periodic maintenance of building buildings, periodically inspect the feasibility of functions, and repair buildings that are no longer feasible. Further provisions regarding sanctions are regulated in Article 47 paragraph (2) letter c Law No.28/2002. PT Angkasa Pura II can be charged with Article 47 paragraph (2) letter c Law No. 8/2002 because its negligence resulted in the building not being fit for function. Article 47 paragraph (2) letter c Law No. 8/2002 reads "imprisonment for a maximum of 3 (three) years and / or a maximum fine of 3% (three per hundred) of the value of the building if it results in the loss of life of another person."

In addition, the person in charge of the operational and technical fields of the elevator and CCTV monitoring of Kualanamu Airport can also be charged with a crime based on the

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<sup>19</sup>Pangaribuan, D. (2023). Bandara Kualanamu Lalai, Aisiah Hasibuan Jatuh dari Lift yang Rusak. Ini Kronologisnya. Retrieved May 26, 2024, from Media Indonesia website: <https://mediaindonesia.com/nusantara/577865/bandara-kualanamu-lalai-aisiah-hasibuan-jatuh-dari-lift-yang-rusak-ini-kronologisnya>

Indonesia Criminal Code, to be precise which regulates death caused by negligence. This is in line with the previous explanation that there has been negligence in the technical and operation of CCTV which caused the death of the victim.

The author's analysis in answering this case is that consumers or can be referred to as victims have suffered losses. As explained in Article 1356 of the Indonesia Civil Code states that everyone has the right to sue for damages for an unlawful act that harms him. The party who wants to file a claim for compensation must submit an application to the court and provide sufficient evidence to prove the losses suffered. Therefore, it can be concluded that the incident experienced by the consumer is a tort.

### 3.5. The Concept of Liability for Consumer Compensation from the Perspective of the Compilation of KHES

Based on the KHES the form of liability refers to compensation where compensation in KHES in Indonesia refers to the principles of Islamic law governing loss and compensation. The basic principle used to avoid injustice is sharia, which contains injunctions and rules about whether an activity is allowed or not. Meanwhile, the notion of "enabling humans to carry out their responsibilities towards God and society" means that responsibility is not only limited to socio-economic aspects, but also involves the role of government in regulating and managing all economic activities including zakat and taxes. Compensation (*dhaman*) aims to eliminate the losses suffered by the injured party. Compensation (*dhaman*) in Islam means balancing the affairs of the world and the hereafter. In other words, world affairs, compensation related to psychic, honor and property. While the affairs of the hereafter, compensation is a debt that must be paid, so that it does not become a demand in the hereafter.

Sharia Economic Law also states the forms of rights which are all forms of actions using rights that cause harm to others, including *ta'assuf fi isti 'mal al-haqq* which is prohibited by shara'. However, there are two circumstances where a person is not called *ta'assuf fi isti 'mal al-haqq*, namely as follows<sup>20</sup>:

- a) If in exercising that right, it is customary to avoid causing harm to the other party. For example, paramedics performing surgery on a patient. They have done it in accordance with the provisions of medical science, but the result is that one of the patient's limbs, for example, becomes dysfunctional. This is not *ta'assuf fi isti 'mal al-haqq* and the paramedics are not liable for compensation.
- b) If the exercise of that right is done carefully, but causes harm to the other party, it is not called *ta'assuf fi isti 'mal al-haqq* and cannot be held accountable in court.

According to the KHES Book II Part Four regarding Breach of Promise and Sanctions in article 36, it is explained that the parties can be considered to be in breach of promise if it is due to their fault<sup>21</sup>:

- 1) not doing what it promised to do;
- 2) performs what it promises but not as it promises;
- 3) did what it promised, but too late; or

<sup>20</sup>Gojali, D., & Setiawan, I. (2023). *Hukum Ekonomi Syariah: Analisis Fikih dan Ekonomi Syariah* (1st ed.). Depok: Rajawali Pers.

<sup>21</sup>MA, R. *Peraturan Mahkamah Agung RI Nomor 2 Tahun 2008 Tentang Kompilasi Hukum Ekonomi Syariah*. , Pub. L. No. 2(2008). Indonesia.

4) do something that the contract says must not be done.

The sanctions for parties to the contract who break the promise are regulated in Article 38 KHES, namely:

- a. pay compensation;
- b. cancellation of the contract;
- c. risk transfer;
- d. fine; and/or
- e. pay court costs

In accordance with the above provisions, Article 39 KHES defines that sanctions for payment of compensation can be imposed if: the party who breaks the promise after being declared in default, continues to break the promise; something that must be given or made, can only be given or made within the time that has been exceeded; the party who breaks the promise cannot prove that the act of breaking the promise he did was not under duress. Based on the explanation of these regulations, the author can conclude that according to what has been stated in the KHES, it can be concluded that compensation related to the soul is called *jawabir al-dharar al-badaniyah* which includes loss of life, limbs or functions of both. Therefore, according to the author of the phenomenon of negligence of airport officials, it is necessary to further operate, control, and maintain buildings and facilities so that there are no casualties in the future. Thus, the fault of the officer both in charge of technical, operational and also the manager of Kualanamu Airport from this case has caused losses to fatalities. Thus, it has been agreed that the person in charge of PT Angkasa Pura II and PT Angkasa Aviassi is obliged to provide compensation both in the form of material and immaterial.

#### 4. Conclusions

Regarding the building aspect, PT Angkasa Pura II and PT Angkasa Aviassi can be prosecuted for Article 41 paragraph (2) of Law No. 28/2002. The article regulates the obligations of building owners and managers in the implementation of building buildings, some of which are to carry out periodic maintenance of building buildings, periodically inspect the feasibility of functions, and repair buildings that are no longer fit for function. Because there are still facilities in the kualanamu airport area that do not meet operating standards so that they can cause accidents that are very fatal in the form of losing someone's life. In KHES the form of liability refers to compensation where compensation in KHES in Indonesia refers to the principles of Islamic law governing loss and compensation. According to KHES, compensation or *dhaman* aims to eliminate the losses suffered by the injured party, both material and immaterial losses. Therefore, in Book II of the KHES, the first part of Article 20 paragraph 37 contains the definition of *ta'widh*/compensation is compensation for real losses paid by the party who committed an unlawful act. This means that *ta'widh* means covering losses incurred due to violations or mistakes.

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