

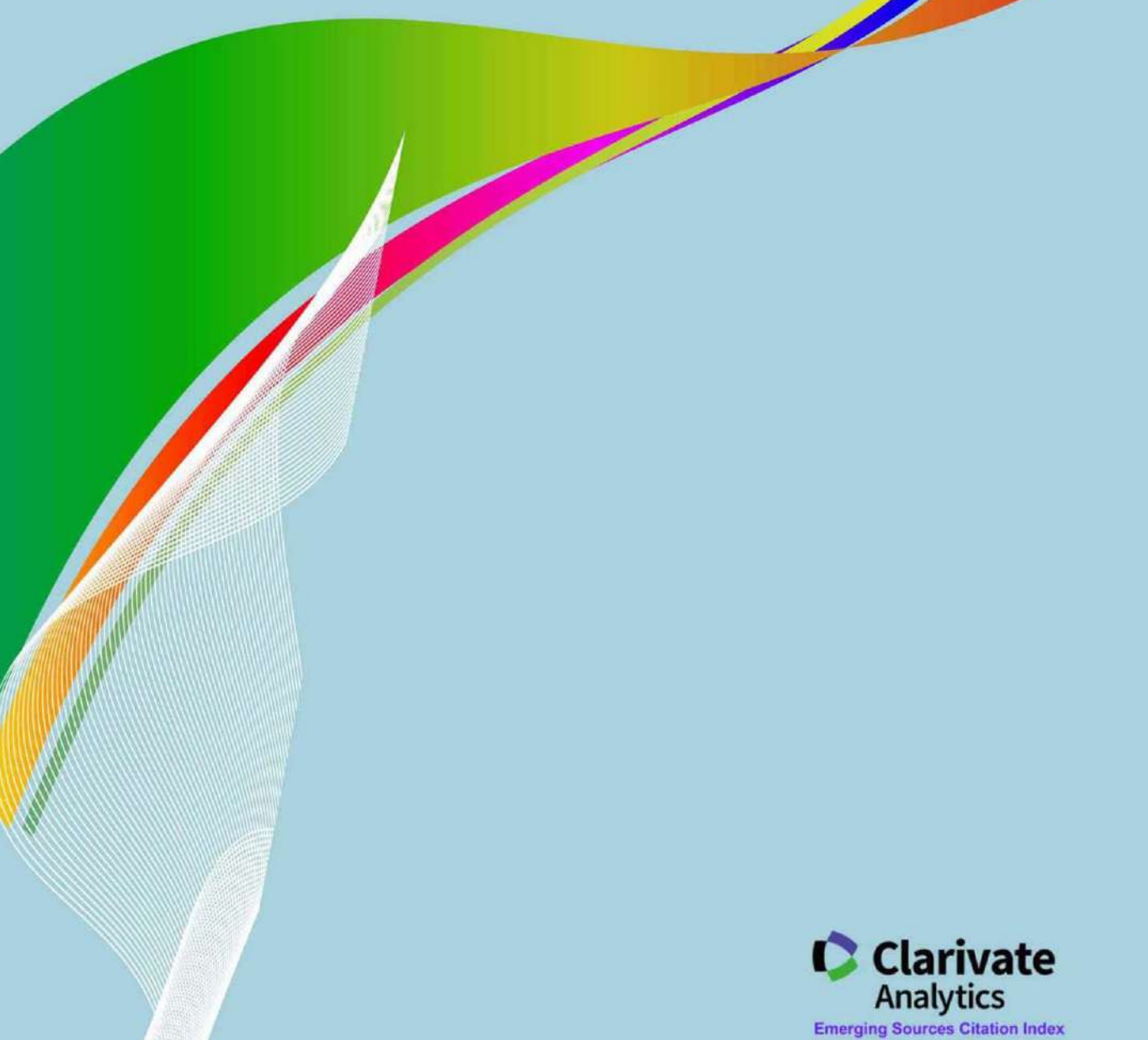
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Sharia-Based Regional Regulations in the Indonesian National Law System

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SHARIA-BASED REGIONAL REGULATIONS IN THE INDONESIAN NATIONAL LAW SYSTEM

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Abstract

This study aimed to explain the existence of sharia-based regional regulations and discuss the form of legal system regulation of sharia-based regional regulations in Indonesia. After the reformation, changes in the legal system in Indonesia began, especially the change from a centralized pattern to a decentralized one and the granting of regional autonomy authority, this was marked by the issuance of regional regulations based on the needs of each region. The next problem is the emergence of the desire to establish sharia-based regional regulations such as in Aceh, South Sulawesi, and West Java which invites legal discourse on the legal system in Indonesia. This study used a qualitative method with a normative legal approach. The subjects of this study were the namely elements of the Central and Regional Government, and Members of the DPRD. In addition, information was also collected from scholars, academics, and legal practitioners. The research procedure was carried out in four steps: observation, in-depth interviews, and documentation. The data were analyzed using an inductive model. The research findings showed that; first, the implementation of post-reform Islamic Shari'a cannot be separated from the increase in democratic life in Indonesia. Second, the application of Islamic Shari'a is the desire of the community as the foundation and order of social, national, and religious life. Third, the application of sharia-based regional regulations in addition to being elite political capital is also part of increasing identity and cultural revival and social life of the community.

Keywords: *Decentralization; Autonomy; Regulations; Islamic Shari'ah; Legal System.*



A. Introduction

After the reform period, the relationship between the center and the regions underwent a significant change from centralized to decentralized. The Central Government has rolled out the authority of regional autonomy so that several regions in Indonesia received strong encouragement and enthusiasm to regulate their regions according to the aspirations of the people in the regions. UU 32/2004 concerning Regional Government expressly states that regional governments regulate and manage their government affairs according to the principles of regional autonomy and assistance tasks, the principle of granting broad autonomy to regions is directed at accelerating the realization of community welfare through service improvement, empowerment, and participation of the Public. Based on this principle, the implementation of regional autonomy is expected to be oriented towards improving the welfare of the community by always paying attention to the interests and aspirations that grow in the community.

Regional governments carry out government affairs under their authority, except for government affairs which are determined by this law to be Government affairs. Government affairs under the authority of the central government, namely foreign policy affairs, defense, security, justice, monetary and fiscal national and religious. Regional autonomy is the right, authority, and obligation of an autonomous region to regulate and manage its government affairs and the interests of the local community under applicable laws and regulations. With the existence of regional autonomy, regions compete to regulate all matters relating to their regions into Regional Regulations (Perda).

Since the first century Hijri, Islam came to the archipelago which was marked by the establishment of Islamic kingdoms, so what was applicable as national law at that time was sharia law. The judicial system used is the Islamic judicial system. This is not only limited to civil cases but also involves criminal matters. So the law that was applied in the territory of the Pasai kingdom in Sumatra, the kingdom of Banten, Cirebon, Mataram, Kutai, Makassar, Ternate, Tidore was sharia law (Rasyid, 2001).

At the time of independence, Islamic law passed through two periods. First, the period of acceptance of Islamic law as a source of persuasion; the



second period of acceptance of Islamic law as an authoritative source. Persuasive sources in constitutional law are sources of law that people only accept when they are believed. In the context of Islamic law, the Jakarta Charter as one of the results of the Investigating Committee for Preparatory Work for Indonesian Independence (BPUPKI) meeting was a persuasive source for the *ground wet-interpretation* of the 1945 Constitution for fourteen years, from June 22, 1945, when a *gentlemen-agreement* was signed between national Islamic and secular national leaders until July 5, 1959., before the Decree of the President of the Republic of Indonesia was promulgated.

Post-reform, the issue of implementing Islamic law is increasingly spreading in several regions in Indonesia along with the spirit of regional autonomy which allows each region to regulate itself. Preceded by Aceh which aggressively demanded the realization of Islamic law, then in a relatively short period, several regions such as South Sulawesi, Banten, Tasikmalaya, Pamengkasan, Riau, Ternate, Gorontalo, carried out several regional regulations with the nuances of Islamic law.

The implementation of Sharia law within the framework of the government system and national legal system is not new, but it is not as easy as turning the palm. The problems that arise are quite complicated, and even raise concerns such as; the implementation of Islamic law will violate human rights, enforce religious law through the hands of the state, and lead to conflict in majority-minority relations, if a region enforces certain religious laws. This concern is very reasonable if it is associated with experiences in several Muslim countries and groups that claim to be enforcers of sharia but are violators of sharia norms such as the actions of the ISIS group, Boko Haram, and jihadist groups in Indonesia.

A further concern is related to the certainty of the state guaranteeing the realization of the benefit for all mankind (*rahmatan Lil a' alamin*), through sharia-based laws established by state institutions with regional authorities, namely the Regional Government (Governor) and the Regional House of Representatives (DPRD). This concern is quite basic because the product of the regional law if it does not have a sense of justice and benefit will be dangerous, because it will only become a coercive tool for the state in carrying out its



will, including enforcing religious law. The above concerns cannot be allowed to continue to develop in the community, without an adequate academic explanation, because it will have an impact on the public's pessimistic perception of the implementation of Islamic law. Therefore, research on the process of forming sharia-based laws (legislation) in Indonesia is very important because of several considerations.

First, reflecting on the implementation of Islamic law in Aceh in the legal aspect, both family law (*ahwal al-syakhsiyah*), civil law (*mu'amalah*), and criminal law (*jinayah*) are within the framework of the national legal system. Second, the Islamic law that has been implemented in Aceh so far has been based on the Qur'an and as-Sunnah. Third, the development of the implementation of decentralization and regional autonomy has received various responses in various regions, which encourage local governments to be very productive in producing public policies, namely sharia-based regional regulations. There are at least 22 regions that implement regional regulations that regulate morality issues and the implementation of Islamic sharia in all lines of life (Suharso, 2006). Fourth, research on sharia-based regional regulations in Indonesia's national legal system is very important, to ensure the spirit of the Indonesian Muslim community as one of the legal considerations from the sociological aspect as well as the application of the right methodology in the process of formulating legal norms, so that they can be accounted for academically, to realize justice and benefit in society, especially in law enforcement in Indonesia.

Based on the background of the problems above, Islamic sharia-based regional regulations are part of the problems of the Muslim community in Indonesia which have not been completed yet. Therefore, the author took the initiative to draw some problems that need to be investigated, so that the problems faced so far can be discussed and find a formula for the national legal system.

B. Method

This study employed a qualitative method with a normative legal approach to find, compile and formulate legal norms for an act of a legal subject.

This research focused on the object of normative law, namely the norms of law (Soekanto & Mamudji, 1995). Bearing in mind, the law can be interpreted in two conceptions, namely law as norms and law as a social phenomenon (Soekanto & Purbacaraka, 1989).

Qualitative research has natural characteristics (natural setting) as a direct source of data, descriptive, process is more important than results, analysis in qualitative research tends to be done by inductive analysis and meaning is essential. Meanwhile, the normative legal elements used are through a legal history approach, a sociological approach, a statutory approach, and a comparative law approach (Marzuki, 2005). The same thing is also used in the formulation of Islamic legal norms, starting from determining the arguments, interpreting and interpreting the arguments as well as drawing legal lines or legal norms by using the workings of *ushulfiqh*.

The type of research used is a case study, which is an intensive description and analysis of certain phenomena or social units such as individuals, groups, institutions, or communities. Case studies can be used appropriately in many fields. In addition, it is a detailed investigation of a setting, a single subject, a collection of documents, or a particular event. The research locus was conducted in 3 (three) provinces, namely Aceh, South Sulawesi, and West Java. The reason for choosing this location is because the three provinces have the spirit of implementing Islamic law through sharia-based regulations (regional regulations).

Thus, this study tries to look at the real situation of the implementation of sharia-based regional regulations in the 3 provinces, starting from the formulation of norms to codification. To obtain primary and secondary data, the researcher collected information through observation, in-depth interviews, informal interviews, and focus group discussions. This study aims to reveal facts, circumstances, phenomena, and important variables about the object by using a legal history approach, sociological approach, legislation approach, and comparative law approach.

The subjects of this research were stakeholders and the community consisting of key informants, namely elements of the Central Government,



Regional Government, and Members of the DPRD, especially the Legislation Body. In addition, information was also collected from scholars, academics, and legal practitioners at the research locus. The total number of informants is 20 people consisting of elements; 1 person from the Central Government, 2 local governments each, 5 members of the Legislative Council Legislation Board, 4 scholars, 4 academics, and 3 legal practitioners. This primary data is complementary to support and strengthen secondary data because this research is normative legal research. Determination of research subjects was done by purposive and snowball samples. This means that the number of informants continues to increase until the information obtained is satisfactory or can no longer be added or is redundant.

The primary legal material used by the researcher comes from several laws and regulations such as UU 12/2011 concerning the Establishment of Legislation, the Criminal Code, UU 11/2006 concerning the Government of Aceh as a comparison, and various other derivative regulations. Secondary legal materials consist of some research results on the implementation of Islamic Shari'a law, statutory law books, and other written works.

While tertiary legal materials consist of legal dictionaries and legal encyclopedias. In addition, the secondary sources of this research come from verses and hadiths, as well as jinayahfiqh provisions that have been formulated by scholars and outlined in jinayahfiqh books, especially those directly related to criminal acts, namely adultery, qadhaf, khamar, maisir, seclusion, ikhtilath, rape, sexual harassment, liwath, and musahaqah. In addition, books of interpretation are also used to further explore the history and meaning and interpretation of the criminal concepts contained in the Qur'an. The research findings are presented in the form of a lengthy description that describes the written and spoken words obtained from the various sources of information above.

The research procedure was carried out in four steps, namely 1) data collection, 2) data reduction through data collection, data coding, and data reflection, 3) data presentation, and 4) conclusion drawing verification (Matthew B & A. Michael, 2002).



The inductive model is used in data analysis. The data that has been collected is then analyzed using four components of interactive analysis, namely data collection, data reduction, data presentation, and conclusion drawing/ verification. Each component interacts and forms a cycle (Matthew B & A. Michael, 2002).

The data analysis technique used in this research is juridical-qualitative analysis. It is said to be juridical analysis because this research is normative legal research, while qualitative analysis is related to qualitative data which is the main data in this research. Specifically for interview data and field notes, the reduction will be carried out, namely through a data simplification process by sorting out the data obtained in the field and adapted to the needs of this research and proven by various facts in the field), coding and categorization by type and relevance to the research problem.

The data that has been selected is displayed to facilitate the process of interpretation/ meaning and drawing conclusions. In conducting data analysis, the researcher also borrowed the concept of Miles and Huberman, who stated that activities in qualitative data analysis were carried out interactively and took place continuously at each stage of the research until it was completed, and the data was saturated. Activities in data analysis include data reduction, data display, and conclusion (drawing conclusions and verification).

C. Result and Discussion

Based on the data obtained through a methodological design that has been determined through certain stages, the focus of the research has been determined in a problem formatted according to the research variables, the findings can be presented as follows:

1. The Existence of Sharia-Based Regional Regulations in Indonesia

In the early years of reformation in Indonesia (1999), in all of Indonesia, there were only 4 Sharia-based Regional Regulations spread over 4 districts/ cities. Then, it increased sharply in the last decade. In 2013, there were 400 Sharia-based Regional Regulations throughout Indonesia. The formalization of Islamic law, especially in South Sulawesi, West Java, and Aceh, is assumed to



be an area that has a historical heritage which is the basis of the Darul Islam/ Indonesian Army Islam (DI/TII) movement which is categorized as an area with a Muslim population and the basis of the forces Islamic politics in the past (Nashir, 2013).

Regional Regulation is a regional legal product formed by the Regional House of Representatives (DPRD) of both Province and Regency/ City together with the Regional Head, namely the Governor or Regent/ Mayor according to the level. Based on Article 7 of UU 12/2011 there are two categories of regional regulations, namely Provincial Regulations and Regency/ City Regional Regulations. When referring to the general provisions of UU 12/2011 concerning the Establishment of Legislations, it is not found that there is the terminology of Sharia Regional Regulations or Sharia Based Regional Regulations. Thus, it can be understood that the terminology or terms of Sharia-based Regional Regulations are not known in the legal nomenclature in Indonesia.

According to Rusydi Ali Muhammad, the term Syari'ah Regional Regulation/ Shari'ah-Based Regional Regulation is a term that develops in the reality of society, when it sees the existence of legal products that contain legal norms derived from religious teachings, especially Islam. Islamic teachings that are sourced from the Qur'an and al-Sunnah contain legal norms that regulate human relations with God, legal norms that regulate human relations with each other, and also contain legal norms that regulate human relations with the natural surroundings. He added that the term Syari'ah Regional Regulation/ Shari'ah-Based Regional Regulation has become a public term and has been used by the public in viewing regional regulations that contain religious legal norms. (Interview, 20 June 2019).

Syari'ah regional regulations/ Shari'ah-based regional regulations are Provincial Regulations or Regency/ City Regional Regulations which content is in the form of religious norms from Islamic teachings originating from the Qur'an and al-Hadith. Shari'ah norms contained in Shari'ah regional regulations or Sharia-based regional regulations are sourced directly from the Qur'an and al-Sunnah.

Shari'ah legal norms, both those contained in the Qur'an, al-Sunnah, and fiqh books are described and set forth by the holder of the authority to form regional regulations at the provincial and district/ city levels. This is what became known as the Sharia Regional Regulation (Perda) or sharia-based regional regulation. Specifically, it can be said that Shari'ah regional regulations or Sharia-based regional regulations are regional regulations that specifically adopt Islamic religious norms in the form of legal norms in the Qur'an, legal norms in al-Sunnah, and legal norms in the fiqh books. These norms are used as content material in regional regulations, both regional regulations at the provincial level and regional regulations at the district/city level.

2. Characteristics and Position of Sharia-Based Regional Regulations in Indonesia

Characteristics that can be identified in sharia-based regional regulations are in the form of nomenclature used in the title of sharia-based regional regulations or nomenclature on legal norms, which are used to regulate the content of sharia-based regional regulations.

The characteristic of shari'ah-based regional regulations is the use of shari'ah legal terminology (Islamic law), both those derived from the Qur'an, al-Sunnah, and fiqh books. The use of this term can occur in the title of regional regulations or in legal norms that are the content of sharia-based regional regulations. In Aceh, sharia-based regional regulations use the term sharia law in the name of Regional Regulations which are directly adopted from the Qur'an, al-Sunnah, and Fiqh, among others; Aceh Qanun 7/2004 concerning Management of Zakat, Aceh Qanun 7/2013 concerning Jinayat Procedural Law, Aceh Qanun 6/2014 concerning Jinayah Law, Aceh Qanun 8/2014 concerning Principles of Islamic Sharia, Aceh Qanun 10/2018 about Baitul Mal and others.

In West Java, especially in Garut and Cianjur districts, it is known as the district that most often adopts the nomenclature of sharia law into local regulations. Garut has at least two Sharia-based Regional Regulations, namely Regional Regulation (Perda) 6/2000 concerning Morals and Regional Regulation 1/2003 concerning Management of Zakat, Infaq, and Alms.



Meanwhile, in South Sulawesi, there are 2 regencies that also often use Islamic religious norms as content material for Sharia-Based Regional Regulations, namely Enrekang and Bulukumba Regencies. Enrekang Regency issued Regional Regulation 6/2005 concerning Muslimah Clothing and Reading and Writing the Qur'an. Bulukumba Regency issued 5 Regional Regulations, namely; Regional Regulation 3/2002 concerning the Prohibition, Supervision, Control, Circulation, and Sales of Alcoholic Beverages, Regional Regulation 2/2003 concerning Management of Professional Zakat, Infaq, and Sadaqah in Bulukumba Regency, Regional Regulation 5/2003 concerning Dressing Muslims and Muslim Women in the Regency Bulukumba, Regional Regulation 6/2003 concerning Good Reading Al-Qur'an for Students and Prospective Brides in Bulukumba Regency and Regional Regulation 7/2015 concerning Management of Zakat.

Shari'ah-based regional regulations are the basis for regional governments to carry out regional autonomy and assistance tasks, as well as efforts to realize people's welfare. Because the welfare of the people is the goal in the formation of regional regulations while maintaining the implementation of justice and legal certainty. Regional regulations will be considered good if they can provide great benefits or welfare for all people. This principle is under the purpose of granting autonomy to regions, where regional regulations are established in the context of implementing regional autonomy and assistance tasks as regulated in Article 236 paragraph (2) of Law Number 23/2014. This law also emphasizes that regional autonomy is intended to accelerate the realization of social welfare.

3. Sharia-Based Regional Regulations in the Indonesian Legal System

The existence of regional regulations/qanuns in the context of implementing Islamic law, especially in Aceh, is due to strong encouragement from the community which is derived from a long history. The Acehnese have made Islam a guide in their life. Islam has become a part of people's lives with all its advantages and disadvantages. The Acehnese interpret the teachings of Islam as the essence of living life with the principle of submitting and

obeying their teachings and paying attention to the fatwas of the ulama because the ulama are the heirs of the Prophets.

The appreciation of the teachings of Islam then sparks the culture in Acehese society which was reflected in traditional life. The traditional order which in Acehese society is the intention and reflection of the previous scholars, which is then practiced, developed, and preserved in social life (living and developing in people's lives), then accumulated into a cultural institution with the phrase "*Adat Bak Poteumourehom, Hukom Bak Syiah Kuala, Qanun Bak Putroe Phang, Reusam Bak Laksamana*", which means "Customary law is in the hands of the government and sharia law is in the hands of the ulama". This expression is a reflection of the form of the application of Islamic law in the practice of Acehese people's daily life. (Interview, A. Hamid Sarong, 19 June 2019).

Aceh is known as the regional adage with the title Veranda of Mecca, due to its geographical location in the westernmost region of Indonesia, all Muslims in the archipelago were initially dispatched to the holy land of Mecca to fulfill the fifth pillar of Islam from Aceh which is the main transit area. The next existence is that Aceh is given the authority to establish an institution/ service that is given a special mandate to carry out the implementation of Islamic law in an organizational structure and work procedure under the Islamic Shari'ah Service which was formed from the mandate of Law UU 44/1999 concerning the Implementation of Privileges for Special Region of Aceh, which states that the province of Aceh has been given privileges including the implementation of religious life, the implementation of education and the role of the ulama in determining regional policies. The implementation of religious life is then realized in the form of implementing Islamic law for its adherents in society while maintaining inter-religious harmony.

After the peace agreement between the Central Government and the Free Aceh Movement (GAM) contained in the Helsinki MoU, then codified in Law UU 11/2006 concerning the Government of Aceh, in Chapter. XVII (Islamic Shari'ah and its Implementation) in Article: 125 Paragraph (1) that the Islamic Shari'a implemented in Aceh includes Aqidah, Syar'iyah, and Akhlak, which should be able to increase the credibility of the Acehese people that the implementation of Islamic Shari'a is our desire together to



make it the basis and order of social, national and religious life, further provisions regarding the implementation of Islamic Shari'a as referred to in paragraph (1) are then regulated by Aceh Qanun. (Interview, Rusydi Ali Muhammad, 20 June 2019).

In contrast to South Sulawesi, according to Jalaluddin Rahman, the spirit of the establishment of sharia-based regional regulations was initiated by Islamic organizations (NU and Muhammadiyah), KPPSI, Tjamiruddin, and Kamaluddin Jaya (as religious leaders). South Sulawesi is one of the areas that brought out the groups and movements that carry Islamic ideology. South Sulawesi Province has one strong movement that supports the implementation of sharia-based regional regulations, namely the Islamic Law Enforcement Committee (KPPSI) Movement which is considered strong in supporting regional regulations in several districts/cities in South Sulawesi. (Interview, Former Member of DPRD South Sulawesi, 26 June 2019)

KPPSI's efforts in grounding Islamic shari'ah are to make systematic efforts to achieve special autonomy in the implementation of Islamic law in South Sulawesi and recommend to the Regent to make sharia-based regional regulations while waiting for the central government's decision regarding the ratification of special autonomy. "Serambi Medina" became the motto in proposing a draft for the establishment of special autonomy for Islamic law in South Sulawesi. "Serambi Madinah" is an acronym that means: "A Series of Charities Towards a Religious, Dynamic, Safe, and Harmonious Society" (Juhannis, 2006).

Although, the trend of implementing sharia-based regional regulations is undeniably full of the political interests of regional leaders. In regions with the most Muslim population, candidates for regional heads campaign for the enforcement of Islamic law as political capital in their regions. This is done as an effort to open up opportunities for political elites to influence and gain public support (Dalmeri, 2012).

Shari'ah-based regional regulations in Bulukumba Regency, South Sulawesi are given the name religious Regional Regulations due to the substantial differentiation of meaning. Known as religious regional regulations because they only contain the values of Islamic teachings that

are inviting and motivating the Islamic community to carry out Islamic teachings well, while the phrase Shari'ah is more about the application of Islamic law, including the implementation of the law of jinayah. The decision to make religious regional regulations in Bulukumba Regency departs from two institutions that have the main role, namely the Bulukumba Regency Government and the Bulukumba DPRD. It is important to take a religious approach to inculcate religious values into society through local regulations. (Interview, K.H. Tjamiruddin, Chairman of the Ulema Council (MUI) of Bulukumba Regency, 28 June 2019).

Tjamiruddin explained that the history of the birth of religious regional regulations was due to the 1998 crash program programmed by Andi Patabai Pabokori, who at that time served as the Regent of Bulukumba, which was intended to legitimize the law so that religious practices are strictly implemented in Bulukumba. The materials for the "religious crash program" are coaching and developing mosque youth, coaching and developing TKA and TPA (al-Quran kindergartens and al-Quran education parks), fostering and developing Hifzhil al-Quran (memorizing al-Quran), fostering and developing taklim assemblies, fostering and developing mosque libraries, fostering and developing Islamic nuanced arts. (Interview, 28 June 2019)

According to him, making sharia-based regional regulations is a necessity for the people of Bulukumba. The four religious regional regulations are the wishes of Muslims. The process of making regional religious regulations was formulated by the Regional Government but later received support from Islamic groups namely KPPSI Bulukmba, Laskar Jundullah, NU, and Muhammadiyah Bulukumba. (Interview, 28 June 2019).

The implementation of the "religious program crash", the Bulukumba Regency Government established several religious regional regulations, namely:

1. Regional Regulation Number 03 of 2002 concerning the Prohibition, Supervision, Control, and Sales of Alcoholic Beverages;
2. Regional Regulation Number 02 of 2003 concerning Management of Professional Zakat, Infaq, and Alms;
3. Regional Regulation Number 05 of 2003 concerning Muslim and Muslimah Dress;



4. Regional Regulation Number 06 of 2003 concerning Good Reading Al-Quran for Students and Prospective Brides.

In generating these regional regulations, the Regional Government and the Bulukumba DPRD established religious regional regulations after going through a process of careful discussion by various Islamic mass organizations. Therefore, the draft regional regulations are discussed by the Legal Section and the Regional Apparatus Work Unit (SKPD) by involving all elements of the relevant religious leaders to discuss the content material regulated in the regional regulations. The part of the regional apparatus that is authorized to regulate religion is the Community Welfare (Kesra) section. After the regional regulation is enacted, it is the People's Welfare who has the responsibility to coordinate the implementation of the objects regulated in the regional religious regulations. Then, the local government also allocates a budget for the implementation of religious programs. The budget allocation is intended to support the implementation of the policy in religious institutions. The role of the Bulukumba DPRD is to discuss the Draft Regional Regulation until it reaches the DPRD's approval to be stipulated as a religious regional regulation. (Interview, K.H. Tjamiruddin, Chairman of MUI Bulukumba Regency, 28 June 2019).

Since the initial implementation, in 2002, the next government continued to carry out religious regional regulations while maintaining the substance of religious regional regulations, even in every regional government regime the policy did not change. The vision of implementing Islamic Shari'a in every regional government regime persists. This proves that the Bulukumba Regency Government is committed to practicing and maintaining the teachings of Islam which were previously brought by a cleric, Dato di Tiro as an area that implements Islamic Shari'a in the ButtaPanritaLopi area, which means that the area is home to people who are experts in boat building.

All Regional Heads who have led in Bulukumba Regency since Andi Patabai Pabokori until now still support the existence and implementation of religious regional regulations, so that they become legal legitimacy in forming an Islamic society in Bulukumba Regency. This further strengthens that

the Bulukumba Regency government continues to encourage the creation of religious conditions and Islamic values.

According to M. Qhalib, the interest of the Regional Government in generating religious regional regulations in the Bulukumba Regency is influenced by various 3 (three) aspects. First, viewed from the historical aspect, it was influenced by the spread of Islam in Bulukumba Regency carried out by Dato di Tiro, so that the religious nuances in his social interaction were felt by researchers, as well as religious philosophy giving the nuances of morality to the government system. On the other hand, the idea of establishing Shari'ah-based regional regulations originated from the reform era through the formation of the KPPSI (Committee for Struggle for the Enforcement of Islamic Shari'a).

Second, from the aspect of local wisdom, this is related to political contestation. A regional head candidate who wants to run in the Regional Head Election (Pilkada) both as a new contestant and incumbent, the main social capital and political capital that is raised is his commitment to the implementation of religious regional regulations as a form of political negotiations with the voting community to bring public sympathy.

Third, the socio-religious movement in South Sulawesi, this movement arose from the character of Abdul Kahar Muzakkar or Abdul Qahhar Mudzakkar, the founder and leader of TII (Indonesian Islamic Army), which later joined Darul Islam (DI), later known as DI/TII. This socio-religious movement was initiated by Kahar Muzakkar's son, AzisKahar, through the Committee of Struggle for the Enforcement of Islamic Law (KPPSI) which politically fought for the enforcement of Islamic law in South Sulawesi, including in Bulukumba district. (Interview, K.H. M. Qhalib, Secretary of MUI South Sulawesi Province, 27 June 2019).

He added that one of the struggles of the Committee for Struggle for the Enforcement of Islamic Shari'a (KPPSI) was to encourage and ask politicians in the DPRD, especially the Golkar Party and Muslims in Bulukumba Regency to prioritize selecting the Regional Head contestants who sided with the enforcement of Islamic law. In addition, the existence of religious regional regulations in the Bulukumba district is also influenced by the alliance of social organizations, namely Nahdhatul Ulama (NU) and Muhammadiyah.



M. Qhalib explained that the initiator of the development of religious regional regulations in South Sulawesi was Bulukumba Regency so that several other districts in South Sulawesi that issued religious regional regulations made Bulukumba district an indicator of success in implementing sharia-based policies on moral and religious aspects. With the issuance of the regional religious regulations, the regional government can interpret an interpretation of Islam that regulates the behavior of its people. So that the Regional Government has the authority to supervise the Muslim community in carrying out their religious teachings correctly (Ali-Fauzi & Mujani, 2009).

Apart from South Sulawesi, another area that used to be the basis for the Darul Islam movement was West Java, which was declared by Karto Suwiryo. The substance of regional regulations with sharia nuances is very diverse, each region ratifies regional regulations in the context of controlling religious life for its people. In West Java Province, the regions that issue sharia-based regional regulations are the Regencies of Cianjur, Garut, and the City of Tangerang. The implementation of Islamic law in West Java is not as complex as in South Sulawesi and Aceh. The West Java Provincial Government has issued Regional Regulation Number 12 of 2009 concerning the Establishment of the Sharia Police, in addition, West Java has also issued regional regulations relating to sharia finance. Although in Garut Regency the spirit of establishing sharia-based regional regulations began with the formation of the Institute for the Study, Enforcement, and Application of Islamic Sharia (LP3SyI) (Barkah, 2006).

According to Fauzan Ali Rasyid, the existence of regional regulations in the field of sharia finance has been running optimally as evidenced by the government's efforts to convert banking from conventional to sharia, which in the formulation process involves academics. (Interview, Dean of the Faculty of Sharia and Law, UIN SunanGunungDjati, 23 July 2019). The implementation of Islamic law in the reform era cannot be separated from the increase in democratic life in Indonesia. On the one hand, the application of shari'ah-based regional regulations has become elite political capital, but shari'ah is also part of increasing the identity and revival of the culture and

social life of certain communities. Although it is undeniable, there are criticisms from NGOs and scholars about the impact of the application of Islamic law on social and religious life in Indonesia. Legally, formally, the application of regional regulations with shari'a nuances does not conflict with the laws and regulations above. (Interview, Fauzan Ali Rasyid, 23 July 2019).

The author concludes that the existence of sharia-based regional regulations in the Indonesian national legal system is very important to do, to ensure the spirit of the Indonesian Muslim community as one of the legal considerations from the sociological aspect as well as the application of the right methodology in the process of formulating sharia-based legal norms, so that it can be accountable academically, to realize justice and benefit in the community, especially in law enforcement in Indonesia.

D. Conclusion

Religious affairs are the absolute authority of the central government which is not given authority to local governments so that the legal content of sharia-based regional regulations can be interpreted as religious affairs which are the absolute authority of the central government. Unlike the case with special autonomy rights granted to Aceh, the Central Government gives authority through the Aceh Government Law to form regional regulations/shari'ah qanuns. However, the formation of sharia-based regional regulations in several districts/ cities in Indonesia is currently allowed by the Central Government as long as it does not conflict with the highest hierarchical regulations of Indonesian laws and regulations and the content of the legal material does not exceed Article 250 of the Government Law. Area.

In the legislative process, the stages of forming sharia-based regional regulations are no different from other regional regulations, namely starting from planning, discussing, drafting techniques, formulation, discussion, ratification, promulgation, and dissemination. In preparing the discussion and ratification of the draft regional regulation into a Regional Regulation, it must be guided by the applicable laws and regulations. A regulation will be more operational if it is equipped with the results of research on the subject and object of the



law that is regulated and begins with the formation of an academic manuscript. The systematic of academic texts for regional regulations consist of introductions, empirical theoretical and practical studies, evaluation and analysis of related legislation, philosophical, sociological, and juridical foundations, scope, the direction of regulation, and scope of material for regional regulations and closings.

The implementation of the development of the legal system in Indonesia through the pattern of decentralization and regional autonomy responded very differently and differed from one region to another. On the one hand, this is a consequence of the implementation of regional autonomy itself, but on the other hand, it shows that regional autonomy has encouraged many local governments to improvise, create, innovate, and at the same time distort policies that are often difficult for the public to understand, even by various groups expert though. The flexibility of local governments in making policies encourages local governments to be very productive in producing public policies, including sharia-based regional regulations.

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