

## THE DECLINE OF THE SHARIA ECONOMIC MEDIATION IN INDONESIAN RELIGIOUS COURT: THE CASES STUDY OF THE PURBALINGGA RELIGIOUS COURT

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**Abstract.** The implementation of court-mandated mediation in Indonesia raises the hope for better resolution in economic disputes, but the success of court-mandated mediation in Indonesia is considerably low. The extension of the role of Religious Court to deal with the disputes on sharia business marks the more attention to court-mandated mediation. The Religious Court of Purbalingga initially can be considered to be the successful religious court in Central Java in implementing mediation on sharia economic disputes but the number of sharia economic disputes brought to it tend to decline. This article is aimed to give brief picture of the implementation of court-mandated mediation in sharia economic disputes in Purbalingga Religious Court and to reveal the factors underlying the decline of the mediation of sharia economic disputes. Based on socio-legal approach, this study shows that the mediation of Islamic economic cases in the Religious Court of Purbalingga is held according to standard process, along with the understanding that mediation is closely related to Islamic mechanism of Islam. The main problems that hinder the implementation of court-mandated mediation in sharia economic disputes in it the issue of power imbalance and the unfavored result mediation which fail to come to agreement.

**Keywords:** economic disputes, court-mandated mediation, decline, power imbalance

## 1 Introduction

Having celebrated as the promising Alternative Dispute Resolution, mediation effectiveness in economic in Indonesian religious courts tend to decline including mediation of Islamic economic dispute. Mediation has been celebrated as good news to provide alternative channel for resolving disputes in Indonesian courts and to decrease unresolved cases in first courts as well as to provide an effective disputes resolution as well.<sup>1</sup> The optimism has led to the birth of the Act of Supreme Court (Perma) Number 1/ 2016, later revised to be Perma Number 1/ 2018. The Perma Number 1/ 2018 states that disputes on civil cases brought into court should be dealt with mediation before it may proceed into litigation process.

The optimism, however, is contrary to the reality that shows the decline of mediation effectiveness in religious courts. Report and research show that mediation on in Religious Courts have been proven declining their effectiveness. Indonesia Supreme Court revealed that the success rate of mediation was only under 5% in 2007 and declined to below 4% in 2014.<sup>2</sup> The decline also happens in sharia economic dispute mediation.

The research by Nisa, Busthami and Yunus (2020) of the mediation for resolving sharia economic disputes in Religious Court Makassar shows that it was ineffective for none of 15 cases dealt with mediation are resolved.<sup>3</sup> The research of Hayati, Busyro and Bustamar (2021) from Bukittinggi Religious Court from 2016 to 2019 come to the same conclusion that the mediation process were not effective.<sup>4</sup> The study of seven religious courts in Yogyakarta, Sleman, Bantul, Gunung Kidul, Temanggung, Purbalingga and Bandung by Setyowati, Musjtari and Susilowati (2021) conclude that mediation at those courts do not run successfully due to low achievement of it for resolving dispute, namely on average 18.1% (not yet reached  $\geq 50\%$ ) and Indrawati and Amelia (2023: 273-286) note to 9.95% success rate recorded between 2020 and September 2022 in Purworejo religious courts.<sup>5</sup>

The previous researches deem several factors that lead to the failure of mediation in Religious Courts. Firstly, there is the lack ability of the existing regulation to address ongoing social problems. Secondly, there are less uncertified judges available to handle mediation process. Thirdly, there no adequate facilities and infrastructure to support mediation process because mediation involve emotional management that require comfortable environments. Fourthly, the lack of awareness and understanding of mediation among parties that prevent them to see the benefit of mediation (Nisa,

<sup>1</sup> Bunyamin Alamsyah and Ulil Amri, "Meeting Points in the Middle of Disputes: The Urgency of Mediation in Realizing Effective and Equitable Religious Courts," *International Journal of Intersectionality: Law and Gender* 1, no. 1 (n.d.): 62-78.

<sup>2</sup> Puslitbang Hukum Peradilan Badan Litbang Diklat Kumdil MA RI, *Naskah Akademis: Mediasi* (Jakarta: MA RI, n.d.).

<sup>3</sup> Peradilan Badan Litbang Diklat Kumdil MA RI, *Naskah Akademis: Mediasi*.

<sup>4</sup> Peradilan Badan Litbang Diklat Kumdil MA RI, *Naskah Akademis: Mediasi*.

<sup>5</sup> Septi Indrawati and Riska Amelia, "Mediation Efficacy in Resolving Divorce Cases: A Case Study of the Purworejo Religious Court," *Journal of Judicial Review* 25, no. 2 (n.d.): 273-286, <https://doi.org/10.37253/jjr.v25i2.8571>.

Busthami and Yunus, 2020; and Hayati, Busyro and Bustamar, 2021). All the factors, revealed by the researchers, belong to external ones of mediation processes.<sup>6</sup>

Actually, the mediation on sharia economic disputes ever reached good progressed in Purbalingga Religious and those were called as good example or succes story of the implementation of mediation on sharia economic disputes. According to the data of sharia economic disputes 2015-2025 in Purbalingga Religious Court, there were 2 cases brought into it in 2015, 4 cases in 2016, 9 cases in 2017, and rose to 21 cases in 2018. However after four year consecutive rises, the economic disputes brought to it declined afterward where only 4 cases in 2019, 4 cases in 2020, 1 cases in 2021, and 1 cases in 2023. Most cases brought to Purbalingga Religious Court are related to musyaraka, muraba, and rahn.<sup>7</sup>

Initially, there were the rise of sharia economic disputes brought to Purbalingga Religious Courts and the high percentage of sucseess ever gained. From 13 disputes related to sharia economic disputes between 2016 to 2017, 2 cases (15.38%) were successfully resolved peacefully. The data show the higher percentage of success of mediation process related to Islamic economic dispute in Purbalingga Religious Courts. However, it has undergone considerable setback subsequently.

Studi by Harianto (2022) shows that the low percentage of sharia economic disputes brought to Religious Courts are caused by three reasons. First, the lack of complete and elaborate rules so support the resolution on shariah economic disputes. Second, the lack of facilities to cope with the need of quick and effective solution by sharia economic actors. Third, the lack of literacy among sharia economic actors to bring their disputes to religious courts.<sup>8</sup>

However, the cases of resolution of sharia economic disputes in Purbalingga Religious Courts indicates the occurence of power inbalance. This study thus focuses on revealing the factors that lead to the decline of mediation of sharia economic dispute in Purbalingga Religious Court in the lens of mediation principles. The article aims to describe the process of mediation in Purbalingga Religious Courts and to reveal the problems underlining the decline of economic disputes brought to Religious Courts Purbalingga. The article will provide brief picture of sharia economic disputes in Purbalingga Religious Courts and to deepen our understanding on why the need of mediation in it declining.

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<sup>6</sup> Indrawati and Amelia, "Mediation Efficacy in Resolving Divorce Cases: A Case Study of the Purworejo Religious Court."

<sup>7</sup> Ridwan Anwar, "Audit Eksternal ISO 9001:2008 Di PA Purbalingga," n.d., <https://badilag.mahkamahagung.go.id/seputar-peradilan-agama/berita-daerah/audit-eksternal-iso-9001-2008-di-pa-purbalingga-11-12>.

<sup>8</sup> Erie Harianto, "Public Trust in the Religious Court to Handle Dispute of Sharia Economy," *Ahkam Jurnal Ilmu Syariah* 22, no. 1 (n.d.): 185–208, <https://doi.org/10.15408/ajis.v22i1.26216>.

## 2 Research Methods

This paper is an attempt to see more clearly and analytically the implementation of the mediation of sharia economic disputes in the Purbalingga Religious Court, which is often seen as successful in terms of the quantity of mediation I 2017. However, afterward the mediation process on sharia economic disputes have decline steadily. Therefore, this study focuses on the implementation of mediation and on aspects that support or hinder the implementation of mediation.

This paper is based on field research. It is based on the thesis research by Miqdam Yusria Ahmad with Ahwan Fanani as supervisor in 2018 with inclusion of newest data. The research uses a socio-legal research approach, namely observing the implementation of the rule of law.<sup>9</sup> The researcher assumes that the judge's decision regarding sharia economic matters occurs because the results of the case investigation consider sociological factors. The focus of this study is the implementation of regulations regarding mediation procedures in court according to Perma Number 1/2016 and Perma Number 1/2018 in the context of sharia economic dispute resolution.

This study took place in the Purbalingga District Religious Court in Central Java and was conducted for two years, namely 2016-2017 with inclusion of newest data to cope newest trend and impact. The primary data obtained through interview, observation, and documentation. Interviews had been held with the head of Court, judges, and several parties. Observation had been conducted directly to the site, while written documents regarding the regulations on the object of research are obtained either in printed or online ones. Secondary data comes from library data containing information that supports discussions about mediating sharia economic disputes in religious courts and mediation in general. Primary legal material.

The research process is carried out through several stages. The steps of data analysis using that of Mile, Huberman, and Saldana (2014), namely data condensation, data display and drawing conclusion or verification. Data condensation includes the process of selecting, abstracting, and transforming data from interview notes, documents, and observation notes. Data display involves organizing data and uniting information to enables conclusion drawing. Drawing conclusion and verification starts from the process of collecting data to analyse the configuration, causalities, or pattern of data. The process will come to final one after coming to the analysis process.<sup>10</sup>

This study uses a socio-legal approach (sociological juridical) because this study will look at the conception of Islamic economic mediation practices in the field. juridical theoretical logic (law) as well as translator analysis of phenomena that occur in the field. For Harris, socio-legal study, according to Dan Harris, is the study of law and legal institutions from the perspectives of the social sciences (Wheeler, 2020). The socio-legal shows the interface between legal process and the context where the legal existed, either sociological, historical, or economic ones.<sup>11</sup>

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<sup>9</sup> Harianto, "Public Trust in the Religious Court to Handle Dispute of Sharia Economy."

<sup>10</sup> Harianto, "Public Trust in the Religious Court to Handle Dispute of Sharia Economy."

<sup>11</sup> Harianto, "Public Trust in the Religious Court to Handle Dispute of Sharia Economy."

### 3 Result and Discussion

The practice of mediation in the Religion court refers to the same norm as the norms applicable in Perma Number 1/2016 concerning Procedure for Mediation in Courts and then Perma Number 1/2018. The mediation is defined as a way of resolving disputes through the negotiation process to obtain agreement between the parties assisted by mediators, namely judges or other parties who have mediator certificates. The norm of implementing this mediation. Generally applied, does not distinguish whether the dispute in family law or sharia economic dispute. These norms are enforced with certain interpretations to bring mediation closer to the understanding of the judges, who most facilitate mediation.

The Chairperson of the Purbalingga Religious Court defines mediation by following the concept of peace in Islam, *islah*. *Islah* is a term of the Qur'an, which in the tradition of Islamic conflict resolution is known as *sulh*. *Sulh* is the mechanism of transforming conflict into peace agreement using reconciliative as well as participative approach.<sup>12</sup> According to Fanani (2013: 271), *sulh* is an umbrella for a variety of alternative conflict resolutions, both in interpersonal disputes, communal conflicts, and between countries with emphasize on the aspects of negotiation, mediation, and the combination of arbitrations.

The mediation implementation cannot be separated from the norms in Perma Number 1/2018, but there are adjustments in application due to cultural reasons. Hasanuddin, The Chairperson of the Purbalingga Religious Court, described the mediation as a legal process integrated in the procedural law. The mediation at the Purbalingga Religious Court, as long as both parties attended the trial, was carried out after the panel of judges sought peace and then proceeded with mediation. Before mediation the panel of judges motivated the parties to reconcile (Interview with Hasanudin on February, 20 2018). Mediation is conducted after *islah*, a peace effort before court failed.<sup>13</sup>

According to Perma Number/2018, mediation is mandatory. If peace and mediation efforts are not carried out, the decision will be null and void (*van rechtswege nietig*). This was confirmed by the Deputy Chairperson of PA Purbalingga, who was also a judge with Islamic economic competence and certified mediator at Purbalingga Religious Court.

There are several popular mediation types, namely settlement, facilitative, evaluative, and transformative, but in practice there is no defining model of mediation in the Purbalingga Religious Court. Instead, the Chair of the Religious Court emphasizes the mastery of mediation techniques by mediators and different approaches to different cases.<sup>14</sup> The approach referred to is intended more flexibility in dealing with case after case in accordance with the dynamics of communication. This suggests that

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<sup>12</sup> Harianto, "Public Trust in the Religious Court to Handle Dispute of Sharia Economy."

<sup>13</sup> Hasanudin, "Perkara Sengketa Ekonomi Syariah Di Pengadilan Agama Purbalingga Dan Penyelesaiannya," n.d., <http://pa-purbalingga.go.id/images/Data/artikel/sengketa-ek-syariah.pdf>.

<sup>14</sup> Andrew dan R.S.Ratner Woolford et al., *Mediation Frames/ Justice Games* (Oxon and Ney York: Routledge, n.d.).

the conceptualization of the mediation model has not been part of the practice of mediation carried out in the Purbalingga Religious Court.<sup>15</sup>

Stages of mediation in court Religion is formulated in the framework of formal administration and procedures. The pre-mediation stage is related to administrative issues. The litigant (civil) party registers the case to the court. The court then appointed a judge / panel of judges to examine the case. The judge requires litigants to take mediation and then explain the mediation procedure at the first hearing, even though mediation can be offered at all stages of the examination in the Court. The explanation of the judge includes the understanding and benefits of mediation, the obligation of the parties to attend the mediation meeting directly, the legal consequences of the behavior not having a good intention in the mediation process, and the costs that will arise when using a non-judge mediator. Indirectly, this pre-mediation stage has included the preliminary elements of mediation, namely regarding what mediation, benefits, processes, and cost issues (Interview with Hasanudin on February, 20 2018).<sup>16</sup>

Normative mediation is carried out after the first trial is held, which is no later than two working days after the first hearing is postponed by the parties and or the attorney chooses a mediator from the list of mediators, both judge mediators (not case examiners) or non-judge mediators. The panel of judges submits case resumes to the Mediator no later than 5 days after selecting the mediator. The stages of court mediation last for a maximum of 30 days after the order to conduct mediation, but if it has not reached an agreement, it can be extended by 14 days or as agreed. In the case of a voluntary peace request, the judges of the case review must postpone the 14-day trial for the mediation process, and can invite other parties with specific examples such as religious leaders, community leaders, or traditional leaders. The nature of mediation is closed unless the parties wish otherwise. The disputing parties must be present with or without a legal counsel except for legitimate reasons such as health conditions with a doctor's certificate, under the custody,

Mediation is held in the court mediation room if using a judge mediator and outside the court when using a non-judge mediator. However, in some templates, such as in the Malang Religious Court, mediation with non-legal mediators can be done within the court because there is cooperation between the court and the mediator association. The court provides one room for conducting mediation by mediators appointed by the local Mediator Association.

The standard process of conducting mediation in religious courts is not explicitly formulated. Generally, mediation contains a preliminary process, telling story or information, negotiating a solution, and agreement. The judge determines how mediation is carried out so that mediation can be seen as a consultation or legal advice if the judge has not received basic education regarding mediation.

The post-mediation stage in mediation in the court concerns how the follow-up results from the mediation agreement. If the mediation is successful, it is validated in the hearing and if the mediation fails, the case continues. The ratification of the mediation agreement in the form of a peace certificate. Although court mediation in Indonesia is integrated with the litigation process, the door to ratification of the outcome

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<sup>15</sup> P A Purbalingga, *Laporan Kinerja Pengadilan Agama Purbalingga Instansi Pemerintah (LKJIP) Tahun 2016*, vol. 2016 (Purbalingga: PA Purbalingga, n.d.).

<sup>16</sup> Hasanudin, "Perkara Sengketa Ekonomi Syariah Di Pengadilan Agama Purbalingga Dan Penyelesaiannya."

of a mediation agreement outside the court is still possible. The parties requested ratification of the results of the peace agreement from the court in court by filing a claim in advance which was accompanied by the contents of the peace agreement in writing along with evidence. The court examining judge will decide the claim with a Peace Deed no later than 14 days after the claim registration.

In practice, the agreement reached from mediation can be enforced directly or indirectly. In some jurisdictions, the agreement may be enforced directly by signing settlement agreement by parties and the mediator and then the agreement is registered to court. In some other jurisdictions, however, settlement agreements may not be directly enforceable. It could be enforced directly if it is recorded in a notarial deed, court judgment or court record that has been issued in the form required for execution. It also may be recorded in an arbitral award.<sup>17</sup>

In Indonesia, there are possibilities for ratification of the results of the mediation agreement carried out through the courts. First, mediation is carried out as court-mandated mediation, both with a judge mediator or non-judge, as stated in advance. Second, mediation takes place outside the court with non-judge mediators. After the mediation reached an agreement, the parties together with the mediator requested a decision on the peace certificate to the court. Third, mediation takes place outside the court with a non-judge mediator from outside the court without asking for a peace agreement when reaching a peace agreement. Legal certainty is obtained by revoking the case.

In the Purbalingga Religious Court, only court-mandated mediation is truly recognized and ratified through the trial. The judge, in fact, often does not offer a mediation settlement outside the court again, because the trial case has entered the litigation process. The possibility is that only mediation has been declared successful with the results of the parties achieving the results of the agreement and proceeding with the making of a peace certificate. When the court has decided on the peace certificate, the issue is deemed complete. The Religious Court may invite parties to choose to use alternative rights to settle disputes outside the court, but the judges examining cases only carry out the mechanism of procedures imposed in religious courts.

The tendency to emphasize on court-mandated and more formalized mediation stages can be understood as the need of the standardization of processes and means of mediation. The standardization of mediation services is a mandate from Perma Number 1 of 2016. The Supreme Court establishes the governance of mediation that regulates: policy planning, assessment and mediation research in the Court; fostering, monitoring and supervising the implementation of mediation in the Court; granting accreditation and evaluation of accredited mediation certification institutions; dissemination of mediation information; and the development of cooperation with organizations, institutions or other parties, both at the national, regional and international levels in the field of mediation. The standardization of mediation services is carried out by the Purbalingga Religious Court through ISO 9001: 2008 certification.<sup>18</sup>

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<sup>17</sup> Hasanudin, "Perkara Sengketa Ekonomi Syariah Di Pengadilan Agama Purbalingga Dan Penyelesaiannya."

<sup>18</sup> Hasanudin, "Perkara Sengketa Ekonomi Syariah Di Pengadilan Agama Purbalingga Dan Penyelesaiannya."

The certification is obtained through collaboration with consultants from PT KOKEK and obtaining guidance from external auditors while issuing TUV NORD certificates based in Germany. The application of ISO 9001: 2008 was carried out by implementing ISO in quality management in the form of One Day Publish since 2015 and subsequently publication of verdicts through online media was carried out in just one week.<sup>19</sup> The court claimed that this certification improved the quality of public access to the judiciary. The quality management system is the only one received by religious court institutions in the PTA in Central Java, and one of 11 religious courts in Indonesia.<sup>20</sup>

The Purbalingga Religious Court conducts dissemination and outreach through service information. First, information on mediation services is disseminated through information by mediator judges and the media, such as information boards, banners, information sections, and websites. the Islamic banking community, the Indonesian Islamic Bank Association (ASBISINDO), the BMT Forum in Purbalingga Regency, the Sharia Cooperative Forum in Purbalingga District, the Purbalingga Regency Government, and the general public. This information is a lot concerning the settlement of sharia economic cases and the publication of new rules about litigation in Purbalingga PA.<sup>21</sup>

Meeting the standards of mediation is also carried out through the fulfillment of Human Resources. In 2016 until 2017 all are judge mediators. The number of mediators increase from 5 mediators in 2015, 7 in 2017, and 9 in 2025, with 7 out of them are judge mediators. It is the judge mediator who practically handles mediation in court. Although according to the rules of the non-judge mediator it is possible to handle court mediation, in practice non-judge mediators do not play a role in PA Purbalingga.<sup>22</sup>

Non-judge mediators who register with the Religious court are included in the list of mediators, together with judge mediators. The Parties can choose one of the existing mediators. In fact, non-judge mediators almost never handle court mediation. According to the chairperson of the Purbalingga Religious Court, judge mediators are preferred because of reasons. First, the capacity building of judges through mediator certification and education or training on sharia economics. Second, judge mediators do not charge fee separately, while non-judge mediators charge fees. Third, there is an assumption that using non-judge mediators is more complicated because they are not in the court environment, while mediation by judge mediators has been provided in the court building. Four, the parties use a judge mediator because lawyers do not like non-judge mediators, who can become competitors for their profession.<sup>23</sup>

In that case, court-mandated mediation in Indonesia faces obstacles to develop due to the difficulty for non-judge mediators to handle it, while judge mediators have high

<sup>19</sup> Hasanudin, "Perkara Sengketa Ekonomi Syariah Di Pengadilan Agama Purbalingga Dan Penyelesaiannya."

<sup>20</sup> I.T.-P.A. Purbalingga, "Sistem Informasi Penelusuran Perkara Pengadilan Agama Purbalingga," n.d., <http://sipp.pa-purbalingga.go.id/>.

<sup>21</sup> Hasanuddin, "Perkara Ekonomi Syariah Di PA Purbalingga Dan Penyelesaiannya", Makalah, Diunduh Pada 8 September 2015," n.d., <http://pa-purbalingga.go.id/images/Data/artikel/sengketa-ek-syariah.pdf>.

<sup>22</sup> Anwar, "Audit Eksternal ISO 9001:2008 Di PA Purbalingga."

<sup>23</sup> I.T.-P.A. Purbalingga, "Sistem Informasi Penelusuran Perkara Pengadilan Agama Purbalingga," n.d., <http://sipp.pa-purbalingga.go.id/>.

burden from the number of litigation cases they should deal with. As a result, they mediated only as an effort to fulfill the requirements so that they could immediately enter to the process of examining cases. The lawyer may add some obstacle due to conflict interest.

### 3.1. Problems And Challenges

#### 3.1.2 Mediation Principles

The rate of success of mediation in Purbalingga Religious Court is very low, including on sharia economic cases. From 2016 – 2023, there are only 44 cases mediated that are related to sharia economic disputes. The success of mediation on it only noted in 2016 which were 50% of four sharia economic disputes coming to agreement. Afterward, mediation agreement is successful in 2023 that mark very low number of mediated cases (PA Purbalingga, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023).

Table: Mediated cases (PA Purbalingga, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023).

Year	2016	2017	2018	2019	2020	2021	2022	2023
Percentage of Mediated Cases (All)	1,4%	0%	0%	0%	0%	14.4%	51%	28%
Mediated Cases (All)	222	214	210	231	247	243	249	215
Mediated Cases (Sharia economy)	4	9	21	4	4	0	1	1
Mediated Cases succesfull	2	0	0	0	0	0	0	1
Agreement Settlement	3	0	0	0	0	35	126	60

The problems faced by the Purbalingga Religious Court in dealing with sharia economic disputes mediation is quite diverse, mainly from the factors of the parties and the judge's factors. From the parties, there are issues regarding the poor perception of the neutrality of judges, as will be discussed further below. In general, people's perceptions of mediation are not always positive. In the case of divorce, for example, the plaintiff considers mediation to be an obstacle to the divorce process so that the plaintiff is often not present in the mediation process. This shows that the value of more mediation has not been understood by the whole community in the same way.

Judges are the decisive factor in the mediation process. In mediation, especially mediation of sharia economic dispute resolution, there are three things that contribute to the success rate of mediation, namely workload and reward system, expertise and judge qualifications, and material understanding.

First, the existence of mediation in religious courts is a burden on judges because it adds to their duties when they have many cases to deal with and there is no special

award from the accomplishment of mediating assignments. Purbalingga Religious Court have to deal with 2.932 cases in 2022, for instance, in which every judge has to solve 419 cases in a year. If mediation is added and the mediation process takes 15-20 minutes. The mediation process then gives additional work burden for judges.<sup>24</sup>

Secondly, judge mediators receive adequate mediation training. Judges appointed after Perma have received mediation education, but the judges who were previously appointed have not specifically received mediation training. In the Purbalingga Religious Court, there are 9 mediators with 7 of them are judge mediators. From the 7 judged mediator, only two judges are certified mediators (<https://pa-purbalingga.go.id/v3/kepaniteraan/mediasi/daftar-mediator>, access July 4, 2025 on 07.26). the data shows that the majority of judge mediators are not trained well in mediation.<sup>25</sup>

Third, special judge mediators in sharia economic disputes have additional demands, namely having a sharia economic judge certificate, in accordance with Perma Number 5 Year 2015. In fact, not all judge mediators in Purbalingga PA have taken the sharia economic judge pre-certification test. In PA Purbalingga, before 2017 there were 5 judges with Islamic economic certification, after 2017 the number was reduced to 3 due to a mutation. This fact is a challenge for PA Purbalingga who handles the most disputed sharia economic cases among other religious courts in Indonesia.

Another fact shows that all sharia economic cases that enter Purbalingga PA in 2017 are simple type of claims. A simple claim is a civil claim with a material claim value of less than 200 million rupiahs so that the settlement is an exception to the implementation of Perma Number 1 of 2016.<sup>26</sup> The exception eliminates the obligation to complete mediation and replace it with a simple method, namely using a single judge; the plaintiff and the defendant are no more than one unless they have the same legal interest and live in the same legal area; attorneys are only accompanying during the trial process and the completion time is only 25 days. Mediation is recommended to be done in court or outside the court for a period of not more than 25 days; no requirement for provision, exception, reconciliation, intervention, replication, duplication, or conclusion is permitted; do not prove the claim that has been acknowledged; there were no appeals, appeals, or judicial remedies.<sup>27</sup>

The characteristic of the characteristics of people who litigate in the case of sharia economics in PA Purbalingga are those who are not yet familiar with the settlement of sharia economic cases in the Religious Courts. In sharia economic cases from 2016 to 2018, the plaintiff came from the bank (creditor), while the defendant was the customer (debtor) who defaulted on the creditor. The pattern, however, are changing where in 2019 to 2021 the plaintiff comes from the customer (debtor).

According to the data of sharia economic disputes 2015-2025, there are 49 economic sharia disputes. It rises from 4 in 2016, 9 in 2017, 21 in 2018, 4 in 2019, 4 in

<sup>24</sup> Tomi Pramana Putra, Yulia A Hasan, and Zulkifli Makkawaru, "Analisis Hukum Pelaksanaan Mediasi Perceraian Di Pengadilan Agama Sengkang," *Indonesian Journal of Legality of Law* 5, no. 2 (n.d.): 232–238, <https://doi.org/10.35965/ijlf.v5i2.2609>.

<sup>25</sup> Purbalingga, *Laporan Kinerja Pengadilan Agama Purbalingga Instansi Pemerintah (LKJIP) Tahun 2016*, vol. 2016.

<sup>26</sup> Purbalingga, "Sistem Informasi Penelusuran Perkara Pengadilan Agama Purbalingga," n.d.

<sup>27</sup> Pengadilan Agama Purbalingga, "Laporan Tahunan Pengadilan Purbalingga Tahun 2017," n.d., <https://drive.google.com/file/d/1hDbddocwc5XowFJXVASB3x0iQe1-rPZP/view>.

2020, 1 in 2021, and 1 in 2023. Most cases of disputes related to musyaraka, muraba, and rahn. Form 13 disputes, 2 cases (15.38%) were successfully resolved through the peace path. But in fact, peace is achieved through different mechanisms. First, there is one case that was revoked by the plaintiff because there was a peace agreement outside the court (non-litigation).<sup>28</sup>

Data shows that almost all cases that come are from sharia financial institutions in Purbalingga. The first institution is PT. Syariah Buana People Financing Bank Officer (BPRS Officer Partner) Purbalingga. BPRS Mitra Perwira in 2012 - 2017 has a Cooperation Agreement with PA Purbalingga regarding sharia contract transactions, namely easy banking access for all Civil Servants in the Religious Court Purbalingga District in terms of raising funds and channeling funds. The Cooperation Agreement expires in May 2017. In 2017 BPRS Buana Partner Officers accessed PA Purbalingga to resolve sharia economic disputes so that it has become the most frequent plaintiff in PA Purbalingga since January 2017. Other sharia financial institutions that also use services in PA Purbalingga are PT. Bank Pembiayaan Rakyat Syariah, Koperasi Serba Usaha BMT Mentari Bumi, Koperasi Serba Usaha BMT Mentari Bumi, and PT. BPRS Sukowati Sragen.<sup>29</sup>

While, Islamic financial institutions act as plaintiff, the most defendants are individuals. There are only 26% of plaintiffs come from Individuals. It shows that Islamic financial institutions are the main plaintiff in Purbalingga Religious Court. They are interested in submitting disputes to the court because the court settlement may reduce the time to settle, which in turn reduces costs. Negotiations between bank and parties often drag on because of power imbalance between both that is difficult to reach compromise. That is what prompts the plaintiff to file a case in court to reach agreement quickly.<sup>30</sup>

The creditors (bank) filed claim to PA Purbalingga using legal counsels (lawyers). The active stance of banks can be understood well because the most cases are due to defaults on paying by customers so that the bank was actively seeking solution. The banks want their financing capital immediately returned, either by the fulfillment of obligation by consumers or by confiscating the collaterals of them.

The position of the defendant (debtor) is usually weaker, giving rise to the issue of neutrality in court mediation. Banks are in stronger position and have more ability to access litigation or mediation solutions. The failure of several mediations in Purbalingga PA occurred due to a lack of trust in the credibility and neutrality of the mediator so that there were cases of disputes which were resolved through peace outside the court. The role of mediator is crucial point in mediation processes. Tijow et.al (2024: 193-200) find out that mediation will be effective when mediator can improve communication, create conducive atmosphere, educate parties, and clarify substantiation issues and interest.

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<sup>28</sup> Ro'fah Setyowati, Dewi Nurul Musjtari, and Indah Susilowati, "Effectiveness of Mediation in the Dispute Resolution of Islamic Economics in Indonesian Religious Courts," *Journal of Islamic Law Studies* 2, no. 3 (n.d.): 1-15, <https://scholarhub.ui.ac.id/jils/vol2/iss3/7>.

<sup>29</sup> Perjanjian Kerjasama Pengadilan Agama Kabupaten Purbalingga No. BPRS Buana Mitra, "No Title," n.d.

<sup>30</sup> Harianto, "Public Trust in the Religious Court to Handle Dispute of Sharia Economy."

The plaintiff's perception of the mediation process in Banjarnegara court is relatively positive. A lawyer stated that the plaintiff contributed to facilitate deliberations outside the court between financial institutions and defaulting customers. He also had a positive view of court mediation felt satisfied with the performance of PA Purbalingga in terms of the good quality of handling sharia economic cases. He saw the defendants who were uncooperative in attempt to settle outside the court, forcing the bank to be submitted to the judiciary as a last resort. He also thinks that the mediator has carried out his duties well and cooperatively.

The issue of power imbalance and neutrality explained the decline of sharia economic disputed mediation brought to court. Neutrality is a determining factor for mediation to achieve a win-win solution. Neutrality creates a legitimacy problem for the process and the results of mediation and is a challenge for mediation that has the power of balancing power and reconciliation. The satisfaction may be expressed by lawyer of banks or creditor to the mediation process, but there is no such expression by debtors. In general, there number of failed mediations increase that degenerate the trust to the effectiveness of court-mandated mediations.

### **3.2. Conclusion**

The decline of sharia economic disputes brought to Purbalingga Religious Court is driven by interrelated factors. The surge of sharia economic disputes brought to the Court was driven by the cooperation of quantity the Court with Islamic financial institutions to bring mutual benefit in which the financial institution can solve their problems quickly and the Court can implement the resolution of sharia economic disputes. Therefore, the majority of plaintiff who file the sue to Purbalingga Religious Court are from the Islamic financial Institution. Conversely, it is only 26% of plaintiffs coming from individuals.

The implementation of sharia economic mediation in Purbalingga Religious Court is basically based on the idea that mediation is the best way to resolve sharia economic disputes. The Mediation is also considered as good innovations to improve service quality and legal socialization of sharia economic mediation towards the community. The rules of sharia economic mediation have also fulfilled the principle of legal certainty, justice, and expediency. In practice, however, the imbalance of the parties creates power imbalance situation. The cooperation between Courts and Islamic financial institution, despite of not aimed to interfere the process of mediation give some weigh over the institutions more than to individual defendants. In other hand, the unfavored result or failure of the mediation then lead to distrust to effectiveness of mediation process. From 2019, the disputes by the financial institutions have declined while the individual plaintiffs has risen.

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