The Existence and Development of Compilation of Sharia Economic Law (KHES) and Its Urgency in Resolving Sharia Economic Law Disputes in Indonesia

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Abstract: This research delves into Sharia Economic Law (KHES) as a regulatory framework for resolving Sharia economic disputes in Indonesia, examining its historical, political, and philosophical dimensions alongside its practical urgency. Employing a qualitative literature review, it analyzes secondary data from various sources such as books, journals, and research findings to elucidate KHES's development and its significance in dispute resolution. KHES was established in response to Law No. 3 of 2006, which expanded the jurisdiction of Religious Courts in Sharia economic matters. It harmonizes diverse scholarly opinions from traditional sources like fiqh texts and fatwas issued by DSN-MUI, providing a legal compass for Muslim economic activities. Despite not being formally ranked within Indonesia's legislative hierarchy, KHES, born out of PERMA No. 2 of 2008, serves as a key legal reference for Religious Court judgments and informs legal deliberations on Sharia economic issues. Efforts are underway to potentially elevate its status to that of Government Regulations, ensuring its broader enforceability within the Indonesian legal system.

Keywords: Dispute Resolution, Fiqh Muamalah, Sharia Economic Law.

INTRODUCTION

As a constitutional state, as stated in Article 3 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, Indonesia has elevated law as the commander.¹ It means that all elements of the nation, from the people to the government, including the president as the head of government, as well as law enforcement officials, are required to obey and comply with the law. On a broader level, all government policies must be based on the law, and consequently, no subject is exempt from the law; all are equal before the law (equality before the law).² The consequence is that no subject should be subjected to legal sanctions unless proven to have violated the law (the principle of legality).³

Throughout its journey, the law applicable at specific times and places, known as positive law, particularly in Indonesia, undergoes development and changes in line with societal advancements, including social, cultural, economic, and political aspects. Law evolves and adapts to changes in time and place, following the principle of تغير الأحكام بتغير الأزمان, which essentially means that legal changes due to changing times are inevitable. In history, Imam Shafi’i, for instance, revised many of his fatwas delivered in Baghdad after he moved to Egypt, where the social conditions were vastly different. This led to the distinction between Qaul Al Qadim (old fatwa or view) from the Baghdad period and Qaul Al Jadid (new fatwa) from the period in Egypt. One of his famous fatwas was, "A transaction must take place in the same room with physical presence." In today’s era, such a fatwa is challenging to implement in many cases, as transactions often occur through ATMs or mobile phones.4

In the context of Indonesian identity, it can be understood that since the establishment of the Republic of Indonesia, it was agreed that Indonesia is a unitary state in the form of a republic. Despite the majority of the population being Muslim, the founding fathers of this nation never declared it as an Islamic state, or even merely a state based on religion.5 However, the convergence of Islamic law within the national legal system has a distinct nuance and color. Islam, as an integral part of Indonesian culture deeply rooted for a long time, becomes inseparable from the content of positive legal norms.6 This is evident in the enactment of several laws, such as Law No. 1 of 1974 concerning Marriage, the Waqf Law, the Zakat Law, the Sharia Banking Law, the National Sharia Securities Law (SBSN), and several other regulations at lower levels, such as Bank Indonesia Regulations (PBI) and Financial Services Authority Regulations (POJK) regarding Sharia Financial Institutions or Sharia Microfinance Institutions. Additionally, there are Islamic Law Compilations based on Presidential Instructions and Sharia Economic Law Compilations under the auspices of the Supreme Court regulations.

With the growing literacy of society regarding Islamic economics supported by the Political Will of the Indonesian government, which aims to establish Indonesia as the global center for Islamic economics by 20247, and in line with the global economic trend increasingly favoring halal economy or the halal industry ranging from halal tourism, halal food, halal fashion to halal cosmetics and halal pharmacy8, the projected legal framework to oversee the development of Islamic economics along with

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5. “With the Obligation to Implement Islamic Sharia for its Followers.” However, the fact remains that the framers of Pancasila were open-minded in removing these seven words to accommodate the wishes of our fellow Indonesian citizens in the eastern regions, who are predominantly non-Muslim. See Ali Ahmad Yenuri, “The Removal of Seven Words in the Jakarta Charter in the Theory of Sadd Dzari’ah,” Journal Mabahits; Journal of Family Law, https://e-jurnal.uas.ac.id.


its dynamic challenges becomes a necessity that must be prioritized. In this regard, policies related to the halal industry such as halal certification, improvement of infrastructure supporting halal tourism, the emergence of various regulations related to Islamic economics including the expansion of the authority of the Religious Courts which can bridge disputes related to Sharia business can be considered as highly strategic legal-political steps. Especially in the technical implementation of Sharia-based economic activities, the community of economic actors based on Sharia contracts is provided with comprehensive and versatile guidance through fatwas issued by the National Sharia Council of MUI (Indonesian Ulema Council)\(^9\) and the Compilation of Sharia Economic Law (hereinafter referred to as KHES).

KHES, whose formal legality is based on Supreme Court Regulation No. 2 of 2008, is specifically designed as the legal framework and primary reference for judges within the Religious Courts (hereinafter referred to as PA). This is in response to Article 49 of Law No. 3 of 2006 Concerning Religious Courts, which mandates the expansion of the PA’s authority. In addition to handling cases related to Marriage, Divorce, Reconciliation, and Inheritance (NTRCW), the resolution of Sharia economic disputes remains an intriguing subject worthy of discussion from historical, political, and philosophical perspectives, concerning the urgency of KHES as the central guideline for judges in the Religious Courts in resolving Sharia economic legal disputes. Furthermore, the opportunities, challenges, and strategic steps to enhance the legal strength of KHES into a broader and more binding legislative regulation will be briefly and deeply explored in this research paper.

METODOLOGI
This literature review utilizes a qualitative approach to search for and discover qualitative secondary data from books, scholarly journals, research findings, and articles published both online and in print. These secondary data are then analyzed normatively to find answers to the research problem, which is the existence and development of the Compilation of Sharia Economic Law (KHES) in Indonesia and its urgency in resolving Sharia economic disputes in Indonesia from historical, political, and philosophical perspectives.

RESULTS AND DISCUSSION
Definition, Division and Nature of Law
Law is an essential part of a legal state, and academically, there are various perspectives on the meaning of law. Generally, scholars define law as a set of rules, such as Legislation, which may be influenced by the Roman law tradition (Continental Europe) that emphasizes written law. However, there is also a view that law is a binding judicial decision, even having legal force like legislation, although it emphasizes the subjective values of justice from judges, which is more in line with the unwritten Anglo-
Saxon legal tradition. In this regard, researchers choose the definition of law according to Mochtar Kusumatmadja, namely a set of rules and principles used to create order in society, through existing institutions and processes.

Based on this definition, law is seen as rules that can be written, while legal principles are the values underlying those rules, which may also include unwritten laws. The main purpose of law is to create order in society, and the concept of due process of law is also represented by the existence of institutions and processes used to make and enforce the law.

The nature of law in general can be distinguished into laws that regulate and laws that enforce, and the purpose of law is to create order in society, as well as to ensure justice, legal certainty, and benefits perceived by society.10

**The Hierarchy of Legislation**

According to Hans Kelsen, there are essentially two categories of norms in law, namely norms that are inferior and norms that are superior. Regarding these two norms, the validity of the lower norm can be tested against the norm hierarchically above it. Building on Hans Kelsen's theory, Hans Nawiasky further elaborated that the arrangement of legal norms is structured in a hierarchical legal framework in the form of a stupa (Stufenformig), consisting of certain parts (Zwischenstufe). The hierarchy of these parts includes *Staatsfundamentalnorm* (fundamental norm), *Staatsgrundgesetz* (fundamental and broad norm, which can be spread across several regulations), *Formellgesetz* (concrete and detailed in nature), *Verordnungsatzung* (implementing regulations), and *Autonome Satzung* (autonomous regulations).11

In Indonesian legislation, there is also a known hierarchy or classification based on levels. This can be found in Article 7 paragraph (1) of Law No. 12 of 2011 concerning the Formation of Legislation, which explains that the types and hierarchy of legislation in Indonesia consist of: the Constitution of the Republic of Indonesia Year 1945; Resolutions of the People's Consultative Assembly; Laws/Government Regulations in Lieu of Law; Government Regulations; Presidential Regulations; Provincial Regional Regulations; and District/City Regional Regulations.12

Based on these provisions, it can be understood that the highest hierarchy of legislation in Indonesia is the 1945 Constitution. It is important to note that the legal force of legislation mentioned applies according to its hierarchy, and lower-level legislation must not contradict higher-level legislation. Other types of legislation besides those mentioned above include regulations established by: the People's Consultative Assembly, the House of Representatives; the Regional Representative Council; the Supreme

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10 According to Article 6 of Law No. 12 of 2011, the substance of legislation reflects the principles of protection, humanity, nationality, familial ties, archipelagic principle, unity in diversity, justice, equality before the law and government, order and legal certainty, balance, harmony, and compatibility.


12 Refer to Article 7 paragraph (2) of Law Number 12 of 2011 concerning the Formation of Legislation (“Law 12/2011”) and its explanation.
Court; the Constitutional Court; the Supreme Audit Board; the Judicial Commission; Bank Indonesia; and Ministers.\(^{13}\)

**The History of the Formation of the Compilation of Sharia Economic Law (KHES) from Political and Philosophical Perspectives**

The culture of Indonesian society is known for being deeply rooted in values derived from religion, where Islamic teachings are the most dominant and widely embraced by its people.\(^ {14}\) With its comprehensiveness, Islam can accommodate all aspects related to the needs of society, whether they are of a worship nature, such as the rituals of prayer, fasting, performing Hajj, paying Zakat, etc., or those related to transactions (*muamalah*), which predominantly regulate human relations, including matters concerning marriage (*munakahat*) and transactional relationships related to wealth transfer in business, such as buying and selling transactions (*murabahah*), leasing (*ijarah*), cooperation (*musharakah*), and debt obligations (*mudarabah*), as well as social-based transactions such as zakat, infaq, sadaqah, endowment, and inheritance.

In the practice of *muamalah* in some countries, there are differences in the patterns of law established by governmental authorities, including the pattern of duplicating the opinions of certain schools of Islamic jurisprudence without making changes, the pattern of secularizing the teachings of jurisprudence that prioritize globally-based values aligned with the West, and the pattern that adopts the opinions of jurisprudence schools to be subsequently adjusted with contemporary ijtihad-based values. In Indonesia, the development of Islamic economics can be said to be progressing positively and advancing. This progress is not only seen in the variety of businesses following the global Islamic business trends but also in the serious support from the government in overseeing the development of Islamic economics through the creation of legislation and ample space for scholars to engage in ijtihad through fatwas, under the auspices of the National Sharia Board of the Indonesian Council of Ulama (DSN-MUI).

The Indonesian pattern, which always prioritizes a moderate position (*tawassuth*), remains aligned with the views of scholars of jurisprudence, opening the door for ijtihad on contemporary issues by prioritizing the achievement of common good, which is then strengthened by adopting these values into legislation, thus becoming a distinctive characteristic of Indonesian *fiqh* products. One such indication is the enactment of Law No. 3 of 2006 concerning amendments to Law No. 7 of 1989 concerning Religious Courts.

As described above, regarding the expansion of authority of the Religious Courts, precisely in Article 49 of Law No. 3 of 2006, the Religious Courts have the authority to settle Sharia Economic disputes. In this regard, Article 2 jo. Article 49 of Law Number 3 Year 2006 concerning Amendment to

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\(^{13}\) Refer to Article 8 paragraph (2) of Law Number 12 of 2011 concerning the Formulation of Legislation (“Law 12/2011”) and its explanation

\(^{14}\) In general, the predominant school of thought followed by the Indonesian society is the Shafi‘i school of thought, known for its strictness and caution, which is predominantly practiced or used in worship rituals (ta‘abbudi) and marital matters (munakahah). Meanwhile, in transactional practices (mu‘amalah), it appears that people tend to choose opinions from other schools of thought, such as the Hanafi school (madzhab ahnaf), which is known for its flexibility and rationality. (Syafiful Anwar, et al., "The Shafi‘i School of Thought as a Paradigm in the Thought and Determination of Islamic Law in Indonesia," *Varia Hukum: Journal of Legal Studies and Society Forum*, Vol. 5 No. 2, July 2023, pp. 101-123).
Law Number 7 Year 1989 concerning Religious Courts states that the duties and authority of the Religious Courts include examining, deciding, and resolving specific cases among Muslims in the field of: Marriage; Inheritance; Bequests; Grants; Endowments; Zakat; Infaq; Sadaqah; Sharia economics. "Sharia economics" refers to actions or business activities conducted according to Sharia principles, including but not limited to: Islamic banks; Sharia microfinance institutions; Islamic insurance; Reinsurance sharia; Sharia mutual funds; Sharia bonds and medium-term Islamic securities; Sharia securities; Sharia financing; Sharia pawnshops; Sharia financial institution pension funds and Sharia businesses.

In Law No. 3 of 2006, the Supreme Court deemed it necessary to process materials to become positive law that can be applied in Religious Courts because the substantive law of Law No. 3 of 2006 is still incomplete and even if it exists, it is considered raw, thus the KHES was established in accordance with Supreme Court Regulation No. 2 of 2008.¹⁵

The formation of the Compilation of Sharia Economic Law (KHES) by the Supreme Court of the Republic of Indonesia began with the establishment of the KHES drafting team based on Decree No. KMA/097/SK/X/2006 dated October 20, 2006, chaired by Prof. Dr. H. Abdul Manan. The task of the KHES drafting team was to gather and process the necessary materials, draft the KHES manuscript, conduct reviews of the draft manuscript through discussions and seminars with institutions, scholars, Sharia economics experts, and report the results of the KHES drafting to the Chief Justice of the Supreme Court.

The stages pursued by the drafting team in preparing the KHES were as follows: First, adjusting the mindset (united legal opinion) was done by holding seminars with speakers from Sharia economics experts from universities, the Indonesian Ulema Council (MUI), or the National Sharia Council, the Sharia Arbitration Board (BASYARNAS), Sharia banking practitioners, and judges from both general courts and religious courts. Second, finding the ideal format (United legal framework) in drafting the KHES was done by holding meetings with Bank Indonesia to seek input on all aspects related to Sharia economics and the guidance provided in Sharia banking. In addition to meetings with Bank Indonesia, a seminar was also held with speakers from Sharia economics experts from Bank Indonesia, the Center for Sharia Economics Communication (PKES), the Indonesian Ulema Council (MUI), the Association of Sharia Economics Experts, and legal practitioners. Third, conducting a literature review (library Research) where the drafting team conducted a review of contemporary economic literature written by experts in Sharia economics and conventional economics, as well as literature from within and outside the country. This was done to complement the literature review in the preparation of the KHES.¹⁶

The drafting team also conducted comparative studies at the Center for Islamic Economics Studies at the International Islamic University (UII) Kuala Lumpur, the Takapul Center in Malaysia, Islamic Financial Institutions, and the Banking Dispute Resolution Institutions in Kuala Lumpur, Malaysia. Comparative studies were also conducted at the Center for the Study of Islamic Economic Law at the International Islamic University (UII) Islamabad, the Federal Shariah Court of Pakistan, Mizan Bank Islamabad Pakistan, Bank Islam Pakistan, and several Shariah-compliant financial institutions in

¹⁶ Ibid
Islamabad, Pakistan. Additionally, the drafting team conducted studies on Islamic jurisprudence books, Fatwas issued by MUI-DSN, and regulations related to Islamic banking.

From the above stages, the compilation book was born, which gathers information on Sharia economic law based on the decision of the Supreme Court of the Republic of Indonesia No. 2 of 2008 concerning the Compilation of Sharia Economic Law, which is a unification of muamalat fiqh taken from various sources and views of fiqh scholars from various schools of thought, which of course are based on agreed-upon evidence from the Quran and Hadith.

The Anatomy of KHES

The Compilation of Sharia Economic Law (KHES) was born with a variety of materials within it, consisting of 4 Books and 796 Articles, namely:

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<th>No</th>
<th>Book</th>
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<tr>
<td>1</td>
<td>Book I</td>
<td>&quot;Regarding the Subject of Law and Property (Amwal), which consists of 3 Chapters with 19 Articles. Including: Chapter 1. on general provisions, Chapter 2. containing the subject of law, and Chapter 3. containing property (Amwal).&quot;</td>
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| 4 | Book 4 | "Regarding Sharia Accounting, Consisting of 7 Chapters with 62 Articles, Including: Chapter 1. Scope of Sharia Accounting, Chapter 2. Receivables Accounting, Chapter 3. Financing Accounting, Chapter 4. Liability Accounting, Chapter 5. Unrestricted Investment Accounting, Chapter 6. Equity Accounting, Chapter 7. Zakat, Infaq, and Loan Accounting."

The provisions of KHES that refer to the Qur'an, Sunnah, Ijma', and Qiyas are reflected in the regulations regarding property, contracts, sale and purchase, salam transactions, and others. Meanwhile, those referring to disputed legal sources can be seen in case-to-case scenarios, such as the use of *istihsan* allowing for forward contracts (*bai' as-salam*) and *istikna*, even though these practices were not prevalent during the time of the Prophet Muhammad. Likewise, considerations of *maslahah* or *istislah* and *'urf* (custom) are also evident in the articles of KHES.

Essentially, with the formation of KHES, it has accommodated all schools of thought that have different methods of *istidlal* (legal reasoning), as the business practices of Muslims tend to align more with the more flexible schools such as the Hanafi, Maliki, and certain Hambali scholars (not Imam Ahmad's). Even though in Southeast Asia, adherence to the Shafi'i school of thought in matters of worship follows the more cautious and strict approach, particularly regarding avoiding *talfiq* (mixing of legal rulings). Furthermore, in the articles of KHES, the influence of fatwas issued by MUI-DSN (Indonesian Council of Ulama - National Sharia Board) is evident. Therefore, it can accommodate the sociological reality of the Muslim community and consider the opinions of scholars as grassroots input for issuing fatwas. Thus, considering the content of KHES, both in its formulation and discussion, the product of KHES is a collective *ijtihad* (juridical reasoning) performed by legal practitioners (judges), academics, ulama (scholars from MUI), and Sharia banking practitioners in their respective fields.

**Convergence of the Compilation of Sharia Economic Law (KHES) in the National Legal System**

As a legal state, Indonesia adheres to three legal systems simultaneously, which live and evolve in society, namely the civil law system, customary law system, and Islamic law system. These three legal systems complement each other, are harmonious, and romantic. Generally, it can be said that Islamic law influences the legal framework in Indonesia because the majority of the population in Indonesia adheres to Islam, allowing Islamic law to become an important and influential part of the legal system in

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Indonesia. Meanwhile, customary law, as the original law that grows and develops from the customs of society, influences the process of law enforcement in Indonesia. Even the values contained in customary law and Islamic law in Indonesia are used in the formation of jurisprudence in the Supreme Court.\textsuperscript{18}

The entire national legal framework can be referred to as the national legal system. There are still known legal systems such as civil law system, criminal law system, administrative law system, and others. In civil law itself, there are legal systems such as family law, property law, wealth law, and so on. The legal system is an open system (having reciprocal contact with its environment). The legal system is a unity of elements (namely regulations, decisions) influenced by cultural, social, economic, historical, and other factors. Conversely, the legal system influences determinants outside the legal system itself. Legal regulations are open to different interpretations. Because of this, development is always occurring. According to Lawrence M. Friedman, as quoted by Yuliana Saputra, a legal system in its actual operation is a complex organism in which structure, substance, and culture interact. Structure is one of the bases and tangible elements of the legal system. Substance (regulations) is another element.\textsuperscript{19}

In the treasury of legal science, several legal systems are known, namely: Civil Law System, Common Law System, Socialist Law System, Islamic Law System, Canon Law System, Customary Law System, and European Community Law System. The existence of KHES in the hierarchy of Legislation in Indonesia regulated in PERMA No. 2 of 2008 where the regulation of the Supreme Court is considered as a product of the judiciary institution which functions as the executor of judicial functions. The Supreme Court in the Law has five main functions, namely, judicial function, supervisory function, regulatory function, advisory function, and administrative function. In accordance with the mandate of the Law on the Supreme Court, which is authorized to issue a regulation that serves to fill legal voids in society. Meanwhile, regulations that have been issued by the Supreme Court function as delegated authority in making temporary legislation. In Article 7 of Law No. 12 of 2011 concerning the Formation of Legislation, it is stated that the hierarchy of legislation in Indonesia is as follows: 1. The Constitution of the Republic of Indonesia Year 1945. 2. Decisions of the People's Consultative Assembly. 3. Laws / Government Regulations in Lieu of Law. 4. Government Regulations. 5. Presidential Regulations. 6. Provincial Regional Regulations. 7. City / District Regional Regulations. Furthermore, in Article 8 of Law No. 12 of 2011, namely: First, types of legislation other than those referred to in Article 7 paragraph (1) include regulations stipulated by the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, the Supreme Court, the Constitutional Court, the Supreme Audit Agency, the Judicial Commission, Bank Indonesia, Ministers, agencies, institutions, or commissions at the same level established by Law or Government on the order of the Law, Provincial Regional Representative Councils, Governors, District/City Regional Representative Councils, Regents/Mayors, Village Heads or the equivalent.

Second, Legislation as referred to in paragraph (1) is recognized and has legal binding force as long as it is ordered by higher legislation or formed based on authority. With the provision of Article 8

\textsuperscript{18} Ibid
paragraph (2) of Law No. 12 of 2011, if related to the Supreme Court Regulation (PERMA), First, if viewed in terms of its position, PERMA is not included in the hierarchy of legislation, but has legal binding force as long as it is ordered by higher legislation regulating can be in the form of legislative acts or executive acts. Second, PERMA is an executive act where the Supreme Court forms the Supreme Court Regulation (PERMA) not in its position as a state institution and not as a higher legal product. So if viewed from the legislative discipline, the court's legal product, but as a government institution. Third, the Supreme Court Regulation (PERMA) is abstract-general in nature, while judicial decisions are individual-concrete in nature. However, the provision of Article 8 paragraph (2) does not give the Supreme Court the authority to establish legislation as a legislative body that applies generally, but the Supreme Court is only authorized to establish regulations that bind internally. Thus, the Supreme Court Regulation (PERMA) is not included in legislation, but rather pseudo-legislation (Pseudowetgeving/Beleidsgerels). Namely, if KHES is analyzed through the legislation approach, First, KHES is a written regulation. Second, KHES is not a legal norm that binds universally because essentially KHES is abstract in nature but only applies internally to the Supreme Court's authority. Third, KHES is not a regulation formed by an institution that has attributive or delegation authority to form legislation, but KHES is created by the Supreme Court only as guidance for judges to decide sharia economic cases. So the Determination of the Compilation of Sharia Economic Law (KHES) through the Supreme Court Regulation cannot be binding outside, because KHES only binds the religious court institution (internal rules) only.

The Urgency of the Compilation of Sharia Economic Law (KHES) in Resolving Sharia Economic Legal Disputes in Indonesia.

The Sharia Economic Compilation (KHES), as explained above, is a product based on the Supreme Court Regulation, specifically designed to serve as a reference or guideline for judges within the Religious Courts in examining, adjudicating, and deciding cases, particularly in the resolution of Sharia disputes in Indonesia, which is internally binding only for the judges.

In terms of the urgency of KHES as a reference for judges in the Religious Courts when examining and deciding Sharia economic disputes, it can be seen based on research conducted by Sofia Hardani. From 2013 to 2017, there were only six Sharia economic cases held in the Religious Courts province-wide in Riau, all of which were found in the Pekanbaru Religious Court. The limited number of cases filed is due to the availability of non-litigation dispute resolution alternatives. The procedures for Sharia economic dispute hearings are conducted according to the procedures stipulated in the civil procedural law applicable in the General Courts, as KHES has not yet regulated its own hearing procedures. In resolving disputes, judges refer to the articles contained in KHES and Sharia principles derived from the Quran and Hadith. So far, no judge's decisions based on jurisprudence, assessments, or judicial reasoning have been found. The challenges faced by the Religious Courts in handling Sharia economic cases include the lack of judges certified in Sharia economics, the insufficient qualifications of lawyers regarding Sharia economics, delays in replacing Sharia economics judges due to their reassignment, and the continued lack

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of trust from Sharia financial institutions towards the Religious Courts. The Religious Courts' strategy in addressing these challenges is by adequately preparing human resources and infrastructure.

**CONCLUSIONS**

Based on the above description, the researcher can conclude that the Compilation of Sharia Economic Law (KHES) was born in response to the enactment of Law No. 3 of 2006 concerning amendments to Law No. 7 of 1989 regarding Religious Courts concerning the expansion of the authority of religious courts, including in forming resolutions in the field of Sharia Economics. The formation of KHES represents a breakthrough and positivization of fiqh muamalat law within the regulations in Indonesia, thus providing guidance for Muslims in conducting transactions and having legal force. The existence of KHES distinguishes between Sharia economics and conventional economics and is formed by unifying the consensus of scholars found in yellow books (fiqh) and fatwas issued by DSN-MUI, in the simplicity of law that is in line with the Indonesian context to ensure legal certainty in Indonesia. KHES is an innovator and a new law born from Supreme Court Regulation No. 2 of 2008, serving as a reference in legal judgments by judges in religious courts and as legal considerations in Sharia economic issues. However, KHES is considered a pseudo-legislation (pseoude wetgeving/beleidsgerels) and is not included in the legislation in Indonesia, and it is hoped that its status can be elevated to a Government Regulation that can be binding, similar to other regulations in Indonesia such as the formation of the Compilation of Islamic Law (KHI) which is only based on Presidential Instruction No.1 of 1991.

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