



ADDRESS BY H. MUNAWIR SJADZALI  
INDONESIAN MINISTER FOR RELIGIOUS AFFAIRS  
TO THE FIFTH SEASA CONFERENCE

SINGAPORE FEBRUARY 26 - 28, 1988



MINISTER OF RELIGIOUS AFFAIRS  
REPUBLIC OF INDONESIA

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First of all I would like to express my heartfelt thanks <sup>to</sup> my dear friend, H.E. Dr. Ahmad Mattar, the Minister of Environment and Minister-in-Charge of Muslim Affairs, the Republic of Singapore, for his kind invitation to *me to* take part in this very important forum, the Fifth International Forum of the South East Asian Shariah Association. May I also congratulate the Organizing Committee for selecting the theme of the forum to be Education and Training of the Shariah Judges and Lawyers. Speaking for Indonesia, I should say that the theme is both appropriate and timely. At the moment, under the Government of the New Order, Indonesia is busily engaged in the reconstruction and development of its national legal system; and towards that end a number of measures have been taken to strengthen and to promote the position and the role of the religious (Shariah) courts.

Firstly, the Act no. 14 of 1970 stipulated that the judicial power of the Republic is entrusted to the Supreme Court, and under it exercised by four branches of Judicatures: Public Courts, Religious (Shariah) Courts, Military Courts, and Administrative Courts. All the judges of those four groups of Courts are state judges, appointed and discharged by the Head of State, enjoy the same status, facilities and

privileges, without any discrimination between the judges of one particular group of Courts and the others.

Secondly, under the Act no.14 of 1985, the presidency and the membership of the Supreme Court (the position of the Chief Justice and the Justices) are open to all the state Judges of all the four branches and Judicature.

Thirdly, a draft Act concerning the competence and the jurisdiction of the Religious (Shariah) Courts is now ready to be submitted to Parliament. If this draft Act is passed by the Parliament and becomes law, the Religious (Shariah) Courts will be completely independent. Until now the decisions of the Religious (Shariah) Courts require the confirmation by the Public Courts, and their execution is also carried out by the latter. When the said draft Act has become law, the confirmation of any Shariah Court decision by the Public Courts will no more be required, and the execution of their decisions will also be carried out independently.

Fourthly, despite the fact that the Religious (Shariah) Courts in Indonesia have been in existence for over one hundred years, up to the present moment the Indonesian Religious (Shariah) judges still do not possess one single uniformed, comprehensive and integrated law book or manual. In executing their duties the Religious (Shariah) judges rely on a number of fiqh books, written some hundred years ago, under social conditions and cultural backgrounds entirely different to the world we live in now. To put an end to that anomaly, early in 1985 the Supreme Court and

the Ministry of Religious Affairs launched a Joint-project of the Compilation of the Islamic Law, with the objective of producing law manual for the Indonesian Religious (Shariah) Judges.

In December 1987, the Chairman of the Joint-projects, His Honour Justice Bustanul Arifin, submitted three draft manuals to the Chief Justice and to the Minister of Religious Affairs. The first book being on marriage, the second on inheritance, and the third on Waqf or Endowment. It is interesting to note here that Justice Bustanul Arifin in his statement said that the three draft books reflect not merely a reactualisation, but even a reformulation of the Islamic Law, adapting it to the locality and the time in which we live. Early this month of February a forum was held in Jakarta to examine those three draft books, and attended by over 125 outstanding ulama, fuqaha and Islamic Jurists of the country. The forum was innaugurated by the Chief Justice and closed by the Minister of Religious Affairs. The three draft books were warmly endorsed with some minor amendements and improvements.

The next step that we have to take in our effort to enhance the position and the role of the Religious (Shariah) Courts is to look into the quality of the Religious (Shariah) judges. The official recoqniton of the Religious (Shariah) Courts as an integral part of the Indonesian Judicial system, with equal status with the other three groups of Courts, demands that the Religious (Shariah) Courts have to be manned by competent judges, who meet the general requirement similar

to that of the judges of the other three groups of courts, plus the additional requirement: being well-versed in the Islamic Law.

It is my sincere hope that this forum will provide a very good opportunity for the participants to exchange views and experiences with the aim of finding the best approach or solution to the problems commonly faced by the member countries in the field of Shariah, and of reaching general agreements on the ways and means to promote the effectiveness of the implementation of the Shariah and the functioning of the Religious (Shariah) Courts.

To meet the ever pressing demands of our time and the rising expectation of our people from the Shariah Courts, the education and the training of the Shariah Judges have become extremely important. First of all they have to be thorough in their basic education of law as well as in the Shariah. They then have to undergo advanced training plus periodic refresher courses. For this purpose, I am fully confident that we can learn from one another as to what is the best and the most efficient method to accomplish that objective. On some aspects, for instance, Indonesia might be more developed and better organised than, let us say, Malaysia. But on some other aspects Malaysia might be more advanced. So let us take the best that every member country has to offer.

This forum is equally important as a means to cultivate personal friendship and to foster the spirit of corps of the Shariah Judges of the region as well as a vehicle for promoting their common interest and aspirations.

May the Divine Guidance be always with us,  
Thank you.

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