

**SUPREME COURT POLICY IN INCREASING
KNOWLEDGE OF RELIGIOUS JUSTICE JUDGES
THROUGH THE SHARIA ECONOMIC JUDGE
CERTIFICATION PROGRAM**

Ilman Hasjim¹

Kasjim Salenda²

Usman Jafar³

Nur Taufiq Sanusi⁴

Postgraduate Dirasat Islamiyah Alauddin State Islamic University Makassar¹

Lecture at Syariah and Law Faculty Alauddin State Islamic University

Makassar²³⁴

Email: ilmanhasjim@gmail.com¹; kasjim.salenda@uin-alauddin.ac.id²;
jafarusman1958@gmail.com³; nur.taufiq@uin-alauddin.ac.id⁴

Abstract: This research discusses the Supreme Court's policy of increasing the knowledge of Religious Justice judges through the sharia economic judge certification program. This type of research is descriptive qualitative, a type of research to understand the phenomenon of what the research subject experiences in an exceptional natural context. The natural phenomenon referred to is how there is a relationship between PERMA Number 5 of 2016 concerning Sharia Economic Judge Certification and the Supreme Court's policy in increasing the knowledge of Religious Court judges in the field of Sharia economics, the implementation of certification activities, and the results obtained by judges after participating in the certification program, which is then given meaning. This research location focus of the researcher is the office of the Supreme Court of the Republic of Indonesia, which is domiciled in the Special Capital Region (DKI) Jakarta and Bogor Regency, West Java Province. With a methodological approach, namely case studies, normative approaches, human resources (HR), and sharia economic law approaches—data collection techniques with observation, interviews, and documentation. In addition, this research also uses *library research* through primary and secondary data—the technique of in-depth data analysis by reducing data, presenting data, and drawing conclusions. The results showed that the Religious Court, the Supreme Court, had done so much that it issued several regulations to support this authority. One of the policies produced was the issuance of Supreme Court Regulation (PERMA) Number 5 of 2016 concerning the Certification of Sharia Economic Judges. With the PERMA issuance, many Religious Court judges have been certified in Sharia Economics after participating in the Sharia Economic Judge Certification Training.

Keywords: Supreme Court, Religious Justice Judges, Certification

Programs

I. INTRODUCTION

The presence of Law Number 3 of 2006 concerning the (first) amendment to Law Number 7 of 1989 concerning Religious Justice became an essential

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history in resolving sharia economic disputes in the country. Article 49¹ of the law has mandated the Religious Court (PA) as the authority to resolve sharia economic disputes in litigation through formal proceedings in the courtroom. Previously, the types of cases that entered the PA were not so broad in scope. It only covers the fields of Marriage, inheritance, will, hibah, waqf, and shadaqah.²

Since establishing the Islamic economic field as an absolute authority within the Religious Courts, the dynamics of resolving sharia economic disputes have often reaped serious polemics. One of the issues that had enlivened the national media news pages at that time was the "war" of public opinion against the norms of Article 55 of Law Number 21 of 2008 concerning Islamic Banking. That is the explanation of Article 55, paragraph (2) of the law still mentions the general judiciary as (alternative) dispute resolution in Islamic banking. Until then, after a materiel test was carried out at the Constitutional Court (MK), this problem was over with the issuance of the Constitutional Court decision Number 93 / PUU-X / 2012.³ The simple conclusion regarding the explanation of Article 55 paragraph (2) was declared contrary to the 1945 Constitution. In other words, Islamic banking disputes, one of the items in the field of Islamic economics, are an absolute authority for the Religious Justice environment.

Responding to the challenges of the presence of new cases in the field of Sharia economics, religious court judges are required to have in-depth knowledge of sharia economic law. Both in terms of theory and practice. Since the new authority was attached to the PA, each task force was required to form a special panel of judges to anticipate sharia economic disputes. The sincerity to face a new authority is also illustrated by the results of the formulation of the National Working Meeting (Rakernas) of the Supreme Court (MA) of the Republic of Indonesia on October 31, 2012, in Manado, North Sulawesi. One of the crucial formulations agreed upon is to improve the quality of understanding of judges in handling Sharia economic disputes.⁴

As a form of moral responsibility for the mandate given by the law, the Supreme Court has made various efforts. In addition to preparing facilities and infrastructure, the availability of ready-to-use human resources is a need that must be met immediately. Some of the MA policies through the Directorate General of Badilag that have been carried out related to the readiness of human resources in the field of sharia economy are as follows:⁵

1. Sharia Economic Judge Certification Program, which started in 2016;
2. Cooperation in the field of education with State and Private Universities, such as: State Islamic University (UIN) Jakarta, UIN Bandung, UIN

¹Porigin 49 of Law Number 3 of 2006 concerning Religious Justice reads: Religious Courts have the duty and authority to examine, decide, and resolve cases in the first instance between persons who are Muslims in the fields of: a. marriage; b. inheritance; c. will; d. grant; e. waqf; f. zakat; g. infaq; h. shadaqah; and i. shari'a economics.

³The decision of the Constitutional Court Number 93/PUU-X/2012 was decided by a panel of constitutional judges on Thursday, March 28, 2013, which was chaired directly by the then Chairman of the Constitutional Court, Prof. Moh. Mahfud, MD.

⁴Selengkapnya dapat dilihat dalam Rumusan Hasil Diskusi Kelompok Bidang Peradilan Agama (Komisi II). Rumusan tersebut disepakati pada Rapat Kerja Nasional Mahkamah Agung RI dengan Jajaran Pengadilan dari 4 (empat) Lingkungan Peradilan seluruh Indonesia di Manado pada tanggal 31 Oktober 2012.

⁵Aco Nur, *Pengembangan Sumber Daya Manusia di Peradilan Agama dalam Menangani Sengketa Ekonomi Syariah*, slide bahan presentasi Dirjen Badilag Mahkamah Agung RI.

- Samarinda, UIN Yogyakarta, Universitas Islam Indonesia (UII), and Universitas Gadjah Mada (UGM). Including with the Education Fund Management Institution (LPDP);
3. Cooperation with the Indonesian Ulema Council (MUI), the National Sharia Council (DSN), the National Sharia Arbitration Board (Basyarnas), and the Sharia Supervisory Board (DPS) in order to strengthen law enforcement and human resources development;
 4. Cooperation with Bank Indonesia (BI) and OJK related to increasing the insight of judges, especially in preparing curriculum/teaching materials in sharia economic judge certification activities;
 5. Improving human resources by conducting *Short Training* abroad such as *the Markfield Institute of Higher Education* (MIHE) Leicester, UK (2007 and 2013), Egyptian Ministry of Justice (2005 and 2007), The Supreme Court of Sudan (2005 and 2007), the Supreme Court of Morocco (2013), including comparative studies to Singapore, Malaysia, Pakistan, Damascus, Egypt, Jordan, and Japan;
 6. Sending judges studying the third degree in Sharia Business Law to Sudan;
 7. Sent a Religious Justice judge to *Jami'ah Muhammad Ibn Su'ud* Riyadh, Saudi Arabia, to study *Islamic Finance*;
 8. Carry out research in the field of Islamic banking contracts and the implementation of simple lawsuits in the Islamic economy.

Of the several policies mentioned above, the focus of this study will be the certification of Islamic economic judges that the legality of the implementation of the certification activity is regulated in the Supreme Court Regulation (PERMA) Number 5 of 2016 concerning Certification of Sharia Economic Judges. It is hoped that this "excellent program" in improving human resources for Religious Court judges will be one of the strategic and tangible steps for the Supreme Court, namely improving the ability of judges to resolve sharia economic disputes. With the hope that the decisions made can meet the community's sense of justice.

Since the PERMA on Sharia Economic Judge Certification was ratified in 2016, the Center for Education and Training (Pusdiklat) of the Supreme Court has organized Sharia Economic Judge Certification activities. From the data released by the Directorate General of Badilag, until 2020, approximately 589 (five hundred and eighty-nine) of the 3,381 (three thousand three hundred and eighty-one)⁶ Religious Court judges have obtained certificates of eligibility to resolve sharia economic disputes. Both high judges and first-instance judges are currently spread across the courts throughout Indonesia.

As mentioned above, those who are declared passed and certified "sharia economy" cannot necessarily be placed in a work unit with a high intensity of Islamic economic cases. Not to mention talking about the complexity of solving cases. In addition to experience in handling cases, also no less important is deep knowledge about resolving Islamic economic disputes.

For the scope of the Special Capital Region (DKI) Jakarta, the volume of sharia economic cases that enter is not as much as in other provinces in the java island area. In addition, because the DKI Jakarta High Religious Court (PTA) only has 5 PA, it is also because the population of DKI is much different from other provinces. Call it West Java and Central Java. Based on data from the Central Statistics Agency (BPS), until 2019, the province of DKI Jakarta

⁶This number is the latest data from judges as of October 2020 as contained in the Graph of the Number of Technical Personnel Reviewed from Education published on the website ptsp.badilag.net

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amounted to 10,557,810 (ten million five hundred and fifty-seven thousand eight hundred and ten) people.⁷ Meanwhile, for West Java Province⁸, there are 49,316,712 (forty-nine million three hundred and sixteen thousand seven hundred and twelve) people⁹ with 34,718,204 (thirty-four million seven hundred eighteen thousand two hundred and four rupiahs).

Based on existing data, for 2019 sharia economic cases that entered and were resolved in the DKI Jakarta PTA area, there were 16 (sixteen) cases. Meanwhile, for 2020 it increased to 25 cases, with details of the Central Jakarta PA as many as 9 (nine) cases, the South Jakarta PA as many as 8 (eight) cases, the North Jakarta PA as many as 4 (four) cases, the East Jakarta PA with 3 (three) cases, and the West Jakarta PA as many as 1 (one) case.¹⁰

Based on the descriptions mentioned above, both those related to the norms of the article in PERMA and the problems of placing Religious Court judges in the DKI Jakarta area, researchers tried to explore, explore and analyze through this research. It is essential to do so that the sharia economic judge certification program, especially for judges in the Religious Court environment in DKI Jakarta, can be an alternative and strategic solution to encourage judges to master the material and practice of sharia economic law. With the hope, through this critical activity, judges who have been certified can provide a "potion" of truly qualified verdicts in Islamic economics. Thus, in addition to providing a sense of justice for the parties to the dispute, a qualified understanding of sharia economic law through this sharia economic judge certification program can increase the public's trust in the PA institutionally. Especially those in DKI Jakarta.

Based on what has been explained in the background of the above problem, the main problem in the study is the Supreme Court's policy of increasing the knowledge of Religious Justice judges through the sharia economic judge certification program.

II. THEORETICAL REVIEW

A. Supreme Court Rules (PERMA)

The Supreme Court is a state institution¹¹ that exercises judicial power, namely the power of an independent state to administer the judiciary to uphold law and justice based on Pancasila and the 1945 Constitution of the Republic of

⁷Central Statistics Agency of DKI Jakarta Province, "Total Population of DKI Jakarta Province According to Age Group and Gender, *official website of BPS DKI Jakarta*, <https://jakarta.bps.go.id/indicator/12/111/1/total-population-of-dki-jakarta-province-according-to-age-and-gender-groups.html/> (April 23, 2021)

⁸Central Statistics Agency of West Java Province, "Population By Regency/City (Soul)", *official website of BPS West Java*, <https://jabar.bps.go.id/indicator/12/133/1/jumlah-penduduk-menurut-kabupaten-kota.html/> (April 23, 2021)

⁹Central Statistics Agency of Central Java Province, "Population And Sex Ratio According to Regencies/Cities in Central Java Province", *official website of BPS Central Java 2019*. <https://jateng.bps.go.id/statictable/2020/07/14/1820/jumlah-penduduk-dan-rasio-jenis-kelamin-menurut-kabupaten-kota-di-provinsi-jawa-tengah-2019.html/> (April 23, 2021)

¹⁰Selengkapnya dapat di lihat pada menu "bank data" pada link ptsp.badilag.net.

¹¹Article 1 paragraph (2) of Law Number 48 of 2009 concerning Judicial Power.

Indonesia. The implementation of the State Law of the Republic of Indonesia—having the authority and function directly mandated by the constitution has placed the Supreme Court as a State Institution and is a *primary constitutional organ* in terms of the hierarchy of state institutions in Indonesia.

If traced from historical chronology, the Supreme Court first got the authority to issue regulations in 1954. This happened based on the delegation of authority "granted" article 131¹² of Law Number 1 of 1950 concerning the Composition, Power, and Course of the Supreme Court of Indonesia, or about nine years after the establishment of the judicial institution on August 19, 1945. Over time, the regulations produced based on the delegation of authority are called The Supreme Court Rules (PERMA).

In Indonesian legislation, the Supreme Court is delegated authority by the state to issue regulations. The power to make such regulations serves as a filler of the legal vacuum or a complement to the procedural law's shortcomings to smooth the judiciary's administration. This authority is directly under the constitution as mentioned in Article 24A paragraph (1) of the 1945 Constitution post-amendment. More information states that:

The Supreme Court has the authority to adjudicate at the cassation level, to test laws and regulations under the law against laws, and to have other powers granted by law.

The interpretation of the phrase "other powers"¹³ contained in the constitutional paragraph includes "the authority to make rules." That in addition to having the function of adjudicating at the level of cassation and review, the Supreme Court also has the function of regulating, as described in Article 79 of Law Number 14 of 1985 concerning the Supreme Court, which has been amended twice, most recently by Law Number 3 of 2009 (from now on referred to as UUMA).

Article 79 of the UUMA reads as follows:

The Supreme Court may further regulate matters necessary for the smooth conduct of the judiciary if there are matters that have not been sufficiently regulated in this law.¹⁴

Furthermore, in the explanation of the article, it is explained that:

If there is a lack of legal vacuum in a matter in the course of the judiciary, the Supreme Court has the authority to make regulations as a complement to fill the deficiency or vacancy. With this law, the Supreme Court has the authority to determine the arrangements for

¹²Article 131 of Law Number 1 of 1950 concerning the Composition, Power and Course of the Indonesian Supreme Court reads, namely: "If in the courts there are questions that are not regulated in the law, then the Supreme Court can determine for itself how the matter should be resolved".

¹³ A similar phrase is also contained in Article 20 paragraph (2) of Law Number 48 of 2009 concerning Judicial Power.

¹⁴ Although it has been 2 (two) times changed, namely through Law Number 5 of 2004 and Law Number 3 of 2009, the norms of Article 79 have not changed. This means that the authority of the Supreme Court in issuing (new) regulations, is still in line with the function of the Supreme Court since 1985 until now.

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resolving a matter that has not been or is not regulated in this law. In this case, the regulations issued by the Supreme Court are distinguished from those drawn up by the framers of the legislation. The intended administration of the judiciary of this law is only part of the procedural law as a whole. Thus the Supreme Court will not interfere with and go beyond the arrangements regarding the rights and obligations of citizens in general, nor shall it regulate the nature, power, means of proof and judgment, or the sharing of the burden of proof.

From the formulation of Article 79 above and its explanation relating to the regulatory function of the Supreme Court, it needs to be explained that regarding the development of supreme court policy so far, it is considered very progressive. Some policies are considered revolutionary because they contain procedural law with new mechanisms and procedures. One of the things that can be described is the issuance of regulations on electronic trials or *e-litigation* with PERMA Number 1 of 2019 concerning Case Administration and Electronic Court Proceedings.¹⁵ Most recently, another progressive policy is in the field of criminal law, namely the issuance of PERMA Number 4 of 2020 concerning the Administration and Trial of Criminal Cases Electronically.¹⁶

There are three exciting things to look at from the formulation of Article 79 of the UUMA, and the explanation is as follows:¹⁷

- a. It is related to PERMA material limitations. This limitation can be seen from the purpose of the formation of UUMA in giving the authority to make regulations. Perma material is material that has not been regulated in law. This norm shows the importance of PERMA standing;
- b. The scope of PERMA regulation is limited to the administration of the judiciary relating to the procedural law of the judiciary. The framers of the law have given signs so that the PERMA material does not take material that should be the material of the law, namely related to the procedural law as a whole;
- c. The explanation of Article 79 in the second paragraph, among other things, states that the Supreme Court's regulations are distinguished from those established by the framers of the laws. Nor can the Supreme Court interfere with and go beyond the regulation of the rights and obligations of citizens.

If the provisions of article 79 of the UUMA and its explanation above are outlined, then the scope of regulation of PERMA as a legal instrument made by the Supreme Court contains the following norm substance:

- a. PERMA was created for smooth administration of the judiciary;
- b. PERMA is made if there are things that have not been sufficiently regulated in the law;

¹⁵As stated in the consideration of letter b, that PERMA was born as a demand of the times and requires a more effective and efficient case administration and court trial service. The PERMA, which was signed on August 6, 2019 by Muhammad Hatta Ali, consists of 39 Articles, and is included in the State Gazette of the Republic of Indonesia of 2019 Number 894.

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- c. PERMA is made if, in the course of the judiciary, there are legal deficiencies or vacancies;
- d. PERMA is a complement to fill legal deficiencies or vacancies;
- e. PERMA contains how to solve a problem that has not been or is not regulated in law;
- f. PERMA is distinguished by regulations drawn up by the framers of the legislation;
- g. PERMA is only part of the procedural law as a whole;
- h. The PERMA made shall not interfere with and go beyond the arrangements concerning the rights and obligations of citizens in general, nor shall it regulate the nature and power of the means of proof and judgment.¹⁸

In terms of its objectives, the delegation of authority attached to the Supreme Court aims to fill the vacancies or complete the shortcomings of the law's judicial procedural law. Because at the beginning of independence, Indonesia did not yet have procedural law provisions that could adapt to the development of society. So it can be said that the regulatory authority of the Supreme Court is temporary. However, in its development, the authority to regulate by the Supreme Court was still maintained. It is even legitimized through some laws and government regulations.

B. The Position Of Religious Justice in Indonesia

The Religious Judiciary in the form known today is an unbroken result (link) of the history of the entry of the Islamic religion into the motherland. Thus, to give an idea of the position of the Religious Court institutionally, we must pay attention to (the development of) Islamic law in Indonesia.

The presence of laws and regulations relating to the renewal of Islamic law in Indonesia has given considerable authority to the PA to play an active role in adjudicating and deciding cases to be guided by these regulations. The authority granted by the laws and regulations to PA institutions can be seen in:¹⁹

First, Law Number 1 of 1974 concerning Marriage (which has now been amended by Law Number 16 of 2019 as mentioned in advance), in Article 63, paragraph 1 reads:

What is meant by a court in this law is the PA for those who are Muslim and the General Court for others.

Second, Government Regulation Number 9 of 1975 concerning the Implementation of Law Number 1 of 1974 concerning Marriage, in Article 1 letter b, it is stated that:

One of the reasons for the issuance of PERMA Number 4 of 2020 is to help justice seekers, which is the court's obligation to overcome all obstacles and obstacles as per the principle of justice, namely simple, fast, and low cost. That the PERMA, which was published during the COVID-19 pandemic, consists of 20 Articles. Signed on September 25, 2020 by Muhammad Syarifuddin, Chief Justice of the Supreme Court. And included in the list of State News of the Republic of Indonesia in 2020 Number 1128.

¹⁸M. Syarifuddin, *Procedures for Handling Assets from Criminal Acts Based on PERMA No. 1 of 2013* (Jakarta: Imaji Cipta Karya, 2020), pp. 120-121.

¹⁸M. Syarifuddin, *Procedures for Handling Assets from Criminal Acts Based on PERMA No. 1 of 2013*, pp. 122-123.

¹⁹More can be seen in Abdul Manan, *Renewal of Islamic Law in Indonesia*, p. 199.

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The Court is a PA for those who are Muslim and a District Court for others.

Third, Law Number 7 of 1989 concerning Religious Justice. In Article 1 (paragraphs 1 and 2), it is stated that:

1. *The Religious Court is a judiciary for people who are Muslim.*
2. *The Courts are the PA and the High Court of Religion within the Religious Courts.*

The position and function of the Religious Court is none other than one of the executors of *judicial power* in Indonesia. It is, among other things, affirmed in Article 24 of the amended 1945 Constitution, which states that:²⁰

- a. Judicial power is an independent power to administer the judiciary in order to uphold law and justice;
- b. Judicial power is exercised by a Supreme Court and the judicial bodies subordinate to it within the General Judiciary, the Religious Courts environment, the Military Court environment, the State Administrative Court environment, and by a Constitutional Court;
- a. Other bodies whose functions relate to judicial power are regulated in the legislation.

A. Mukti Arto, as Hasbi Hasan, also confirmed the existence of the Religious Court. According to the Supreme Judge of the Religious Chamber of the Supreme Court of the Republic of Indonesia, the Religious Court is a symbol of the enactment of Islamic law following the scope of its competence.²¹ Expanding the competence of religious courts through the Religious Justice Law means a juridical recognition of the state of the enactment of Islamic law. It is a matter of pride and an opportunity for judges to develop their devotion.²²

C. The Position Of a Religious Justice Judge

Judge comes from the word (حَكَمَ-يَحْكُمُ-حَاكِمٌ), meaning the same as qadhi (قَضَى-يَقْضِي-قَاضٍ), meaning to decide, according to language is a wise person or a person who decides cases, while in general judges are officials who carry out the duties of judicial power, that is, judicial officials who are authorized by the head of state to settle sued in the civil sphere. The term official carries severe consequences because his authority and responsibility are expressed in particular duties, obligations, traits, and attitudes, namely law enforcement and justice.

In Islamic traditions, the term "judge" is better known as *qadhi*, which is a person in charge of imposing a sentence. Since *qadhi* means the organizer of the law, will first be examined the meaning of the word from *al-Qadha* is the origin of the word *qadhi*.

According to Muhammad Salam Madkur, *in language*, *al-Qadha* has several meanings. *First*, *al-Qadha* is commensurate with *al-faraaah*, which means to break up or finish. As mentioned in sura al-Ahzab verse 37:

فَلَمَّا قَضَىٰ زَيْدٌ مِنْهَا وَطَرًا زَوَّجْنَاكَهَا لِكَيْ

Translation:

²⁰Abdul Manan, *PA; Nusantara Cultural Heritage Strengthens the Republic of Indonesia*, pp. 220-221.

²¹ Law Number 3 of 2006.

²² Hasbi Hasan, *Competence of Religious Courts in Resolving Sharia Economic Cases*, (Cet. I; Jakarta: Gramata Publishing, 2010), p. 176.

So when Zaid decided on Zainab's will, we married him to you.

Second, al-Qadha, which has the same meaning as *al-adaa*, means to fulfill or pay, as Muhammad has paid his debts (*qadha Muhammadan dainahu*). *Third, al-Qadha* has the same meaning as *al-hukmu*, which means to prevent or hinder. Meanwhile, according to jurists, the definition of *al-Qadha* is a decision of the government product or conveying the law of *shari'a* by way of determination.

The position of judges is significant in upholding law and justice. In addition to being law enforcement and justice, judges also play a role as the key holders of the success of law enforcement which is the primary goal of people's lives in the country of law. The judge is a noble office because it is God's representative in the world and, at the same time, a symbol or identity of the state of law.²³

In the formulation of Article 1, point 8 of the Criminal Procedure Code (KUHP) states that:

Judges are stated judicial officials authorized by law to adjudicate.

The profession of a religious justice judge is legal because it is essentially a service to humans and society in law. Therefore, judges (Religious Courts) are required to have high morality and responsibility, all of which are outlined in the basic principles of the judge's code of ethics, including:²⁴

1. The principle of freedom, namely this principle, contains judicial freedom is a prerequisite for the rule of law and a fundamental guarantee of a fair trial. Therefore, a judge must uphold and set an example of judicial freedom both in the individual aspect and in the institutional aspect;
2. The principle of impartiality, that is, is very important for the proper implementation of the judiciary. It applies not only to the decision itself but also to the process by which the decision is made;
3. The principle of impartiality, that is, is very important for the proper implementation of the judiciary. It applies not only to the decision itself but also to the process by which the decision is made;
4. The principle of competence obedience, namely competence and obedience, is a prerequisite for adequately implementing the judiciary.

D. Overview of PERMA Number 5 of 2016 concerning Certification of Sharia Economic Judges

In the formulation of Article 1 paragraph 1 of PERMA Number 5 of 2016, it is stated that sharia economic judge certification is the provision of a certificate of judges who have been declared to have passed the administrative selection, competence, integrity, and training to become a sharia economic judge. Furthermore, Article 1 paragraph 2 states that sharia economy judges are religious court judges who have been certified and appointed by the Chief Justice of the Supreme Court. The meaning of the norms of the article above explains that those who are given certificates for participating in sharia economic judge certification activities are religious court judges. Apart from that, the person concerned is not qualified (essential) to be a judge examining sharia economic dispute cases.

²³Adies Kadir, *Saving God's Deputy; Strengthening the Role and Position of Judges* (Cet. I; Jakarta: Merdeka Book, 2018), p. 44.

²⁴Adies Kadir, *Saving God's Deputy; Strengthening the Role and Position of Judges*, p. 127.

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Then, the provisions of the PERMA on Sharia Economic Judge Certification have stipulated that judges who are authorized to decide cases of Islamic banking disputes are judges who have certification in different languages and have attended training and education carried out by the Supreme Court. It is clarified in the formulation of Article 2 of PERMA Number 5 of 2016, which explains that sharia economic cases must be tried by certified sharia economic judges and appointed by the Chief Justice of the Supreme Court of the Republic of Indonesia.

The question then is, why must the settlement of Sharia economic disputes be certified? In simple terms, the answer to this question is stated in the formulation of Article 3 of the PERMA concerning the Certification of Sharia Economic Judges, as mentioned above. The article reads as follows:

The certification of sharia economic judges aims to improve the effectiveness of handling sharia economic cases in the PA /Syar'iyah Court as part of efforts to enforce sharia economic law that meets the sense of justice.

Furthermore, the scope of certification of Sharia economic judges includes the authority of certified judges (as referred to in this PERMA) regarding the selection stages, forms of training, procedures for appointment and placement, implementation of supervision and evaluation, incentive and disincentive mechanisms, and finally related to funding. It needs to be stated in the norms of the article so that the process carried out in "recruiting" certified judges of the Islamic economy can be measured appropriately. So that the judges who participated in the certification activities could have a positive effect, especially in handling sharia economic disputes.²⁵

As outlined in Article 49 of the Religious Justice Law mentioned above, if it has been certified in sharia economy, the judge concerned is obliged to adjudicate and resolve sharia economic cases, including Islamic banks, sharia microfinance institutions, sharia insurance, Shariah reinsurance, sharia mutual funds, sharia bonds and sharia medium-term securities, sharia securities, sharia financing, sharia pawnshops, pension funds of Islamic financial institutions and sharia business. The scope of the field of sharia economics for judges who have been certified in sharia economics is contained in the formulation of Article 5 paragraph (2) of this PERMA.

To produce a genuinely qualified sharia economy certified judge, Religious Court judges who want to be appointed as sharia economics judges must meet the following criteria:

1. Administrative Requirements²⁶
2. Competence Requirements;²⁷

²⁵More details can be seen in the formulation of Article 4 of PERMA Number 5 of 2016.

²⁶ Yang termasuk persyaratan administrasi meliputi sehat jasmani dan rohani (Pasal 6 ayat 2 huruf a) dan telah menjabat sebagai hakim selama 8 tahun (Pasal 6 ayat 2 huruf b PERMA Nomor 5 Tahun 2016 tentang Sertifikasi Hakim Ekonomi Syariah.

²⁷ Dalam Pasal 6 ayat 3 dikemukakan bahwa persyaratan kompetensi untuk dapat diangkat menjadi hakim ekonomi syariah antara lain: (a) mampu memahami norma-norma hukum ekonomi syariah; (b) mampu menerapkan hukum sebagai instrumen dalam mengadili perkara ekonomi syariah; (c) mampu melakukan penemuan hukum (*rechtsvinding*) untuk mewujudkan keadilan; dan (d) mampu menerapkan pedoman beracara dalam mengadili perkara ekonomi syariah.

3. Integrity Requirements;²⁸
4. Attend the Training; and
5. Declared passed by the selection team

III. METHODOLOGY

This type of research is descriptive qualitative, a type of research to understand the phenomenon of what the research subject experiences in an exceptional natural context.²⁹ The natural phenomenon referred to is how there is a relationship between PERMA Number 5 of 2016 concerning Sharia Economic Judge Certification and the Supreme Court's policy in increasing the knowledge of Religious Court judges in the field of Sharia economics, the implementation of certification activities, and the results obtained by judges after participating in the certification program, which is then given meaning. This research location focus of the researcher is the office of the Supreme Court of the Republic of Indonesia, which is domiciled in the Special Capital Region (DKI) Jakarta and Bogor Regency, West Java Province. With a methodological approach, namely case studies, normative approaches, human resources (HR), and sharia economic law approaches—data collection techniques with observation, interviews, and documentation. In addition, this research also uses *library research* through primary and secondary data—the technique of in-depth data analysis by reducing data, presenting data, and drawing conclusions.

IV. RESULT AND DISCUSS

Policy to Increase Knowledge of Religious Justice Judges in the Field of Sharia Economics

a. Supreme Court Policy in Developing Human Resources in the Field of Sharia Economy.

The Religious Court is one of the judicial bodies in Indonesia. The Religious Court has the main task of accepting, examining, adjudicating, and resolving certain cases submitted by the Indonesian Muslim people and those who are not Muslim but (deliberately) submit themselves to Islamic law. Moreover, to support the main task of resolving the case, adequate human resources are needed for the person in charge of the main task, namely carrying out law enforcement activities within the Religious Court environment.

One of the critical human resources that the Religious Court has is the judge. Judges are central figures in the judicial process. He is always required to build intellectual intelligence, including emotional intelligence and spiritual intelligence. If intellectual, emotional, moral, and spiritual intelligence is awakened and well maintained, it will provide benefits to oneself and society in the context of law enforcement.³⁰

The main task of the judge is to uphold justice.

It is mandated in Article 2 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power and in the formulation of Article 57 paragraph (1) of Law Number 7 of 1989 concerning Religious Justice. The article reads, "Justice

²⁸Persyaratan integritas sebagaimana dimaksud pada Pasal 6 ayat (1) huruf c PERMA Nomor 5 Tahun 2016 adalah tidak sedang dalam menjalani hukum disiplin.

²⁹Lexy J. Moleong, *Qualitative Research Methodology* (Cet. XXXI; Bandung: PT. Juvenile Rosdakarya, 2013), p. 6.

³⁰Judicial Commission of the Republic of Indonesia, *Grand Design of Judge Capacity Building* (Jakarta: Bureau of Recruitment, Advocacy and Capacity Building of Judges of the Judicial Commission of the Republic of Indonesia, 2013), p. 11.

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is done For The Sake of Justice Based on the One True God." The norms of the article have become part of the formal provisions when judges make decisions known as the *irah-irah*, "For the Sake of Justice Based on the Almighty Godhead."³¹

In the description of Article 13 of Law Number 3 of 2006 concerning the (first) amendment to Law Number 7 of 1989 concerning Religious Justice, it is explained that a person who will become a judge in the (environment) of the Religious Court, in addition to having to meet the general requirements, as usual, must also have a background in sharia scholars or legal scholars who master Islamic law. This specificity is correlated with the tasks that will be carried out later, namely enforcing Islamic law, including (sharia economic law). Moreover, the judge is inseparable from the adagio, "*is curia novit*," that the judge is presumed to know all the laws.

Over time, as a form of support for the new authority of the Religious Court in the sharia economy, the Supreme Court has made various policies. The Supreme Court has issued Supreme Court Regulation (PERMA) Number 2 of 2008 concerning the Compilation of Sharia Economic Law. This regulation is known as "KHES" in the Religious Court environment. That for the smooth examination and settlement of sharia economic disputes as referred to in Article 49 letter i along with explanations, Law Number 3 of 2006 concerning Religious Courts, Law Number 19 of 2009 concerning State Sharia Securities, Article 55 of Law Number 21 of 2008 concerning Sharia Banking, it is necessary to make guidelines for judges regarding economic law according to sharia principles. It is one of the Perma considerations consisting of 790 articles.³²³³

The expansion of the authority of the Religious Court is a new phenomenon that must be faced by all ranks (employees and judges) within the Religious Courts. On the one hand, religious court judges already have an educational background in Islamic law but have not handled disputes related to the Islamic economy, so their insight into the Islamic economy is minimal. On the other hand, the Religious Courts must also have special judges capable of handling sharia economic disputes that the judges are required to understand all their competence matters.³⁴

Supporting the development of the competence of Religious Justice judges in the field of sharia economics, in one of the activities, Andi Syamsu Alam, former Young Chairman of the Religious Justice Environmental Affairs (Uldilag) of the Supreme Court of the Republic of Indonesia (now his nomenclature is the Chairman of the Religious Justice Chamber) once said that in the field of human resource development, a system of technical guidance and

³¹Law Number 7 of 1989 concerning Religious Justice has been changed twice. The first is with Law Number 3 of 2006, and the second with Law Number 50 of 2009. Of the two changes in the law, the authority of sharia economic disputes becomes the absolute authority of religious justice contained in the first amendment law.

³²PERMA Number 2 of 2008 was published in Jakarta on September 10, 2008 by Bagir Manan, the chief justice of the Supreme Court of the Republic of Indonesia at that time.

³³Center for the Study of Islamic Law and Civil Society, *Compilation of Sharia Economic Law* (revised edition; Jakarta: Kencana Prenada Media Group, 2009), p. x.

³⁴Syaifuddin, *Sharia Banking Dispute Resolution*, in Siti Nurhayati, *Strengthening the Role of Religious Court Judges in Resolving Sharia Banking Disputes After the Constitutional Court Decision Number 93/PUU-X/2012*, *Yudisia Journal*, Vol. 7 No. 2, December 2016, p. 325. <https://journal.iainkudus.ac.id/index.php/Yudisia/article/view/2157/1786/> (July 1, 2021)

training of Religious Justice Human Resources must be strengthened. This includes the Islamic economy.³⁵

According to existing data, from 2016 until now, or since the issuance of PERMA Number 5 of 2016, there have been around 649 (six hundred and forty-nine) Religious Court judges who have obtained certificates to resolve sharia economic disputes. The Research and Development Agency issued the certificate for Law and Justice Education and Training (Balitbangdiklatkumdil) of the Supreme Court, whose activities are centered in Mega Mendung, Bogor Regency, West Java. When combined with certification activities, technical guidance, and various other pieces of training held, starting from 2010 until now, there are now 1,145 (one thousand one hundred and forty) judges within the Religious Courts from 3,252 (three thousand two hundred and fifty-two) Religious Court judges spread throughout Indonesia who has participated in the Sharia Economic Judge Certification Training activities.³⁶

Religious Justice Judges who have been certified in sharia economics as intended by PERMA Number 5 of 2016 currently number 649 people. Those who are certified are sourced from two processes. First, those who participate in training follow Perma's provisions— from recruiting participants by the Directorate General of Badilag, taking *pre-tests* and interviews by the selection team, implementing training, to *post-tests*. Second, those allowed to participate in the equalization activities of sharia economic judge certification. This second activity is aimed at those who have participated in sharia economic training activities, such as training in Riyadh, Saudi Arabia, and those who have participated in the Sharia Agreements Training by the Supreme Court Judicial Technical Training Center. The targets of the Sharia Contract Training activities are already seniors in the rank of judges.³⁷

b. The Urgency of issuing PERMA Number 5 of 2016 concerning Certification of Sharia Economic Judges

The Religious Court is the only institution authorized to resolve sharia economic disputes. The Supreme Court, as the institution that houses the judiciary in Indonesia, including the Religious Courts. is aware of the anxiety mentioned above. The various ways have been carried out to improve *religious court judges' capacity building and quality in resolving sharia economic disputes*.

Certification is carried out not because religious court judges are "unable" to resolve sharia economic disputes. However, as a legal umbrella for the implementation of the certification. PERMA is a legal umbrella that can "order" Pusdiklat to carry out certification activities. Without it, Pusdiklat cannot carry out certification activities.³⁸

³⁵Alimuddin, "Renewal of Religious Justice from the Glasses of H. Andi Syamsu Alam; Testimony of Pak Tuada's Birthday", (*Article on the official portal of the Religious Justice Agency of the Supreme Court of the Republic of Indonesia*) <https://badilag.mahkamahagung.go.id/artikel/publikasi/artikel/pembaruan-peradilan-agama-dari-kacamata-h-andi-syamsu-alam-oleh-alimuddin-122/> (July 1, 2021).

³⁶This data was obtained by researchers from one of the employees of the Directorate General of Badilag who knew data about religious court judges who had been certified in sharia economics.

³⁷Suhadak (58 years old), High Judge at the Balitbangdiklatkumdil of the Supreme Court of the Republic of Indonesia, *Interview via zoom*, Jakarta, June 17, 2021.

³⁸Amran Suadi (67 years old), Chief Justice/Chairman of the Religious Justice Chamber of the Supreme Court of the Republic of Indonesia, *Interview*, Jakarta, May 31, 2021.

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That the certification of sharia economic judges is one step that must be done with clear rules, sharia economics judge certification is the same as other certifications (judges). Rules must support it—for example, the Certification of Environmental Judges and the Certification of Typical Judges. There must be a rule in favor. Without supporting regulations, certification activities cannot be carried out.³⁹

PERMA Number 5 of 2016 concerning Certification of Sharia Economic Judges was signed by the Chief Justice of the Supreme Court on April 19, 2016, and promulgated a day later, on April 20, 2016. That sharia economic cases need explicitly handled by Religious Court judges who understand business theory and practice based on sharia principles. It is contained in one of the PERMA considerations consisting of 27 articles. The same thing is also stated in Article 3 of the PERMA that the certification of sharia economic judges aims to increase the effectiveness of handling sharia economic cases in the Religious Courts / Syar'iyah Courts as part of efforts to enforce sharia economic law that meets the sense of justice.

As a follow-up to the issuance of PERMA Number 5 of 2016 concerning sharia economic judge certification, the Chief Justice then issued 3 (three) decrees to support the implementation of the Sharia Economic Judge Certification. The three letters in question can be described as follows:

- 1) Decree of the Chief Justice of the Supreme Court Number 84 / KMA / SK / V / 2016 concerning the Establishment of a Special Team in the Sharia Economic Judge Certification System.

The Decree of the Chairman of the Supreme Court (SK KMA) was challenged on May 13, 2016, by Muhammad Hatta Ali. The strategic component of certification training is the curriculum and teaching materials. The curriculum is a plan, idea, and hope that must be realized in real terms in education and training to lead training participants to achieve their goals. The unique team shown in the KMA Decree is tasked with analyzing the needs of education and training, compiling curriculum, teaching materials, and learning methods, as well as written test materials which are part of the final stage of selection for certification of Sharia economic judges.⁴⁰

- 2) Decree of the Supreme Court Chief Justice Number 85 / KMA / SK / V / 2016 concerning the Establishment of a Selection Team for Certification of Sharia Economic Judges.

In addition to the above, a KMA Decree Number 85 / KMA / SK / V / 2016 was also issued. In one of the considerations, it was explained that to obtain quality human resources, the selection is needed. Selection is a process used to choose among the human resources that best meet the criteria, are of high quality, and according to needs—included in the certification activities of sharia economic judges for getting prospective participants of the Sharia Economics Judge who meet the qualifications, it is necessary to form a team that will select the candidates for the Sharia Economics Judges. Thus the consideration of the letters b and c of the KMA SK above.

³⁹Amran Suadi (67 years old), Chief Justice/Chairman of the Religious Justice Chamber of the Supreme Court of the Republic of Indonesia, *Interview*, Jakarta, May 31, 2021.

⁴⁰More information can be seen in the description of the consideration letter a of the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number 84 / KMA / SK / V / 2016.

- 3) Decree of the Supreme Court Chief Justice Number 86 / KMA / SK / V / 2016 concerning establishing a Teaching Team for Training for Certification of Sharia Economic Judges.

One factor that determines the success of education and training (Diklat) is the teaching staff who master the teaching material and deliver the teaching material with a method that the training participants can digest. So to realize the training mentioned above, professional teaching staff are needed and have experience and expertise in their respective fields. It reads the consideration of letters a and b of the KMA Decree Number 86 / KMA / SK / V / 2016, signed on May 13, 2016, as a continuation of the previous two KMA decrees.

The three regulations above are a follow-up policy of the Supreme Court in accelerating the realization of PERMA Number 5 of 2016 concerning Certification of Sharia Economic Judges. In addition, the three KMA decrees above are further explanations as referred to in the norms of the articles contained in the PERMA.

V. CLOSING

Since sharia economic disputes became the absolute authority of the Religious Court, the Supreme Court has done so much to the point of issuing several regulations to support this authority. One of the policies produced was the issuance of Supreme Court Regulation (PERMA) Number 5 of 2016 concerning the Certification of Sharia Economic Judges. With the PERMA issuance, many Religious Court judges have been certified in Sharia Economics after participating in the Sharia Economic Judge Certification Training. However, several article norms in the PERMA need to be criticized. *First*, the administrative requirements for prospective participants in the Sharia Economic Judge Certification Training require an 8-year term of office. *Second*, about the implementation of the Sharia Economic Judge Certification Training activities, which mention 12 (twelve) days of implementation—*third*, related to the incentives given to certified judges of Islamic economics. There should be a particular policy so that religious court judges certified in sharia economy can be placed in religious courts that have the potential to resolve sharia economic disputes.

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